



CONSTITUTION

of the

AUSTRALIAN

COMMONWEALTH GAMES ASSOCIATION INC

(Trading as COMMONWEALTH GAMES AUSTRALIA)

Revised 2018

HEADQUARTERS
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**THE CONSTITUTION OF THE AUSTRALIAN COMMONWEALTH GAMES
ASSOCIATION INCORPORATED**

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**THE CONSTITUTION OF THE AUSTRALIAN COMMONWEALTH GAMES
ASSOCIATION INCORPORATED**

1. The name of the Association shall be the "Australian Commonwealth Games Association Incorporated", trading as "Commonwealth Games Australia". In both cases it is referred to in this document as "the Association".
2. The headquarters of the Association shall be at such place as the Association shall from time to time determine.

3. DEFINITIONS AND INTERPRETATIONS

- 3.1 Unless the contrary intention appears from the context of this Constitution:

"Annual General Meeting" means the annual meeting of the Association.

"Association" means the Australian Commonwealth Games Association Incorporated trading as Commonwealth Games Australia.

"Board of Management" means the body comprised of the parties referred to in clause 8 of this Constitution.

"Executive" means the body comprised of the parties referred to in clause 9 of this Constitution.

"Federation" means the Commonwealth Games Federation.

"Mail Vote" means votes received by postal medium as well as electronic mail such as facsimile or email.

"Member" means a member of the Association as defined in clause 6 hereof.

"Program Sport" means those Australian affiliates of the International Federations recognised by the Federation as a Recognised International Federation and in respect of which the Federation has approved that the sport will be on the program of the next following Games.

"Recognised International Federations" means those International Federations as are recognised from time to time by the Federation.

"Recognised Sports" means sports which are the Australian affiliates of the International Federations recognised by the Federation as a Recognised International Federation.

"State Division" means the bodies from State and Territory Associations of Program Sports formed in accordance with clause 11 hereof.

"Team Agreement" means an Agreement entered into between the Association and an athlete or an official of a Program Sport.

"Team Members" means those athletes and officials selected to represent the Association at the Games.

"The Games" means the Commonwealth Games and the Commonwealth Youth Games as the case may be.

3.2 Words of the plural number shall include the singular number and vice versa.

3.3 Words of the masculine gender shall include the feminine gender and vice versa.

4. OBJECTS

The objects of the Association shall be as follows:

4.1 To administer, control and co-ordinate the participation of Program Sports and their respective athletes and officials in the Games.

4.2 To create interest in, and promote the ideals of the Games throughout Australia.

4.3 To ensure, through the bodies in Australia controlling those sports conducted at the Games, the proper and adequate representation of and participation by Australia at the Games.

- 4.4 To represent Australia at congresses of the Federation and upon other bodies and to other persons concerned in the conduct and promotion of the Games.
- 4.5 To strive to ensure that all sports on the Games program are kept free of performance enhancing drugs.
- 4.6 To implement such drug testing programs as the Association deems appropriate and to supply to Program Sports information about such programs and to support and uphold the drug testing programs of the Federation, and the Program Sports.
- 4.7 To ensure that the good name and well being of the Association and the Games is not denigrated or damaged in any way by unbecoming conduct of organisations and/or individuals associated with the Games.
- 4.8 To abide by and uphold the Constitution of the Federation.
- 4.9 To do all other things which are considered necessary to further the aims and objects of the Association.

5. POWERS

The powers of the Association shall be those of a natural person and without limiting the generality of the foregoing shall be:

- 5.1 To make By-Laws to facilitate the objects of the Association not inconsistent with the terms hereof or with the rules from time to time of the Federation.
- 5.2 To impose upon and collect from Members subscriptions, fees, levies and other charges for the carrying out of the objects of the Association.
- 5.3 To control the appointment of personnel to represent Australia at the Games including, athletes, managers, officials, coaches, medical and paramedical personnel and any other personnel deemed by the Executive necessary to carry out the objects of the Association.
- 5.4 To control the raising of finance and its allocation and expenditure in connection with the objects of the Association.

