

Victorian Naginata Renmei

Rules and Constitution

Incorporated under the Associations Incorporation Reform Act 2012 (Vic) (the Act)



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Table of Contents

Section 0: Definitions.....	3
Section 1: The Association.....	4
1.1. Association Name.....	4
1.2. Association Purpose.....	4
1.3. Association Powers.....	4
1.4. Use of the Association's Income and Assets.....	4
1.5. Association Governance.....	4
1.6. Financial Year.....	4
1.7. Funds.....	5
1.8. Common Seal.....	5
Section 2: Association Membership.....	6
2.1. Membership Types.....	6
2.2. Eligibility for Membership.....	6
2.3. Assessment of Application for Membership.....	6
2.4. Membership Fees.....	7
2.5. Members Rights, Obligations and Liabilities.....	7
2.6. Ending Membership.....	8
Section 3: The Committee.....	9
3.1. Committee Composition.....	9
3.2. Committee Responsibilities and Functions.....	9
3.3. Term of Office.....	9
3.4. Election of the Committee.....	9
3.5. General Duties of Committee Members.....	9
3.6. Conflict of Interest.....	10
3.7. Committee Member Resignation, Removal and Vacancies.....	10
Section 4: Meetings.....	12
4.1. Meetings of the Committee.....	12
4.2. Calling Committee Meetings.....	12
4.3. Committee Meeting Procedures.....	12
4.4. Annual General Meeting (Election Meeting).....	12
4.5. Special General Meetings.....	13
4.6. Special General Meetings by Member Request.....	14
4.7. General Meetings.....	14
Section 5: Matters of Documents.....	15
5.1. Custody of Documents.....	15
5.2. Members' Right to Access to Documents.....	15
Section 6: Disputes and Grievances.....	16
6.1. Initial procedure.....	16
6.2. Resolution Council Formation.....	16
6.3. Council Responsibilities.....	16
6.4. Escalation.....	17
Section 7: Disciplinary Actions.....	18
7.1. Grounds for Removal of Executive Committee Member, Grounds for Revocation of Voting Rights and Grounds for Expulsion from the Association	18
7.1.1. Grounds for Disciplinary Actions.....	18
7.2. Procedure for Removal of Executive Committee Member.....	18
7.3. Procedure for Revocation of Voting Rights.....	19
7.4. Procedure for Expulsion from the Association.....	19
Section 8: Winding up and cancellation of the association.....	20

Section 0: Definitions

In Writing:

for the purposes of communications between individuals, the Association and others, in writing also includes email communications as well as physical letters.

Victorian Naginata Renmei:

Refers to the governing body of Victoria for Naginata. For the purposes of this document, the abbreviation “VNR” shall refer to Victorian Naginata Renmei Inc. registration number A0105627S.

Australian Naginata Federation:

Refers to the governing body of Australia for Naginata. For the purposes of this document, abbreviation “ANF” shall refer to Australian Naginata Federation Inc. registration number A0036683X.

Members:

For the purposes of this document, where “member” or “members” is mentioned without distinction between the various classes outlined in Section 2.1 (Membership Types), it shall refer to all members of the association.

Committee:

Refers to the Executive Committee of the VNR. This is the governing committee of the VNR.

DSCV:

Refers to the Dispute Settlement Centre of Victoria

Section 1: The Association

1.1. Association Name

The name of the association is Victorian Naginata Renmei Inc.

1.2. Association Purpose

The purpose of the association is the following:

- To promote the study of Naginata and to support practitioners and members in their ongoing study of the art
- To encourage our practitioners through training in the Japanese martial art of Naginata to build their character, enhance their sense of judgement and become disciplined individuals who will make positive contributions to their community both inside, and outside of the dojo.

1.3. Association Powers

The association has the legal capacity of an incorporated body.

The association has power to do anything incidental or conducive to achieve its purposes.

The association may only:

- exercise its powers; and
 - use its income and assets (including any surplus),
- for its purposes.

