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# Australian Canoeing Selection Procedures Bylaw



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Version G - Amended by the Board 25<sup>th</sup> October  
2016

Bylaw #9

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## 1. INTRODUCTION

Australian Canoeing Limited (**AC**) is the national governing body in Australia for the sport of paddling, as recognised by the International Canoe Federation (**ICF**).

The Board of AC adopted this Bylaw on 13 November 2001 and it has since been amended in accordance with the AC Constitution.

This amended Bylaw comes into effect on the date it is approved by the Board and will remain in force until amended, repealed or replaced.

This Bylaw governs the selection of Athletes to AC teams in each of the Disciplines and must be read in conjunction with the relevant Selection Criteria Supplement applicable to each AC team/squad, which forms part of this Bylaw. The purpose and objective of this Bylaw, including the Selection Criteria Supplement, is to establish transparent and consistent criteria and procedures for the selection of athletes in all AC Disciplines, and to ensure the best possible teams and Athletes are selected to achieve maximum success when representing Australia. In enacting this Bylaw, AC intends to provide certainty and clarity to Athletes in the selection of Australian representative teams.

It is the Athlete's responsibility to read and understand the Bylaw and to seek legal advice where an Athlete is unclear or uncertain about the operation or effect of the Bylaw.

This Bylaw and the various Selection Criteria Supplements are not applicable to the nomination of athletes to the Australian Olympic Team, except to the extent that participation in qualifying events for the Olympic Games may be restricted by each of these documents.

Any Athlete with any questions regarding the interpretation or operation of the Bylaw or a Selection Criteria Supplement should contact the AC CEO (greg.doyle@canoe.org.au) or National Performance Director (richard.fox@canoe.org.au).

## 2. DEFINITIONS

<b>"Athlete"</b>	means a person who has notified AC in accordance with this Bylaw that he/she wishes to be considered for selection in a squad and/or team under this Bylaw or has been selected in an AC squad or team
<b>"Crew"</b>	Means, where a Discipline involves a crew of more than one person, the Athletes who compete together in that crew from time to time and who seek selection for a squad and/or team as part of that crew, as that crew may be comprised from time to time
<b>"Discipline"</b>	means the canoeing disciplines such as Canoe Polo, Canoe Slalom, Canoe Sprint, Freestyle, Marathon Racing, Ocean Racing and Wildwater Racing
<b>"Domiciled in Australia"</b>	means to be lawfully present in Australia with the intention of remaining in Australia indefinitely. The following factors will be considered by AC's CEO in determining if an Athlete is 'Domiciled in Australia':  a) statements made by the Athlete, orally and in writing, as to the Athlete's intention;

- b) establishment of a permanent place of abode in Australia evidenced by:
  - (i) a contract of sale of a residence in Australia showing the Athlete as the purchaser; or
  - (ii) current lease or rental document for premises in Australia; or
  - (iii) utility accounts paid within the last three months showing the Athlete's name and a street address in Australia; or
  - (iv) bank account statements showing the Athlete's name and a street address in Australia;
- c) acceptance of employment with an employer located in Australia;
- d) the maintenance or abandonment of a residence in the domicile of origin;
- e) the duration and continuity of the Athlete's presence in another country (if any); and
- f) any family ties that the Athlete has to Australia.

Where the Athlete is under the age of 18, AC's CEO may consider these factors in relation to the Athlete's parent/guardian(s).

The weight to be given to each factor will vary with each particular case and will be determined by AC's CEO in his/her sole discretion and no single factor will be determinative.

