

ROWING SOUTH AUSTRALIA

POLICY BL002 · VERSION 2

By-Laws

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Contents

1. Authority and Interpretation.....	3
2. Affiliate Membership.....	3
3. Competition and Training Governance.....	3
4. Transfers.....	4
5. Infringements.....	4
6. State Team Framework.....	5
7. State Team Dispute Resolution.....	6
8. Independent Appeals Tribunal.....	6
9. State Team Uniform and Recognition.....	8
10. Dispute Resolution – General Disputes and Grievances.....	8
11. Other Policies.....	9
12. Records, Confidentiality and Review.....	10

These By-Laws are made under Clause 30 of the Constitution of Rowing South Australia Incorporated (the Association) and are binding on all Members, Officials, Participants, and Volunteers.

These By-Laws are consistent with the Associations Incorporation Act 1985 (SA) and reflect guidance from the Office for Recreation, Sport and Racing (ORSR).

1. Authority and Interpretation

1.1

Terms used in these By-Laws have the same meaning as in the Association's Constitution unless otherwise stated.

1.2

Subject to any applicable law, in the event of any inconsistency between the terms of these By-Laws, the Constitutions of the Association and Rowing Australia Ltd (RA) and any related rules and regulations, priority of the competing terms is to be determined in the following order (with the document having the higher priority to take precedence to the extent of such inconsistency):

- (a) RA's Constitution, to the extent applicable;
- (b) RA's Rules and Whole of Sport Policies, to the extent applicable;
- (c) The Association's Constitution;
- (d) These By-Laws;
- (e) The Association's Regulations for Boat Racing; and
- (f) Other By-Laws, Policies and Regulations adopted by the Board from time to time.

2. Affiliate Membership

2.1

Affiliate Members must comply and must ensure that their Participants (and all related personnel) comply with all applicable legal and regulatory requirements relating to child safeguarding and child safe environments, including complying with the Child Safety (Prohibited Persons) Act 2016 and related Working With Children Checks.

2.2

Affiliate Members must ensure that all persons (Participants or otherwise) holding a coaching position within that Affiliate Member's organisation at all times maintain a coaching accreditation under RA's National Coaching Accreditation Scheme (NCAS). The Association may from time to time specify a minimum accreditation that coaches must hold within the NCAS.

2.3

Affiliate Members shall ensure and be responsible for compliance with all requirements for continued affiliated membership as prescribed and published by the Association from time to time.

3. Competition and Training Governance

3.1 Relevant Rules and Policies

- (a) The Association's Regulations for Boat Racing and the Association's Safety & Training Policy shall govern all conduct and matters relating to competitions, regattas, training and off-water event activities.

- (b) The Board shall, for each regatta, appoint a person to coordinate and manage the operations of each regatta who will be responsible for ensuring a regatta is run in accordance with the Association's Regulations for Boat Racing, these By-Laws, and any other conditions stipulated by the Board from time to time (the Regatta Manager).
- (c) All Members and Participants must at all times comply with the terms of the Association's Regulations for Boat Racing, the Association's Safety & Training Policy and any additional direction given by the Regatta Manager.
- (d) To the extent of any inconsistency between the Association's Regulations for Boat Racing and the Association's Safety & Training Policy, the terms of the Association's Regulations for Boat Racing shall prevail.
- (e) For the avoidance of doubt, all infringements and disciplinary matters during regattas shall be dealt with in accordance with the Regulations for Boat Racing in the first instance and the applicable RA Whole of Sport Policies where relevant.

3.2 Officiating

- (a) Boat Race Officials must hold a valid accreditation under RA's Rowing Australia National Officiating Accreditation Scheme (NOAS) (and any replacement scheme adopted by RA from time to time) and maintain current compliance with any revalidation or re-accreditation requirements.

3.3 Visiting Clubs

- (a) The Regatta Manager may permit crews from interstate clubs to compete in any regatta or race organised by the Association, despite the interstate club not being an Affiliate Member and that club's members not being members of the Association.
- (b) Visiting Club and Crew fees shall be those fees prescribed and published by the Association from time to time.