1.4. Use of the Association's Income and Assets

The association must not distribute any surplus, income or assets directly or indirectly to its members. This rule does not prevent the association from:

- paying a member of the association reimbursement for expenses properly incurred by them or for goods supplied and services provided by the member, if this is done in good faith on terms no more favourable than if the member were not a member; or
- distributing any surplus, income or assets in accordance with Section 8 (Winding up and cancellation of the association).

1.5. Association Governance

The association shall be governed by an executive committee (Committee) that is made up of committee members elected in accordance with Section 3.4 (Election of the Committee). The composition of the Committee shall be in accordance with Section 3.1 (Committee Composition)

The Constitution of the VNR may only be changed at an AGM or SGM in accordance with the Act.

1.6. Financial Year

The financial year shall begin on the 1st of July and ends on the 30th of June.

1.7. Funds

The association may derive or generate funds from annual training fees, donations, grants, fundraising, interest and any other sources approved by the Committee.

Subject to any restrictions imposed by a general meeting of the association, the Committee may approve expenditure on behalf of the association.

The association may open a bank account to deposit revenue and withdraw expenditure. The committee may authorise the Treasurer to maintain a petty cash fund for minor and incidental expenses and the withdrawals or deposits must be recorded from this fund.

Electronic fund transfers, card payments or cash payments made from the association's funds must be authorised by the President and one other Committee member in writing, not including the Treasurer.

Financial records of the association must be kept and stored for seven years.

For each financial year, the Committee must ensure that the requirements under the Act relating to the financial statements of the association are met.

1.8. Common Seal

The association carries no common seal.

Section 2: Association Membership

2.1. Membership Types

There shall be three types of Members within the association: Full Member, Full Member (minor) and Associate Members.

2.2. Eligibility for Membership

The criteria for application into the membership are as follows:

Full Member:

- Must be over the age of 18 on receipt of application
- Must not be in arrears with the Association without written consent from the Committee
- Supports the purposes of the Association laid out in Section 1.2
- Agrees to comply with these rules
- Must not be a member of another Naginata Federation outside of the Australian Naginata Federation unless the member is intending to be a resident of Victoria for at least 6 months.
- Has not been previously expelled by the Committee or any member federations of the Australian Naginata Federation
- Has completed introductory instruction in Naginata or with approval from a senior instructor who holds the rank of 3rd Dan or above.

Full Member - Minor:

- All conditions as above for Full Member but is below the age of 18 on receipt of application

Associate Members:

- Must not be in arrears with the Association without written consent from the Committee
- Supports the purposes of the Association laid out in Section 1.2
- Agrees to comply with these rules
- Is a current member of another Naginata Federation or is located in a country in which a Naginata Federation does not exist and is not already covered by an existing Naginata Federation.
- Has not been previously expelled by any member federations of the International Naginata Federation

Membership shall be assessed by individual clubs under the VNR in accordance with the rules for each category. Where a club accepts an individual as having met this criteria, the VNR shall add the individual to the state body register.

2.3. Assessment of Application for Membership

On acceptance of the individual into the association, the Australian Naginata Federation shall be notified, the Secretary shall add the individual's name, address and contact details into the

member's register. The Association shall inform the person that their membership has started and the fee required to be paid as detailed below in Section 2.4.

2.4. Membership Fees

The Committee shall decide on the fees payable by Members at the first AGM where the new governing Committee is to be elected. This shall be approved by more than 60% of all Members voting at the AGM and recorded in Appendix A: Schedule of Fees, to be kept separate to this document.

Changes to the fee structure during the year, if required, do not require an SGM to be adopted however the Members must be consulted regarding the proposed changes. Members shall be afforded a minimum of 28 days, inclusive of the day the notice is delivered, to express their opinions and request changes be made. At the conclusion of the 28 days, members may cast a vote either for or against the proposed changes. More than 50% of these votes must be in favour of the proposed change for it to be adopted by the Association.

A portion of the fees payable shall be paid to the ANF for affiliation and insurance with the ANF. This shall be decided by the ANF at their AGM.