- 5.5 To raise money by appeals to Federal, State and Territory Governments, to the public of Australia, by levies on Members, by holding functions and by any other appropriate method.
- 5.6 To make representations to governments at all levels and to other authorities and organisations in regard to any matter effecting the interests of the Association.
- 5.7 To borrow money with or without security for the carrying out of the objects of the Association.
- 5.8 To own property both real and personal, for use by the Association in the carrying out of its objects and to invest monies of the Association as may be determined by the Association from time to time.
- 5.9 To invest funds in the name of the Association.
- 5.10 To institute legal proceedings for the protection of its properties and rights and in the carrying out of its objects.
- 5.11 To require Members to furnish any payments, information and returns required by the Association in respect of relevant matters and within the scope of the activities of the Association.
- 5.12 To create such committees and commissions as are reasonably required for the proper conduct of the business of the Association.
- 5.13 To delegate, in so far as is not expressly or implicitly prohibited by this Constitution, any of its powers or functions to committees, commissions, Executive, Members or bodies or persons not Members or connected with the Association.
- 5.14 To invite representatives of the Recognised Sports to attend Executive Meetings, Board of Management Meetings, Annual General Meetings or Special General Meetings.
- 5.15 To co-operate and liaise with bodies and persons charged with the preparation for and conducting of the Games and to undertake and carry out specific duties and responsibilities for the preparation and conduct of such Games.

- 5.16 To arrange for drug testing on Team Members either during competition or at such other times as the Board of Management may deem appropriate and to impose sanctions in accordance with the policies from time to time adopted by the Board.
- 5.17 To engage employees, officers and consultants upon such terms and conditions as the Executive deems necessary from time to time.
- 5.18 To fine, reprimand, suspend, expel or otherwise deal with a Member or a Team Member who is in breach of the terms of this Constitution.
- 5.19 To create and operate one or more Foundations or Trusts in accordance with this Constitution.
- 5.20 To do all other things as are deemed by the Association conducive to the attainment of its objects.

6. MEMBERSHIP

- 6.1 Membership of the Association shall consist of:
 - 6.1.1 Program Sports;
 - 6.1.2 Executive Members of the Association;
 - 6.1.3 State Divisions; and
 - 6.1.4 Life Members of the Association.
- 6.2 Membership of the Association shall confer upon the Member the right to attend Annual General Meetings and Special General Meetings.
- 6.3 Acceptance of membership of the Association shall bind a Member to abide by the terms of this Constitution and the By-Laws of the Association and to accept and enforce decisions of the Association.
- 6.4 Members of the Association shall have no liability to contribute towards the payment of the debts or the liabilities of the Association or the costs and charges and expenses of winding up the Association.
- 6.5 Failure by a Member to comply with obligations pursuant to this Constitution shall render that Member liable to suspension or expulsion from the Association upon thirty (30) days written notice.

6.6 The Association may, by a simple majority of those entitled to vote at a meeting of the Board of Management, suspend a Member from the Association.

6.7 The Association at an Annual General Meeting or Special General Meeting shall have the power, by a seventy five percent (75%) majority of those Members entitled to vote, to expel a Member from the Association.

6.8 A Member may resign from the Association by giving thirty (30) days written notice of intention to do so.

7. ANNUAL GENERAL MEETINGS AND SPECIAL GENERAL MEETINGS

7.1 Annual General Meetings of the Association shall be held in accordance with the provisions of the ACT Associations Incorporation Act, 1991, or in accordance with any amending legislation, it being noted that the ACT Associations Incorporation Act, 1991 presently requires the Annual General Meeting of the Association to occur not less than five (5) months after the end of the financial year of the Association.

7.2 At all Annual General Meetings and Special General Meetings those entitled to vote shall be two (2) delegates from each Program Sport and one (1) delegate from each of the State Divisions. Non voting Members are the Executive and the Life Members unless a Life Member is a delegate of a Program Sport or State Division.

7.3 At all Annual General Meetings and Special General Meetings the Chairman shall only have a casting vote unless he is a delegate of a Program Sport.

7.4 Special General Meetings shall be convened by the Chief Executive Officer upon the written request of not fewer than fifty percent (50%) of the Program Sports.

7.5 All questions arising at Annual General Meetings and Special General Meetings shall be determined by a majority of votes of delegates of those Program Sports and of State Divisions present and voting.