4. Transfers

4.1

A Member will compete for only one Affiliate Member at any time, except that:

4.2

Members who are full time students of an Affiliate Member School may also represent an Affiliate Member Club.

4.3

Any Member transferring Membership from one Affiliate Member to another must complete a transfer in accordance with the Association's Regulations for Boat Racing (which currently provides for the transfer request to be made through Rowing Manager).

4.4

The Affiliate Member to which the Member is seeking to transfer must instigate the transfer request before the Member's current Affiliate Member can approve the transfer.

5. Infringements

5.1 Breaches

- (a) Any Member, Participant, Official, Volunteer, Affiliate Member or other person bound by the Constitution, these By-Laws, the Regulations, or any policy adopted by the Association or Rowing

Australia, who breaches any such document, or any direction, oral or written, given by the Regatta Manager, may be subject to disciplinary action.

5.2 Disciplinary Action

- (b) Without limiting any other action available to the Association, disciplinary action may include:
 - (i) a caution, warning, reprimand or direction;
 - (ii) a requirement to undertake education, training, mediation or other remedial action;
 - (iii) the imposition of a fine not exceeding \$500.00;
 - (iv) suspension, restriction or removal of any rights, privileges, appointments or accreditations granted by the Association;
 - (v) suspension or disqualification from participation in competitions, events, programs or activities conducted or sanctioned by the Association;
 - (vi) suspension or termination of Membership; or
 - (vii) any other sanction reasonably determined by the Association having regard to the nature and seriousness of the breach.

5.3 Applicable Process

- (c) Any complaint, dispute, grievance, protest, appeal, integrity matter or alleged breach shall be managed and determined in accordance with:
 - (i) the Constitution;
 - (ii) these By-Laws;
 - (iii) the Regulations for Boat Racing;
 - (iv) the Association's Disciplinary, Complaints and Dispute Resolution Policy;
 - (v) the State Team Selection Policy and State Team Appeals Policy;
 - (vi) the Rowing Australia National Integrity Framework and associated policies; and
 - (vii) any other applicable Association or Rowing Australia policy,

in the order of precedence set out in clause 1.

5.4 Procedural Fairness

- (d) Before any disciplinary sanction is imposed, the Association shall ensure that the person or organisation concerned is afforded procedural fairness and an opportunity to be heard, except where an interim suspension or protective action is reasonably required to protect the safety, welfare, integrity or reputation of the sport.

5.5 Authority

- (e) Subject to the Constitution and any applicable policy, the Chief Executive Officer (CEO) may determine the appropriate process, policy or framework under which a complaint, dispute, grievance or alleged breach will be managed and may refer the matter to the Board, an Independent Appeals Tribunal, Rowing Australia, Sport Integrity Australia, a mediator or any other appropriate body for determination.

6. State Team Framework

6.1

The selection of coaches and crews for each State representative team shall be governed by the Association's State Team Selection Policy as amended by the Board from time to time.

6.2

The State Team Selection Panel (STSP) shall be appointed by the Board in accordance with the State Team Selection Policy and shall advise the Board prior to the closure of entry for competition, such representative teams, crews and coaches chosen to represent the Association.

6.3

The CEO of the Association will oversee the STSP and any employee of the Association who is responsible for the delivery of administrative and communication functions to support the STSP.

6.4

A State Team Manager may be appointed by the CEO to coordinate logistics, budgets, and discipline while on tour, subject to oversight by the CEO.

7. State Team Dispute Resolution

7.1

An athlete, coach or selector who wishes to appeal a selection decision that results in their non-selection, removal, or exclusion from a crew or role, must complete the process outlined in the Association's State Team Appeals Policy as amended from time to time.

7.2

If, after complying with the process set out in the State Team Appeals Policy, the athlete, coach or selector feels that the grievance has still not been resolved, they should lodge a formal appeal with the CEO in writing. The formal appeal must be received in writing within 48 hours following the athlete, coach, or selector receiving written notice of the outcome of the process set out in clause 7.1.

7.3

Upon receipt of the formal appeal, the CEO will refer the appeal to an Independent Appeals Tribunal in accordance with clause 8 of these By-Laws.