Durations in which fees payable by members are required to be paid shall be determined at the same meeting in which the governing Committee is to be elected.

2.5. Members Rights, Obligations and Liabilities

Members have rights, obligations and liabilities as set out in the Act and any regulations made under it and in these rules.

A Full Member has the following rights:

- unrestricted right to vote in AGMs and SGMs
- receive notice of general meetings and of proposed special resolutions
- submit items of business for consideration at a general meeting
- attend and be heard at general meetings
- have access to the minutes of general meetings and other documents of the association
- request to inspect the register of members

A Full Member - Minor has the same rights as a Full Member with the exception of the following:

- unrestricted right to vote in AGMs, SGMs with the written approval of a legal parent or guardian. Where approval has not been given, the member shall not be afforded the right to vote in AGMs and SGMs.

An Associate Member has the same rights as a Full Member with the exception of the following:

- may not request to inspect the register of members
- may not participate in AGMs and SGMs including being nominated or nominating others for election positions.

The rights of a Member are not transferable to other members and end when membership stops.

Each member's liability is limited to payment of the fees as outlined in Section 2.4 (Membership Fees)

2.6. Ending Membership

A member stops being a member if:

- the member resigns as a member at any time by giving notice in writing to the Secretary
- the member is expelled in accordance with the disciplinary procedures detailed in Section 7
- the member dies
- the member's fees are more than 3 months in arrears and no payment plan or alternative arrangement has been filed with and approved by the Committee.

When a membership ends, the association will not refund any fees already paid.

If a person stops being a member, the Secretary must, as soon as practicable, enter the date the person stopped being a member in the members' register.

Section 3: The Committee

3.1. Committee Composition

The governing Committee shall be composed of the following positions: President, Secretary, Treasurer and between 0 and 6 ordinary Committee members. The number of ordinary committee members shall be decided prior to the commencement of the election of the Committee.

3.2. Committee Responsibilities and Functions

The Committee is responsible for the management of the Association. The Committee may exercise all powers and functions required to carry out actions for the benefit of the Association provided it is consistent with these rules and the Act.

The Committee can delegate any of its powers and functions to a Committee Member, sub-committee or a member other than the power of delegation or a duty imposed on the Committee by the Act or under any other law.

Among its other responsibilities, the Committee is responsible for making sure:

- accurate minutes of general meetings and committee meetings of the association are made and kept
- any material personal interest disclosed at a committee meeting is recorded in the minutes of that committee meetings
- all records, securities and relevant documents (as defined in the Act) of the association are kept properly and in accordance with these rules.

3.3. Term of Office

The duration of office shall be one AGM cycle, commencing from the AGM in which the person has been elected until the beginning of the following year's AGM.

An individual may be elected for at most six cycles at which point they may not contest the seventh cycle. The one cycle break every six cycles continues indefinitely. This only applies where an individual holds the same role in the above time period and does not apply to general committee members or where the individual is elected to a different period within the time period above.

3.4. Election of the Committee

The Committee shall be elected at the first AGM of the financial year in accordance with the Act.

All committee positions shall be made available for other members to contest at election at the conclusion of the financial year.

3.5. General Duties of Committee Members

President:

- Provide direction to the state body
- Call for meetings as required

- Oversee all group operations to ensure smooth running
- Act as representative for the group in external matters

Secretary:

- Duties as required under the Act
- Record and distribute meeting minutes
- Create and distribute meeting agendas (shared with President)
- Create and distribute notices of meetings (shared with President)
- Receive and notify committee of any new applications for membership
- Maintain repository of meeting minutes, decisions made, other administrative documents including the group constitution

Treasurer:

- Receive monies from training fees and annual membership fees
- Distribute monies as requested by the committee for purposes outlined in Section 1.2
- Pay for services rendered for the group for purposes outlined in Section 1.2

Ordinary Committee Member

- Provide input on decisions to be made by the committee

3.6. Conflict of Interest

Where a committee member has a perceived conflict of interest, it shall be made known to the committee during discussion as needed. Where a decision has been made to use a service or buy a good in which the member is related and has a conflict of interest, provided the costs are for the benefit of the whole group and are not a detriment to any member, no restrictions shall be made.