<b>"CEO"</b>	means the Chief Executive Officer of AC
<b>"NPD"</b>	means the National Performance Director of AC
<b>"Selection Criteria Approval Committee"</b>	means the approval committee that approve the Selection Criteria Supplement for the relevant Discipline
<b>"Selection Criteria Supplement"</b>	means the document that contains the specific selection criteria for the relevant team selection process for a Discipline
<b>"Selection Panel(s)"</b>	means the panels of persons determined under clause 4 and who on behalf of AC select Athletes in the relevant teams in accordance with this Bylaw

### 3. CHANGES TO THIS BYLAW

- 3.1. The Board of AC may repeal or amend this Bylaw or any Selection Criteria Supplement for any team from time to time, provided that it shall provide as much notice of such change as is reasonably possible to all affected Athletes, Member State Associations and others as determined by the Board.
- 3.2. The CEO will take reasonable steps to give written notice to Athletes affected by any amendments and/or supplements to this Bylaw. It is the responsibility of each Athlete to keep his/her contact details up to

date on the contact information section of the AC website, and to keep AC notified of any change to that information (including where the Athlete is away from home for any purpose such as competition or training).

- 3.3. Apart from any other steps the CEO may take, he/she will be deemed to have complied with this clause if he/she emails notice to the email address last notified to AC by the Athlete and posts written notice on the AC website.

#### 4. APPOINTMENT OF THE SELECTION PANELS

- 4.1. Subject to this clause 4, there shall be a Selection Panel for each team to be selected. Each Selection Panel shall be appointed by the Board of AC after considering recommendations from the Technical Committee and NPD responsible for the relevant Discipline and will be listed in the Selection Criteria Supplement. Each Selection Panel will be responsible to the CEO and will comprise not less than three and no more than five persons which may (but need not) include the NPD and/or the national coach of the relevant Discipline. The Board will appoint one of the members of each Selection Panel to be the Chair of that Panel. In appointing the Selection Panel the Board will:
  - 4.1.1. where possible, select a Selection Panel that has one or more members with experience in the Discipline themselves at an elite level but are no longer competing at that level;
  - 4.1.2. appoint members of the Selection Panel who understand and appreciate the culture of the sport;
  - 4.1.3. take into account previous national or international experience or involvement in AC competitions;
  - 4.1.4. appoint members of the Selection Panel who are suitable and qualified to fill the required positions;
  - 4.1.5. take into account gender equity; and
  - 4.1.6. appoint members of the Selection Panel who will work efficiently, cooperatively and harmoniously with AC officials, in particular the CEO and the NPD.
- 4.2. The Board may terminate the appointment of any Selection Panel member or appoint additional member(s) if it considers it appropriate to do so, including but not limited to where one or more members are or become unable to meet their responsibilities under this Bylaw.
- 4.3. The CEO may direct any member of any Selection Panel to vacate the relevant Selection Panel for such period as the CEO considers appropriate where the CEO considers, in their sole discretion, the Selection Panel member has an association with an Athlete which may give rise to a question of bias or conflict of interest in the selection process.
- 4.4. Where any member of the Selection Panel advises the CEO that s/he considers s/he is unable to meet his/her responsibilities under this Bylaw, or the CEO makes a direction under clause 4.2 or 4.3, the Board may appoint a replacement to assume that member's role on any Selection Panel.
- 4.5. The CEO and/or NPD will work closely with Selection Panels to provide advice and to ensure compliance with this Bylaw and other relevant AC rules, policies and bylaws.
- 4.6. Subject to this Bylaw including the Selection Criteria Supplement, the Selection Panel has absolute discretion to determine whether an Athlete is selected in a team or squad.
- 4.7. The Selection Panel will ensure that the AC policy for assisting and counselling Athletes seeking selection is complied with. The Selection Panel or its authorised nominee must regularly advise Athletes seeking

selection as to their individual performance and progress against selection criteria. The Selection Panel must facilitate, through AC, counselling opportunities for unsuccessful aspirants seeking selection.

