

AUSTRALIAN CANOEING INC**BY-LAW THREE****DISCIPLINARY BY- LAW**

In accordance with Rule 34.1 of the Australian Canoeing Constitution, the following By-Law is adopted by the Australian Canoeing Board.

This Disciplinary By-Law sets out the procedure for dealing with disciplinary actions and matters under Rule 13.1 of the Australian Canoeing Constitution.

Establishment of Disciplinary Tribunal

- 1 The Board shall establish a Disciplinary Tribunal to deal with all disciplinary actions and matters under Rule 13.1 of the Australian Canoeing Constitution.

Composition of Disciplinary Tribunal

- 2 A Disciplinary Tribunal of 3 persons shall be appointed by the Board for the purpose of hearing disciplinary actions and matters under Rule 13.1 of the Australian Canoeing Constitution. The Board shall also appoint a member of the Disciplinary Tribunal as Chair.
- 3 The Board may call for nominations to the Disciplinary Tribunal.
- 4 No member of the Disciplinary Tribunal shall be permitted to hold any office on the Australian Canoeing Board.
- 5 Three (3) members of the Disciplinary Tribunal shall constitute a quorum.
- 6 A vacancy on the Disciplinary Tribunal shall be filled by the Board.

Notice of Alleged Breach

- 7 Where the Board is advised or considers that a Member of Australian Canoeing has allegedly:
 - (a) breached, failed, refused or neglected to comply with a provision of the Constitution, the By-Laws or any resolution or determination of the Board or any duly authorised committee; or
 - (b) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of Australian Canoeing and/or the sport of canoeing; or
 - (c) brought Australian Canoeing or the sport of canoeing into disrepute;the Board shall notify the Chair of the Disciplinary Tribunal.
- 8 In the event that the alleged breach or act relates to member protection as outlined in the Australian Canoeing Member Protection By-Law, the matter shall first be dealt with in accordance with the Member Protection By-Law. Action may only be commenced under this Disciplinary By-Law if all avenues under the Australian

Canoeing Member Protection By-Law are exhausted and/or completed as the case may be.

- 9 The Chair of the Disciplinary Tribunal shall, as soon as practicable upon receipt of notice in accordance with clause 7, serve on the Member a notice in writing:
- (a) setting out the alleged breach of the Member and the grounds on which it is based;
 - (b) stating that the Member may address the Disciplinary Tribunal at a hearing to be held not earlier than 14 and not later than 28 days after service of the notice;
 - (c) stating the date, place and time of that hearing;
 - (d) informing the Member that he or she may do one or more of the following: -
 - (i) attend that hearing;
 - (ii) give the Disciplinary Tribunal, before the date of that hearing a written statement regarding the alleged breach.

Disciplinary Tribunal Procedures

- 10 At a hearing of the Disciplinary Tribunal held in accordance with clause 9, the Disciplinary Tribunal shall:
- (a) give to the Member every opportunity to be heard;
 - (b) give due consideration to any written statement submitted by the Member; and
 - (c) by resolution determine whether the alleged breach occurred.
- 11 Australian Canoeing and the Member shall not be entitled to legal representation at the hearing of the Disciplinary Tribunal.
- 12 The Disciplinary Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged breach occurred.
- 13 If the Disciplinary Tribunal considers that the alleged breach occurred, it may impose any one or more of the penalties set out in clause 16.
- 14 If the Disciplinary Tribunal considers that the alleged breach did not occur, the matter shall be dismissed.
- 15 Each party shall be responsible for their own costs associated with the Disciplinary Tribunal hearing. The Disciplinary Tribunal has no power to award costs to a party.

Penalties

- 16 If the Disciplinary Tribunal considers that the alleged breach occurred, the Disciplinary Tribunal may impose any one or more of the following penalties:
- (a) impose a warning;
 - (b) fine the Member;
 - (c) where there has been damage to property, direct that the Member pay compensation to the relevant organisation which controls or has possession of the property;
 - (d) direct that any funding granted or given to it by Australian Canoeing cease from a specified date;
 - (e) direct that any rights, privileges and benefits provided to that Member by Australian Canoeing be suspended for a specified period and/or terminated;
 - (f) direct that Australian Canoeing cease to sanction events held by or under the auspices of that Member;
 - (g) reprimand the Member;
 - (h) suspend the Member from membership of Australian Canoeing for a specified period;
 - (i) expel the Member from Australian Canoeing;
 - (j) any other such penalty as the Disciplinary Tribunal considers appropriate.

No Appeal from Decision of Disciplinary Tribunal

- 17 A disciplinary action and matter must be solely and exclusively resolved by the Disciplinary Tribunal and the decision of the Disciplinary Tribunal is final and binding upon Australian Canoeing and the Member. Australian Canoeing and the Member have no right of appeal.

Adopted by the Australian Canoeing Board on 17th February 2003.