3.7. Committee Member Resignation, Removal and Vacancies

A committee member may resign at any time provided 14 days notice is given to the secretary and to the group that the committee member has resigned.

Where the secretary is the resigning member, an interim secretary shall be appointed by the President to fill the role within 14 days as required by the Act.

For the committee roles of President, Treasurer and Secretary made vacant through resignation or removal, general committee members shall be given the opportunity to fill the role and a vote shall take place within the committee where two or more people wish to fill the role. Greater than 50% approval of the executive committee will be required for a general committee member to fill the role.

Where the existing committee is unable to fill the vacancy, an SGM or AGM shall be held as soon as practicable to fill the vacancy.

Election procedures for the purposes of filling a vacancy shall be conducted in accordance with Section 4.4.

A committee member can only be removed in accordance with the disciplinary procedures outlined in Section 7.

Section 4: Meetings

4.1. Meetings of the Committee

Committee meetings shall be held a minimum of 4 times each financial year including the AGM at the start of the financial year. Failure to hold the minimum number of meetings each year shall be made known to all members in the notification for the AGM.

4.2. Calling Committee Meetings

A minimum period of 7 days notice shall be given not including the day the notice is delivered.

An agenda shall be formed by either the President or Secretary and distributed along with the notice of the meeting.

4.3. Committee Meeting Procedures

Meeting minutes shall be made, containing information on the following items:

1. Who was in attendance?
2. Date and time of meeting including start and end times
3. Who chaired the meeting?
4. Results of discussions of agenda points
5. Further actions required by specific members or the committee

Committee meetings shall have a minimum of 3 committee members in attendance, either in person or online. If this requirement is not met, the meeting shall be postponed to a later date and shall not count to the minimum number of meetings required to be held each year.

4.4. Annual General Meeting (Election Meeting)

An annual general meeting (AGM) is required to be held once per financial year and no more than three months after the end of the financial year in accordance with the Act.

The incumbent President shall chair the AGM until the end of the AGM.

Where the incumbent President is unable or unwilling to chair the AGM, members present shall elect a new person to chair the meeting with more than 50% approval provided that the incumbent President has not already appointed someone else to chair the meeting.

Quorum must be established prior to any decisions being made in accordance with the Act. The requirements for quorum are outlined in Section 4.7 (General Meetings)

A report to be prepared by the President summarising the past financial year's events and ongoing and a financial report by the Treasurer shall be presented to the group at the AGM. The group shall confirm by approval of more than 50% of all attendees that the financial report is an accurate representation of the finances of the group for the past financial year. Where the report is found to be grossly inaccurate, the AGM shall be adjourned to the following month to allow for rectification.

If the report continues to be inaccurate or disagreement is still present, an audit shall be performed by an suitably qualified independent company or person.

The number of ordinary committee members is to be decided by the approval of more than 50% of all attendees prior to the collection of any votes or commencement of speeches by prospective candidates.

The committee shall be elected in the following order: President, Secretary, Treasurer, Ordinary Committee Member(s).

The incumbent secretary or designated member shall continue to take meeting minutes until the conclusion of the meeting at which point, they shall either continue their duties as re-elected secretary or pass on the duties to the incoming secretary.

For each committee position available, members may self-nominate or nominate others for the position. Where a member self-nominates, two members are required to support the nomination. Where a member has been nominated by another member for the position, they shall be required to have another member support the nomination, i.e. two members other than the nominated member are required to support the nomination.

Individuals who were full members in the previous financial year and intend to continue their membership into the coming year but have not yet paid the current financial year's dues may not participate in the election proceedings regardless of any held prior committee positions. The presence of these individuals during and following the election proceedings shall be the discretion of the meeting chair.

Once nominations have concluded, each nominee shall have the opportunity to make a short case as to their suitability for the position. Nominees may not make personal attacks against other candidates and may only speak to their own abilities, intended future actions and vision for the future. Where a nominee wishes to reference the actions of a previous committee member, they may only reference the official position of the individual, not the individual themselves. Further, they may only reference actions taken or not taken where the individual was acting as a representative of the committee or group and not as an ordinary group member.