## 5. ELIGIBILITY

- 5.1. To be eligible for selection under this Bylaw, AC's CEO must be satisfied that, at the time of selection to a team or teams, the Athlete:
  - 5.1.1. meets or will meet the ICF's eligibility requirements (if any); and
  - 5.1.2. is an Australian citizen or holds an Australian permanent residency visa; and
  - 5.1.3. where the Athlete holds an Australian permanent residency visa, he/she has been Domiciled in Australia for a minimum of 1 year; and
  - 5.1.4. is a financial individual member of AC; and
  - 5.1.5. does not have any outstanding accounts with AC that are more than 30-days in arrears; and
  - 5.1.6. completes and signs the applicable application form, including the acknowledgement that s/he will abide by the AC Team Member Bylaw; and
  - 5.1.7. pays the non-refundable \$70.00 selection application fee; and
  - 5.1.8. returns all of the items above to the CEO by no later than the applicable closing date as specified in the relevant Selection Criteria Supplement. The CEO may at his/her sole discretion accept the abovementioned items after this time depending upon the circumstances as considered on a case-by-case basis.
  
- 5.2. If an Athlete is selected to a squad and/or team under this Bylaw, the Athlete acknowledges and agrees that:
  - 5.2.1. the AC Team Member Bylaw immediately comes into full force and effect in respect of that Athlete;
  - 5.2.2. she/he must comply with AC's Constitution and all AC bylaws and policies;
  - 5.2.3. she/he is subject to drug testing by the Australian Sports Anti-Doping Agency (**ASADA**), ICF, or other applicable body and must comply with AC's, the Australian Olympic Committee's and ICF's Anti-Doping bylaw or policy;
  - 5.2.4. she/he must maintain a designated level of fitness determined by AC, and standard of competitiveness prior to the relevant event for which s/he has been selected; and
  - 5.2.5. she/he will comply with all requests from AC and with his/her obligations set out in the AC Anti-Doping Bylaw to provide accurate whereabouts information to ASADA and ICF, using an Athlete Contact Information Form.
  
- 5.3. Failure to comply with any part of clauses 5.1 or 5.2 may result in the Athlete failing to be eligible for selection.

## 6. SELECTION CRITERIA SUPPLEMENT

- 6.1. Each Selection Criteria Supplement is initially drafted by the Discipline's Technical Committee or in the case of the Olympic Disciplines by the NPD/Head Coach in conjunction with one or more Technical Committee members as nominated by the Technical Committee. The Selection Criteria Supplement is then forwarded to the Selection Criteria Approval Committee for approval.
  
- 6.2. The Board of AC will appoint a Selection Criteria Approval Committee that must consist of the AC CEO, a Director of AC, the relevant Technical Committee Chair and any additional members as determined by the

AC Board. The Selection Criteria Approval Committee will approve the Selection Criteria Supplement for each team or squad to be selected in the following Disciplines:

- 6.2.1. Canoe Polo;
  - 6.2.2. Canoe Slalom;
  - 6.2.3. Canoe Sprint;
  - 6.2.4. Freestyle;
  - 6.2.5. Marathon Racing;
  - 6.2.6. Ocean Racing;
  - 6.2.7. Wildwater Racing; and
  - 6.2.8. any other Discipline the Board determines is appropriate.
- 6.3. Once approved, the Selection Criteria Supplement may be amended by the AC Board from time to time in accordance with clause 3.1.

## 7. NOMINATION AND SELECTION

- 7.1. Athletes wishing to nominate for selection to a team must comply with the procedure set out in the Selection Criteria Supplement, including meeting all relevant dates and requirements.
- 7.2. The Selection Panel must apply the Selection Criteria Supplement when determining the Athletes for selection to any team or squad.
- 7.3. All other matters concerning selection are governed by this Bylaw, including the composition of the Selection Panel, eligibility of Athletes, notification of selected Athletes, appeals and withdrawal and replacement of Selected Athletes,

## 8. APPEALING DECISIONS

- 8.1. Appeals against non-selection will be determined in accordance with the following process:
  - 8.1.1. consultation and mediation whereby the parties meet to discuss the decision;
  - 8.1.2. only where the parties do not reach agreement via consultation and mediation will a non-selected Athlete be entitled to appeal to the Appeals Tribunal convened by the AC (**Appeals Tribunal**); and
  - 8.1.3. appeals against the decision of the Appeals Tribunal will be determined by the Appeals Arbitration Division of the Court of Arbitration for Sport (**CAS**).
- 8.2. An appeal may only be made on the procedural grounds set out in this clause, not on the merits of a particular selection decision. The sole grounds for appeal to the Appeals Tribunal are that:
  - 8.2.1. the applicable Selection Criteria Supplement has not been properly followed and/or implemented; or
  - 8.2.2. the Athlete was not afforded a reasonable opportunity to satisfy the applicable Selection Criteria Supplement; or
  - 8.2.3. the selection decision was affected by actual bias; or
  - 8.2.4. there was no material on which the selection decision could reasonably be based.
- 8.3. Any appeal must accord with the following procedure:

- 8.3.1. the Athlete must give written notice of his/her appeal to AC's CEO within 48 hours of receiving written notice of the decision against which the appeal is made;
- 8.3.2. within 5 working days of submitting his or her written notice of appeal, the Athlete must submit to AC's CEO the grounds of appeal accompanied by a non-refundable deposit of \$250 payable to AC;
- 8.3.3. before the Appeals Tribunal will conduct a hearing, the Athlete and a representative of AC shall meet for mediation and consultation as set out in clause 8.1;
- 8.3.4. the Appeals Tribunal will consist of the following persons appointed by AC's Board:
  - (i) a barrister or solicitor who will act as Chair;
  - (ii) a person with a thorough knowledge of canoeing and who preferably has had recent international competition experience in canoeing; and
  - (iii) one other person of experience and skills suitable to the function of the Appeals Tribunal, all of whom will constitute a quorum for the purpose of hearing and determining any appeal.
- 8.3.5. No person is eligible to be appointed to the Appeals Tribunal if he or she is a member of AC's Board, a Selection Panel or by reason of his or her (perceived or actual) conflict of interest (as determined by AC's Board) with:
  - (i) the appealing Athlete;
  - (ii) any member of the Board;
  - (iii) the Selection Panel;
  - (iv) any persons whose interest may be affected by the outcome of the appeal, or the person would be reasonably considered to be other than impartial.
- 8.3.6. Should an Athlete or other party to the appeal challenge the impartiality of any member of the Appeals Tribunal, the challenge will be determined by the Chair sitting alone.
- 8.3.7. The Appeals Tribunal will convene a hearing as soon as possible after the submission of the grounds of appeal and after the mediation/consultation (referred to in clause 8.1 and 8.3(c)) is held. The hearing may occur in such manner as the Chair decides, including telephone or video conferencing.
- 8.3.8. In any hearing before the Appeals Tribunal:
  - (i) the Appeals Tribunal must observe the principles of natural justice;
  - (ii) the Appeals Tribunal is not bound by the rules of evidence and may inform itself as to any matter in such manner as it thinks fit;
  - (iii) the Athlete must establish one or more ground of appeal to the reasonable satisfaction of the Appeals Tribunal with full regard to the importance and gravity of the issue;
  - (iv) the parties will not be entitled to be represented by a barrister or solicitor save with the leave of the Appeals Tribunal, which leave will only be given in exceptional circumstances;
  - (v) if a question of law arises during the course of a hearing, the parties may seek an adjournment in order to obtain legal advice; and
  - (vi) the hearing will be conducted in a manner which allows proper consideration of the matter at hand.
- 8.3.9. A reasonable period prior to the hearing, as determined by the Selection Panel in its absolute discretion, the Selection Panel will provide the Appeals Tribunal and the Athlete with a written statement as to the reasons for the decision against which the appeal is made.
- 8.3.10. If the Appeals Tribunal is of the view that the outcome of the appeal may affect the interests of any person not a party to the dispute, it must, so far as is practicable, require that notice be given to such other person and will permit that person to appear at the hearing of the appeal and to make submissions.
- 8.3.11. The Appeals Tribunal will give its decision as soon as practicable after the hearing and will provide AC's CEO and the Athlete with a statement of the reasons for its decision.
- 8.3.12. Only in extreme circumstances such as a pressing deadline may the Appeals Tribunal itself make a selection where the selectors' decision is set aside.