8. Independent Appeals Tribunal

8.1 Tribunal Members

- (a) The Independent Appeals Tribunal shall consist of three individuals, including at least one individual with legal or governance experience.
- (b) The Board may from time to time approve a pool of suitably qualified independent persons who may be appointed as members of the Independent Appeals Tribunal.
- (c) For each formal appeal, the CEO will appoint three individuals, including a Chair, as members of the Independent Appeals Tribunal. The CEO may appoint persons who are not from the Board-approved panel, having regard to relevant expertise, availability and any actual or perceived conflicts of interest.
- (d) As soon as reasonably possible, but no later than five business days following receipt of the formal appeal, the CEO shall:
 - (i) appoint the members of the Independent Appeals Tribunal; and
 - (ii) issue, or cause to be issued, a written notice identifying the Tribunal members and stating the date, time, venue, and terms of reference of the hearing.
- (e) Copies of the notice shall be provided to:
 - (i) the tribunal members, together with copies of the written formal appeal,

- (ii) the appellant;
 - (iii) any person whose assistance or evidence is required by the Tribunal in determining the appeal; and
 - (iv) any person who lodged the appeal (if not the appellant).
- (f) Within two business days of receiving the notice referred to in clause 8.1(d), any party to the appeal may submit a written request to the CEO objecting to the appointment of a Tribunal member on the grounds of an actual or perceived conflict of interest.
- (g) The request must set out the reasons for the objection. The CEO shall determine the objection as soon as reasonably practicable and must replace the Tribunal member if satisfied that an actual or perceived conflict of interest exists or that replacement is otherwise in the interests of procedural fairness. The decision of the CEO is the final escalation of process available under the Association. Any further escalation of the decision is to RA or the Court of Arbitration for Sport, and those bodies can only be activated by references to their own remit. However, any action to further escalate the decision must await the Tribunal's decision.

8.2

Hearings will be conducted informally, fairly, and as promptly as reasonably possible (unless not practicable, within seven days of a formal appeal being lodged), ensuring all parties are given the opportunity to be heard.

8.3

The Tribunal may, at its discretion, determine the most appropriate process for resolving the matter, including consulting with the parties, facilitating mediation, or conducting a hearing in person or by teleconference.

8.4

The Tribunal must ensure the appellant is given:

- (a) A reasonable opportunity to be heard and represented by one support person or advocate if desired;
- (b) The right to call witnesses and submit documents;
- (c) The opportunity to question any witnesses called.

8.5

The Tribunal may:

- (a) Negotiate a mutually acceptable outcome;
- (b) Dismiss an appeal that is non-compliant or without merit;
- (c) Allow amendments to an appeal;
- (d) Seek mediation or adjourn the hearing;
- (e) Delegate fact-finding to one or more members;
- (f) Examine witnesses and obtain expert or legal assistance as required.

8.6

As soon as reasonably possible following the close of proceedings, but no later than five business days, the Chair must submit a written report to the CEO setting out the Tribunal's findings, decision, and reasons. The Tribunal may:

- (a) Uphold or dismiss the appeal (in whole or in part);
- (b) Amend, substitute, or set aside the original decision;

- (c) Refer the matter back to the original decision-maker with recommendations;
- (d) Take any other action it deems appropriate.

8.7

As soon as reasonably possible following receipt of the Tribunal's report, but no later than five business days, the CEO, or a delegate appointed by the Board, must provide a copy of the Tribunal's findings, decision and reasons to:

- (a) the appellant;
- (b) any person who lodged the appeal (if not the appellant);
- (c) any person directly affected by the decision, as determined by the CEO; and
- (d) any other person the Tribunal directs should receive a copy.

8.8

The decision of the Independent Appeals Tribunal is the final escalation of process available under the Association. Any further escalation is to RA or the Court of Arbitration for Sport, and those bodies can only be activated by references to their own remit, such as, errors of procedural fairness.

8.9

The deliberations, discussions and internal documents of the Independent Appeals Tribunal are confidential. The Tribunal's final findings, decision and reasons may be disclosed by the Association, subject to any privacy, legal or confidentiality obligations.