At the conclusion of all cases made, votes shall be gathered. A vote shall consist of a preference ranking from 1 to N where 1 is the most desired candidate and N is the least desired of the candidates and is the number of candidates.

Votes shall be tallied according to the preferential voting system. First preferences shall be counted and if a nominee achieves over 50% of the votes, they shall be considered elected. Where no candidate receives more than 50% of the votes, the candidate with the fewest votes shall be excluded and their votes sorted according to their next preference. This shall be repeated until a nominee achieves over 50% of the votes. The chair of the meeting shall announce that the nominee has been elected. Votes shall not be kept secret. Members at the meeting may request to inspect votes following the counting of the votes to ensure an accurate count has been undertaken.

4.5. Special General Meetings

Special general meetings may be called at any time by the governing committee.

The minimum notice period for a special general meeting is 21 days not including the day the notice is delivered if a special resolution is to be proposed at the meeting or 14 days if no special resolution is to be proposed.

Only items listed on the notice delivered to members shall be discussed at the meeting.

The notice shall specify the date, time and place of the meeting, general nature of each item of business to be considered at the meeting and if a special resolution is to be proposed, state in full the proposed resolution.

4.6. Special General Meetings by Member Request

A special general meeting may be requested provided at least 10% of members request a meeting. The request for a special general meeting must be in writing, state the business to be considered at the meeting and resolutions to be proposed, include the names and signatures of the members requesting the meeting and be given to the secretary with explicit acknowledgement from the committee.

If the Committee does not set and advise membership of a date for an SGM to be held within twenty eight days of the date on which the request is made (exclusive of the date of the request submission), the members making the request (or any of them) may convene the SGM.

Where the committee does not acknowledge the meeting request has been received, this shall form grounds for removal from the committee.

Special general meetings held under this clause may not make any changes to the rules of the association.

4.7. General Meetings

All general meeting notices shall state that a member may appoint another member as a proxy for the meeting. A form appointing a proxy must be sent to the Committee by 12:05am of the day of the meeting. Forms received after this cut off shall be of no effect. A proxy vote shall contain who the vote is transferred to and what, if any, instructions they are to follow in regards to the business items that are to be voted upon.

Quorum shall consist of at least 15% or 5 members entitled to vote, whichever is larger. This amount includes members who have submitted a valid proxy vote form, members attending through an online medium and those in-person.

Where quorum is not established within 30 minutes of the meeting time commencement, the meeting chair shall dissolve the meeting. Notification shall be delivered to all members regarding the lack of quorum and an alternative date shall be made. Notice of the new meeting shall be delivered to all members with the same notice period as the first meeting.

Section 5: Matters of Documents

5.1. Custody of Documents

It shall be the duties of a member designated by the Committee to maintain a repository of all group documents including the constitution, members' register, meeting minutes and agendas both past and present, event preparation documents and financial records.

5.2. Members' Right to Access to Documents

All current Full Members have the right to inspect and access all documents belonging to the VNR without restriction provided that rights have not been stripped as detailed in Section 7.

This does not include the members' register and documents that contain sensitive personal details of members such as residential addresses, email addresses, age and date of birth.

In accordance with the privacy laws, all members have the right to view any personal details on themselves which are held by the association. The committee shall provide these documents with only information specific to the member, omitting or redacting information belonging to other members as required to protect the privacy of others. The personal details of Full Member – Minor and those under 18 may not be released without the permission of their legal parent or guardian.

Where a member has submitted a request in writing to the committee, the committee shall review the request and provide the document as requested within 28 days of approving the request. In the case of the members' register, specific reasoning shall be provided by the applicant regarding the merit and purpose of the request. The scope of a member's register's inspection must be specific and contain the exact components that are to be provided. Each component requested must be justified individually.

All members of the committee are required to approve any request to inspect the member's register and documents containing sensitive personal details such as bank details or insurance details.