- 8.3.13. The decision of the Appeals Tribunal will be binding on the parties and, subject only to any appeal to the Appeals Arbitration Division of CAS, it is agreed that neither party will institute or maintain proceedings in any court or tribunal other than CAS.
- 8.4. Where an Athlete wishing to appeal a decision concerning his or her non-selection and AC agrees in writing, an appeal may be directly referred to CAS and in which instance the grounds of appeal must be one or more of the grounds described in clause 8.2. Clauses 8.5 to 8.8 will apply to any such appeal in so far as they are relevant.
- 8.5. The sole grounds for any appeal against a decision of the Appeals Tribunal are:
- 8.5.1. a breach of the rules of natural justice by the Appeals Tribunal; or
  - 8.5.2. that there has otherwise been an error on a question of law.
- 8.6. Any appeal from a decision of the Appeals Tribunal must be solely and exclusively resolved by CAS according to the Code of Sports-related Arbitration and applying the law of New South Wales. The decision of CAS will be final and binding on the parties and it is agreed that neither party will institute or maintain proceedings in any court or tribunal other than CAS. In particular, and without restricting the generality of the foregoing and for further and better assurance notwithstanding that such provisions have no applicability, there will be no right of appeal under section 38 of the *Commercial Arbitration Act, 1984* (NSW) or equivalent in any of the Australian states or to apply for the determination of a question of law under section 39(1)(a) of such Act or equivalent in any of the Australian states.
- 8.7. An Athlete wishing to appeal to CAS must give written notice of that fact to AC's CEO within 48 hours of the announcement of the reasons of the decision of the Appeals Tribunal (whether oral or in writing, whichever occurs first) against which the appeal is made (or within such time as the CEO may allow) and must then file his or her statement of appeal with CAS within 5 working days.
- 8.8. Failure to observe the above time limits will render any appeal a nullity.
- 8.9. All appeals to CAS will be heard by a sole arbitrator unless the parties cannot agree on a sole arbitrator.
- 8.10. If the Appeals Tribunal (subject to clause 8.3.12) or CAS determines to uphold any appeal in respect of the non-selection of an Athlete, they will as a matter of usual practice refer the question of re-selection back to the selectors for determination in accordance with the Selection Criteria. CAS may itself only conclusively determine the issue of selection of Athletes in the case of an appeal against non-selection where CAS had determined that it would be impractical to refer the question of selection back to the selectors in the time available.

## 9. ANNOUNCEMENTS

- 9.1. Athletes selected by a Selection Panel for a team shall be announced in accordance with the procedure set out below:
- 9.1.1. the Selection Panel submits the team list to the CEO for ratification;
  - 9.1.2. following ratification, selected Athletes will be notified directly by AC in writing on an individual basis;
  - 9.1.3. subject to AC receiving no appeals, after all selected Athletes have been notified an announcement of the team will be made via the AC website and media release for appropriate teams;

- 9.1.4. where AC receives one or more appeals, AC may at its absolute discretion determine whether to announce one or more members of the team not subject to the appeal, or to announce that one or more selections to the team are under appeal, with the successful Athletes announced after completion of the appeal;
  - 9.1.5. all media enquiries regarding the team announcement will be directed to the AC Media Coordinator; and
  - 9.1.6. all enquires regarding selection of Athletes will be directed to the respective Selection Panel.
- 9.2. Where requested, counselling services will be available and the Athlete is able to access this confidentially.

## 10. REQUIREMENTS AFTER SELECTION

Following an Athlete's selection to a team they must adhere to the following requirements to accept and maintain their position in the team:

- a) agree to abide by the AC Code of Conduct and sign the relevant Athlete Agreement and Team Agreement;
- b) maintain appropriate medical health and absence of injury or illness that allows them to perform at the satisfactory level in line with this Bylaw. All team members must immediately inform the team management of any illness or injury that could reasonably impact on the Athlete's ability to perform at the level expected of the Athlete;
- c) maintain performance standards in line with this Bylaw;
- d) actively participate in the appropriate elite training program within the AC Athlete Pathway as identified by the National Head Coach and communicated by AC; and
- e) all members of the team are expected to meet minimum standards of behaviour for team members while assembled, travelling or training as part of the team. Any team member who does not meet that minimum standard of behaviour in the assessment of the team manager will be dismissed from the team.