- 7.6 A quorum at Annual General Meetings and Special General Meetings shall be the delegates representing not less than fifty percent (50%) of the Program Sports.
- 7.7 The President and Chief Executive Officer shall submit to each Annual General Meeting a written report on the activities of the Association subsequent to the preceding Annual General Meeting.
- 7.8 The business, of which notice has been given prior to the Annual General Meeting, shall proceed in the following order:
- Confirmation of the minutes of the previous meeting
 - Presentation of the annual report and audited financial statements
 - Alterations and additions to the Constitution
 - Notices of motion
 - Appointment of Auditor
 - Election of Office Bearers, if required.
- 7.9 All Annual General Meetings and all Special General Meetings shall be presided over by the President or in his absence one of the Vice Presidents or in their absence by a delegate of a Program Sport elected by the meeting.
- 7.10 The Chief Executive Officer shall advise in writing all Members of the Association the proposed date of each Annual General Meeting not less than sixty (60) days prior to that date.
- 7.11 All business for the agenda for an Annual General Meeting and a Special General Meeting shall be in the hands of the Chief Executive Officer at least thirty (30) days before the date of the meeting.
- 7.12 Notice of each Annual General Meeting and Special General Meeting stating the business to be conducted and the nominations received shall be forwarded to each Program Sport and State Division, each delegate of a Program Sport, the Executive Members and the Life Members not less than twenty one (21) days prior to the date of the meeting. Failure by any Member to receive notice of a meeting shall not invalidate the proceedings of the meeting.
- 7.13 At each Annual General Meeting when the position of an Office Bearer is due to be filled by an election, nominations for the position shall be in writing and shall be in the hands of the Chief Executive Officer not later

than thirty (30) days prior to the meeting and the nominee's acceptance of nomination must be in the hands of the Chief Executive Officer not later than twenty five (25) days before the date of the meeting.

- 7.14 The Chairman shall have ultimate authority on every question of order.
- 7.15 The Chief Executive Officer shall keep a full record of the minutes of proceedings at Annual General Meetings and Special General Meetings and copies of such minutes shall be circulated to the Members within sixty (60) days and be presented to the next Annual General Meeting for confirmation.

8. BOARD OF MANAGEMENT

- 8.1 Except as is herein otherwise provided the administration, management and control of the Association shall be vested in the Board of Management.
- 8.2 The Board of Management shall consist of the Executive Members, who shall not be entitled to vote, and one (1) delegate from each Program Sport who shall be entitled to one (1) vote at a meeting of the Board of Management.
- 8.3 All questions arising at meetings shall be determined by a majority of votes of delegates of those Program Sports present and voting.
- 8.4 All meetings of the Board of Management shall be presided over by the President or in his absence one of the Vice Presidents or in their absence by a delegate of a Program Sport elected by the meeting. The Chairman shall only have a casting vote unless he is a delegate of a Program Sport.
- 8.5 Each Program Sport shall appoint a delegate who, subject to the continued approval of the Program Sport, shall sit on the Board of Management.
- 8.6 Should the delegate of a Program Sport be unable to be present at a meeting of the Board of Management the Program Sport may, prior to the meeting, appoint a duly nominated person to attend the meeting in his place.

- 8.7 Meetings of the Board of Management may be conducted by any of the following means:
- 8.7.1 In person
 - 8.7.2 Teleconference
 - 8.7.3 Video conference
 - 8.7.4 Mail Vote, which may be called in such manner as provided for herein or any relevant By-Law.
- 8.8 Failure of any individual member of the Board of Management to receive notice of a meeting shall not invalidate the proceedings of that meeting.
- 8.9 A quorum for a meeting of the Board of Management shall be not less than fifty percent (50%) of the voting members.

9. EXECUTIVE

- 9.1 The Executive of the Association shall be the Office Bearers which are the:
- 9.1.1 President;
 - 9.1.2 Two Vice Presidents; and
 - 9.1.3 Chief Executive Officer, who shall be appointed not elected.
- 9.2 The President and two Vice Presidents shall hold office from their date of election until the conclusion of the first Annual General Meeting after the next following Games or until a successor is elected as herein provided.
- 9.3 The President and Vice Presidents shall not be a delegate from a Program Sport or State Division but each shall be a member of a Program Sport.
- 9.4 Subject as hereinafter provided the Chief Executive Officer shall conduct administrative acts of the Association in accordance with the directions of the Board of Management.
- 9.5 The Executive, other than the Chief Executive Officer, shall be nominated by the Program Sports or the State Divisions and shall be elected as hereinafter provided. The Executive shall be entitled to reimbursement of travel, accommodation and reasonable out-of-pocket-expenses incurred when carrying out the business of the Association.

- 9.6 Election of Executive shall be by exhaustive ballot. In the event that there are three (3) or more candidates and no candidate obtains a majority on the first ballot, a second ballot shall be held after eliminating the candidate with the least number of votes. If necessary the procedure will be repeated until one (1) candidate secures a majority of the votes cast. If in a ballot the votes are equal the Chairman shall have a casting vote.
- 9.7 In the event of a vacancy occurring in the office of the President or Vice Presidents during the term of appointment, a successor will be elected by a Mail Vote of the Program Sports which may be called in such manner as provided for herein or any relevant By-Law. Nominations will be invited from the Program Sports and State Divisions and will close twenty one (21) days prior to the date appointed for the election.
- 9.8 The elected Executive shall have the power to make urgent decisions on behalf of the Board of Management between Board of Management meetings and shall notify such decisions to the Board members within seven (7) days.
- 9.9 There shall be a Chief Executive Officer of the Association who shall manage the affairs of the Association subject to the directions of the Executive and in accordance with the policies determined by the Board of Management.
- 9.10 The Chief Executive Officer shall be appointed by the Board of Management of the Association and shall hold office pursuant to the terms of an Agreement for Employment between the Chief Executive Officer and the Association. The Agreement for Employment will govern the respective rights and obligations of the Chief Executive Officer and the Association.