Requests to inspect other documents not listed above are to be approved by at least 66% of the committee.

Where documents are not specifically about individual members but contain sensitive information, the committee shall redact specific sections as required to maintain personal privacy. Where a particular personal detail is in doubt as to whether redaction is required, the detail shall be redacted. Redaction shall be made in favour of the privacy of individuals details mentioned in documents where possible. The names mentioned within documents is not required to be redacted. The names of specific individuals or groups involved within the document may not be redacted except where legally required by external courts and similar institutions.

Only in circumstances that require it, personal details may be left undacted. This includes legal proceedings outside of the Association.

Records shall be maintained with all requests for documents logged.

Section 6: Disputes and Grievances

6.1. Initial procedure

For the purposes of dispute resolution, a dispute is subject to these rules where the issue pertains to the conduct of Members and Executive Committee Members being in contravention of these rules and relates to the running of the Association. Issues unrelated to the running of the Association such as interpersonal misconduct shall be resolved by the involved local club bodies.

Where a dispute has arisen between parties governed by the rules of the Association, both parties shall attempt to resolve their dispute in good faith prior to the involvement of any outside party.

6.2. Resolution Council Formation

Where a dispute could not be resolved between parties, a council of members shall be formed according to the following specifications:

- Member(s) against other Member(s):

Three Executive Committee Members consisting of the President and two other executive committee members.

To be selected by the President.

- Executive Committee against Member(s):

Three Full Members not involved in the dispute and two General Committee Members.

Where General Committee Members are unable to fill the role, the remaining positions shall be filled by other Full Members not involved in the dispute.

To be selected by the Full Member with the longest continuous period of membership not involved in the dispute and not in the executive committee.

- Member(s) against Executive Committee member(s) as individuals acting as a representative of the committee:

Three Full Members not involved in the dispute and two Committee Members not involved in the dispute. The president shall be prioritised for the Committee position where possible.

To be selected by the Full Member with the longest continuous period of membership not involved in the dispute and not in the executive committee.

- Member(s) against Executive Committee as a whole acting as a representative of the Association:

Five Full Members not a part of the party levying the grievance.

To be selected by the Full Member with the longest continuous period of membership not a part of the party levying the grievance and not in the executive committee.

Where all members within the Association are a part of the party levying the grievance, the DSCV shall be contacted for resolution.

6.3. Council Responsibilities

Both parties shall be given the chance to express their case and requested remedies to this council. All parties including the council shall parlay in good faith. The council shall then make a decision on the actions that are to be taken based on the requested remedies. The decision taken by the council members shall be as unbiased as possible.

6.4. Escalation

Where a party is not satisfied that the council made its decision in an unbiased or minimally biased manner, another group of five Full Members not in the original council or party to the dispute shall be appointed to review the procedures followed and the outcome decided the council to determine if there is a reasonable case to be made that the decision was not minimally biased.

Only when this group of five have concluded that the decision was not unbiased or minimally biased, may an independent mediator from the DSCV be appointed. Costs arising from this shall be borne by the Association and the party requesting mediation at a ratio of 80:20.

Where a resolution is not obtained following consultation with the DSCV, member parties may apply to the Magistrates' Court as allowed for in the Act.

Section 7: Disciplinary Actions

7.1. Grounds for Removal of Executive Committee Member, Grounds for Revocation of Voting Rights and Grounds for Expulsion from the Association

The grounds for the removal of executive committee members, revocation of voting rights and expulsion from the association are noted below in Section 7.1.1. The list contained in Section 7.1.1 is not exhaustive. An action by a member need not be within Section 7.1.1 for it to be considered grounds for various disciplinary actions however a council of five Full Members shall be formed by the Full Member with the longest continuous period of membership in the Association not involved in the allegation(s) to determine if any given action shall constitute grounds for disciplinary actions if it is not already listed in Section 7.1.1.

Misappropriation of group funds including alleged theft and other criminal matters shall be referred to Victoria Police for investigation.