## 11. WITHDRAWAL AND REPLACEMENT OF ATHLETES

### 11.1. WITHDRAWAL

- 11.1.1. An Athlete who is selected under this Bylaw may be withdrawn from the squad/team if s/he:
  - a) breaches or fails to comply with this Bylaw;
  - b) breaches or fails to fulfil a requirement of the AC Anti-Doping Bylaw;
  - c) breaches or fails to comply with the AC Team Member Bylaw;
  - d) breaches or fails to comply with the AC Member Protection Bylaw;
  - e) brings or is likely to bring AC the sport of canoeing or his/herself into disrepute;
  - f) has an illness or injury which in the relevant Selection Panel's opinion prevents the Athlete from meeting the overall requirements for selection as set out in the applicable Selection Criteria Supplement; or
  - g) subject to clause 7.4, is a member of a Crew where one member withdraws.
- 11.1.2. Any selected Athlete may be withdrawn from the team or squad by AC if any of the grounds in clause 7.1 occur. AC shall notify the Athlete in writing of the alleged breach or grounds upon which it is proposed that s/he be withdrawn from the team or squad. The Athlete shall be given a reasonable opportunity (not being less than seven days) to provide reasons why s/he should not be withdrawn (**Reasons**). AC may suspend an Athlete's entitlement to be a member of a team/squad while considering his/her Reasons.

11.1.3. A selected Athlete may withdraw his/her selection by giving notice in writing to the CEO.

11.1.4. If a selected Athlete or Crew is withdrawn from selection, the Selection Panel may consider selecting another Athlete or Crew to replace the withdrawn Athlete or Crew.

## 11.2. REPLACEMENT ATHLETE

Where an Athlete/Crew has been selected to the Team and subsequently withdraws from or is unable to take part in a competition listed in clause 5.4 due to injury or illness, the Selection Panel may select a replacement.

In exercising their discretion, the Selection Panel may consider any factor, or combination of factors that is, in the opinion of the Selection Panel, relevant for consideration when selecting a replacement. Without in any way limiting the discretion of the Selection Panel as set out in this clause, the Selection Panel may consider the following:

- a) performances in the selection trials;
- b) performances in the previous World Championships and/or World Cup events;
- c) overall consistency of performance at an international level;
- d) individual strengths that may contribute to the performance of the team as a whole;
- e) willingness and ability to fill and/or complete a role that may enhance Australia's medal potential; or
- f) the benefit of exposure to international racing to any Athlete who, in the opinion of the Selection Panel, has the potential to represent Australia at future Olympic Games.

## 12. INTERPRETATION

Unless the context otherwise requires, the terms used in this Bylaw and the Selection Criteria Supplement shall have the same meaning as in AC's Constitution.

No particular part of this Bylaw or the Selection Criteria Supplement shall be weighed more or less significantly by reason only of the order in which that section appears in the relevant document.

## 13. OTHER RELATED POLICIES AND DOCUMENT

This Bylaw is to be read in conjunction with the AC:

- [Anti-Doping Policy](#)
- Athlete Agreement
- Code of Conduct
- [Constitution](#)
- [Disciplinary Bylaw](#)
- [Medical & Medication Policy](#)
- [Member Protection Bylaw](#)
- [Selection Procedures Bylaw](#)
- [Supplement Policy](#)
- [Team Members Bylaw](#)

## 14. VERSION HISTORY

**Adopted by the Board of AC on the 13 November 2001 (Version A)**

**Amended by the Board on 1 November 2002 (Version B)**

**Amended by the Board on 19 October 2003 (Version C)**

**Amended by the Board on the 25 November 2004 (Version D)**

**Amended by the Board on the 16 December 2009 (Version E)**

**Amended by the Board on the 11 August 2010 (Version F)**

**Amended by the Board on the 25 October 2016 (Version G)**