10. PATRON IN CHIEF AND PATRON

- 10.1 His Excellency the Governor General of the Commonwealth of Australia for the time being will be invited to be Patron in Chief.
- 10.2 The Prime Minister of the Commonwealth of Australia for the time being will be invited to be the Patron.

11. STATE DIVISIONS

- 11.1 One (1) State Division only shall be formed in each State or Territory of the Commonwealth of Australia.

- 11.2 Only those State Divisions which have had a Constitution approved by the Association and are accepted by the Board of Management as representing the Association in the relevant State or Territory will be accepted for membership of the Association.
- 11.3 Membership of the Association shall confer upon a State Division the right for one (1) delegate to attend Annual General Meetings and Special General Meetings.
- 11.4 State Divisions shall raise such funds as requested to assist in sending Team Members to the Games on the basis that any program to raise funds must be first approved by the Board of Management and such funds as are so raised are raised on behalf of the Association and shall remain the property of the Association.
- 11.5 State Divisions shall undertake such activities so as to foster and promote the ideals of the Games in their respective States.
- 11.6 State Divisions shall supply to the Association a quarterly report within thirty (30) days of the end of the quarter showing funds raised and new fund raising programs proposed. At the conclusion of the fund raising program, they shall account to the Association for all funds raised, whether in money or money's worth, and give to the Association an audited financial statement of all such funds.
- 11.7 A meeting of State Divisions may be convened at the discretion of the Executive to provide reports on the activities within each State or Territory.

12. LIFE MEMBERS

- 12.1 Life membership may be bestowed on those persons who, in the opinion of the Association, have rendered exceptional service to the Association.
- 12.2 A motion to confer life membership of the Association must be carried by at least seventy five percent (75%) of those Members at an Annual General Meeting of the Association entitled to vote.

12.3 A Life Member shall be entitled to all of the privileges of a Member of the Association except that the Life Member shall have no right to vote at an Annual General Meeting or Special General Meeting.

12.4 A Life Member of the Association shall be eligible for election and appointment as a member of all committees and sub committees and as such shall have the right to vote on decisions made by such committees and sub committees.

13. BY-LAWS

13.1 The Association may make and publish such By-Laws as the Board of Management may determine.

14. SELECTION OF TEAM MEMBERS

14.1 Notwithstanding anything in this Constitution contained to the contrary, the control of the selection and appointment of Team Members shall be vested in and exercised by the Board of Management of the Association.

14.2 Team membership is subject to the selected member signing the Association's Team Agreement.

14.3 The Association shall recognise any sanction placed upon a Team Member by a Program Sport.

15. FINANCE

15.1 The funds of the Association shall be derived from affiliation fees from Program Sports and State Divisions, donations, marketing, sponsorship and such other sources as the Board of Management from time to time deems appropriate.

15.2 After the expiration of two (2) months from the date upon which a subscription or other fee imposed by the Association is payable and if such payment remains unpaid, a Program Sport or State Division, shall not be entitled to vote on any matter and shall not be entitled to representation on

the Executive or at Annual General Meetings or Special General Meetings until all subscriptions and other monies due and payable are paid.

16. FOUNDATIONS/TRUSTS

The Association may, at its discretion, establish one (1) or more Foundations or Trusts upon such terms as the Association may determine or as may be agreed by the Board of Management. The primary purpose of the Foundation(s) or Trust(s) will be the preservation of the assets of the Association for the betterment of the Commonwealth Games movement in Australia and/or all of the Program Sports or such other sports as the Board of Management shall determine.

17. ANTI-DOPING POLICY

17.1 The Association shall recognise and support the anti-doping policies as adopted from time to time by the Federation and the Program Sports.

17.2 The Anti-Doping Policy of the Association shall apply to and shall control the actions of all athletes and officials under the control of the Association during the Games and whilst such athletes are under the control of the Association pursuant to the Team Agreement.

18. ADMINISTRATION

18.1 The Common Seal of the Association shall be in the custody of the Chief Executive Officer.

18.2 The Common Seal shall not be affixed to any document except by authority of the Board of Management and the affixing of the Common Seal shall be attested by the signature of any two (2) of the Executive.