7.1.1. Grounds for Disciplinary Actions

1. Grounds for Removal of Executive Committee Member

- Tampering with votes, ballots and other election materials used at AGMs, SGMs and committee meetings
- Failure to acknowledge an SGM request made by members under Section 4.6

2. Grounds for Revocation of Voting Rights

- Tampering with votes, ballots and other election materials used at AGMs, SGMs and committee meetings
- Those listed under Expulsion from the Association

3. Grounds for Expulsion from the Association

- Sexual Misconduct
- Conduct prejudicial to the club: behaviour that damages the reputation of the club
- Harassment and bullying
- Rule violations: flagrantly or repeatedly breaking the association rules
- Theft
- Deliberate Property Damage

7.2. Procedure for Removal of Executive Committee Member

Where an Executive Committee Member has violated rules outlined in this document and meets the conditions to be removed outlined in Section 7.1, and a Member has notified the President and Secretary of the breach, they shall become “Subject to Removal”.

A council of five Full Members shall be formed by the Full Member with the longest continuous period of membership in the Association not involved in the allegation(s). The council shall review

the allegation(s) to determine if the actions taken by the Committee Member meet the conditions for removal. The council shall also consider whether the breach was conducted knowingly and intentionally, through negligence and/or lack of action or a combination of factors. The Committee Member alleged to have committed the breach shall have an opportunity to make their case as to why their actions or inaction have not breached the rules.

Where a breach was conducted knowingly and intentionally, this shall form grounds for revocation of voting rights and expulsion from the Association.

Where a breach was conducted through negligence and/or lack of action, this shall form grounds for removal from the executive committee, revocation of voting rights and prevention of contesting the following election cycle.

7.3. Procedure for Revocation of Voting Rights

Where an Member has violated rules outlined in this document and meets the conditions for revocation of voting rights outlined in Section 7.1.1, and a Member has notified the President and Secretary of the breach, they shall become “Subject to Revocation of Voting Rights”.

A council of five Full Members shall be formed by the Full Member with the longest continuous period of membership in the Association not involved in the allegation(s). The council shall review the allegation(s) to determine if the actions taken by the Member meet the conditions for removal. The council shall also consider whether the breach was conducted knowingly and intentionally, through negligence and/or lack of action or a combination of factors. The Member alleged to have committed the breach shall have an opportunity to make their case as to why their actions or inaction have not breached the rules.

7.4. Procedure for Expulsion from the Association

Where an Member has violated rules outlined in this document and meets the conditions for expulsion outlined in Section 7.1.1, and a Member has notified the President and Secretary of the breach, they shall become “Subject to Expulsion”.

A council of five Full Members shall be formed by the Full Member with the longest continuous period of membership in the Association not involved in the allegation(s). The council shall review the allegation(s) to determine if the actions taken by the Member meet the conditions for expulsion. The council shall also consider whether the breach was conducted knowingly and intentionally, through negligence and/or lack of action or a combination of factors. The Member alleged to have committed the breach shall have an opportunity to make their case as to why their actions or inaction have not breached the rules.

Upon expulsion from the association, all clubs under the VNR shall also expel the individual from their clubs and the ANF notified that an expulsion has occurred.

Section 8: Winding up and cancellation of the association

The members may vote by special resolution at a general meeting to wind up the association or voluntarily cancel its registration.

If the association is wound up or voluntarily cancelled, any surplus assets must not be distributed to the members or former members of the association unless the member or former member is an organisation which is described below.

The 'surplus assets' of the association are the assets of the association remaining after satisfaction of the debts and liabilities of the association and the costs, charges and expenses of the winding up or voluntary cancellation of the association.

Subject to the Act, any other applicable law and any court order, any surplus assets must be distributed to one or more organisations that have similar purposes to the Association which is prohibited from making distributions to its members to at least the same extent as the association.

The decision as to the organisation to be given the surplus assets must be made by a special resolution of members at or before the time of winding up or voluntary cancellation. If the members do not make this decision, the association may apply to the Supreme Court of Victoria to make this decision.