8.10

No public statements regarding the appeal may be made without the express written authority of the Board.

9. State Team Uniform and Recognition

9.1

The official colours of Rowing SA shall be Red, Gold, and Navy Blue.

9.2

The competition uniform shall be a rowing suit of these colours, with white undergarments permitted if required.

9.3

The ceremonial blazer shall be vertically striped Red, Gold, and Navy Blue with the official competition badge on the breast pocket.

9.4 Service Awards

- (a) Service Plaques or Jackets may be awarded for ten (10) or more years of distinguished service to Rowing SA.
- (b) Nominations must be submitted in writing to the CEO two months prior to the Annual General Meeting and are subject to the approval of the Board.

10. Dispute Resolution – General Disputes and Grievances

10.1

The CEO will determine the appropriate policy, regulation, framework or procedure under which a complaint, dispute or grievance will be managed.

10.2

These rules apply to any dispute between:

- (a) a Member and another Member;
- (b) a Member and a Participant; or
- (c) a Member, Participant or group of either and the Association.

10.3

The Association adopts the applicable RA Whole of Sport Policies, including the NIF policies, as the governing frameworks for integrity complaints, personal grievances and other matters they cover, including:

- (a) The RA's Complaints, Disputes & Discipline Policy; and
- (b) The RA's Personal Grievances Policy.

10.4

These By-Laws apply in conjunction with the above policies. Any dispute or grievance covered by those policies shall be dealt with in accordance with them, subject to the Constitution and any Association-specific procedural rules published by the Board. For the avoidance of doubt:

- (a) Competition protests, race-day officiating decisions and regatta-management appeals shall be dealt with under the Regulations for Boat Racing.
- (b) Selection appeals shall be dealt with under the State Team Selection Policy, the State Team Appeals Policy and clauses 7 and 8 of these By-Laws.
- (c) Where required by the applicable RA Whole of Sport Policies, including the NIF policies, particular matters may be investigated and dealt with by an entity other than the Association (such as RA) in accordance with the terms of that particular policy.

10.5

Where a dispute is not governed by a specific Association policy, Regulation, By-Law, or Rowing Australia Whole of Sport Policy, the parties must first meet and attempt to resolve the dispute in good faith within 14 days of becoming aware of the matter, in accordance with clause 30.4(b) of the Constitution. If the dispute remains unresolved, the CEO may facilitate discussions between the parties or recommend that the matter be referred to mediation in accordance with clause 30.4(c) of the Constitution.

10.6

The CEO shall manage the administration of these processes for the Association, and report to the Board on issues arising.

11. Other Policies

11.1

In addition to the Association's Constitution and the RA Constitution, the Association, its Members and Participants, are bound by, and must comply with any additional rules, policies and By-Laws adopted or enforced by the Association and RA from time to time, including the RA Rules and RA Whole of Sport Policies, RA's NIF policies, and the Association's own policies, regulations or By-Laws as amended from time to time (including the policies set out below).

11.2

The following policies (as amended from time to time) form part of these By-Laws and are published on the Association's website:

- (a) Rowing SA Regulations for Boat Racing
- (b) Rowing SA Safety & Training Policy
- (c) Code of Conduct
- (d) Child Safeguarding Policy
- (e) Member Protection Policy
- (f) Disciplinary, Complaints and Dispute Resolution Policy
- (g) Social Media and Communications Policy
- (h) Anti-Doping Policy
- (i) Privacy Policy
- (j) Motor Vehicle Policy

11.3

The Board may adopt, amend and/or publish new policies from time to time, provided they remain consistent with the Constitution, these By-Laws and the applicable RA governing documents and policies.

12. Records, Confidentiality and Review

12.1

All records and documentation associated with disciplinary, selection, and appeal processes shall be retained in accordance with applicable law, the Act, funding conditions, privacy obligations and any records management policy maintained by the Association.

12.2

All proceedings and deliberations of Independent Appeal Tribunals and internal disputes shall remain confidential, subject to any disclosure required by law, natural justice or the applicable complaint or integrity process.

12.3

These By-Laws replace the 2020 version adopted October 2020.