18.3 The Chief Executive Officer or any person delegated by the Board of Management shall keep in his custody or under his control all records, books and/or documents relating to the Association which shall be open to inspection at the Association's office, during normal office hours to a representative of a Program Sport, duly authorised in writing.

18.4 The financial year of the Association shall be deemed to commence on 1 July in any year and to terminate on 30 June in the next year.

18.5 All cheques, drafts, bills of exchange and other negotiable instruments shall be signed by any two (2) of the Executive or one (1) Office Bearer and one (1) employee of the Association authorised to do so by the Executive.

19. GRIEVANCE PROCEDURE

19.1 In the event of any dispute arising under this Constitution between:

19.1.1 two or more members

19.1.2 a member and the Association

a notice requesting the dispute be heard by a Grievance Committee must be lodged with the Chief Executive Officer within twenty-one (21) days of the dispute.

19.2 The notice referred to in paragraph 19.1 hereof must be in writing and contain:

19.2.1 a general description of the dispute, and

19.2.2 a statement identifying the Rule or Rules under which it is alleged the dispute arises, and

19.2.3 the identity of the parties to the dispute, and

19.2.4 the steps which the parties have taken to endeavour to resolve the dispute, and

19.2.5 the relief claimed under the Constitution.

19.3 The President shall, within twenty-one (21) days of the receipt of such notice, appoint a Grievance Committee to hear and determine such dispute. A copy of the notice pursuant to paragraph 19.1 shall be given to the party or parties the subject of the complaint.

19.4 The Grievance committee shall consist of three persons appointed by the President. The three persons need not be members of nor affiliated with the Association.

19.5 The Grievance Committee shall meet to hear and determine the dispute within three months after the appointment of the Grievance Committee. The

Grievance Committee shall meet at a time and a place mutually agreed by the members.

- 19.6 The Grievance Committee shall hear and determine the dispute according to the procedure determined as appropriate by the members thereof. The Grievance Committee is not bound to apply any formal rules of procedure, and may adopt such procedures as it may consider appropriate in all the circumstances, provided always that it shall act in accordance with the principles of natural justice.
- 19.7 A party involved in a dispute which is the subject of a hearing and determination by the Grievance Committee may appoint any person to act on their behalf in the proceedings before the Grievance Committee.
- 19.8 The Grievance Committee shall hear and determine the dispute and deliver its decision in writing.
- 19.9 If any party to the dispute desires to appeal against the decision of the Grievance Committee, such party must give notice in writing to the President that it desires to appeal. Any appeal shall be heard by the Court of Arbitration for Sport (Oceania Registry). Any party which desires so to appeal shall pay the costs of the Court of Arbitration for Sport before a date for the hearing of the appeal is set. In the event that such party fails or refuses to pay such costs, the appeal shall lapse and the party will be deemed to have abandoned the appeal.

20. ALTERATION OF THE CONSTITUTION

- 20.1 No amendment or alteration shall be made to this Constitution unless at least seventy five percent (75%) of Members entitled to vote at an Annual General Meeting or Special General Meeting do so in favour of such amendment.
- 20.2 Any Notice of Motion to alter this Constitution shall be given to the Chief Executive Officer in writing not less than sixty (60) days before the date of the meeting at which the amendment is to be moved. The Chief Executive Officer shall advise all Members at least thirty (30) days before such meeting of the full text of such motion and the date of meeting. Such motion shall specify the clause as sought to be amended so as to indicate clearly the purport of the amendment.

21. AUDITOR

21.1 The Association shall appoint an auditor to the Association at each Annual General Meeting.

21.2 The auditor so appointed by the Association shall conduct an annual audit of the books and financial records of the Association and shall report, in accordance with usual audit standards, to the next following Annual General Meeting.

22. TERMINATION OF THE ASSOCIATION

In the event of the winding up or termination of the incorporation of the Association if there remains after the satisfaction of all of its debts and liabilities any property whatsoever such property shall not be paid to or distributed amongst the Members of the Association but shall be given or transferred to a charitable institution having objects similar or in part similar to the objects of the Association in such manner as the Association may in writing direct. In the event that there is no such direction, such property shall be given or transferred to some other charitable institution or charitable institutions having objects similar or in part similar to the objects of the Association and which shall also prohibit the distribution of its or their property to their members, such charitable institution or the charitable institutions to be determined by the Association at or before the time of dissolution of the Association or in default thereof by the Chief Judge of such Court as may have or acquire jurisdiction in the matter.