



**Mercedes-Benz Club (NSW)
Incorporated.**

**Constitution
2013**

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CONSTITUTION

MERCEDES-BENZ CLUB – NEW SOUTH WALES INCORPORATED.

Introduction.

Club Name and Incorporation Information

The name of the Club shall be “Mercedes-Benz Club (NSW) Incorporated.” It may also be referred to as the Mercedes-Benz Club (NSW) Inc. or Mercedes-Benz Club – New South Wales or Mercedes-Benz Club of NSW or MBCNSW.

Date of Incorporation – 4th June 1992.

Trade Mark (Badge)

The Mercedes-Benz Club trademark

- (a) Mercedes-Benz filed on 12th July 1985 under No. 429877 in respect of “Services Rendered by Car Clubs to their own members (class 42).
- (b) Three-pointed Star in Laurel Wreath with Mercedes and Benz filed on 12th July 1985 under No. 429876 in respect of “Services rendered by Car Clubs to their own members.” (Class 42).
- (c) The approved marks are and remain the property of Mercedes-Benz Aktiengesellschaft of Stuttgart Germany.

Constitution:

Printed 2004

Updated 2006

Updated 2007

New Version 2013 to reflect changes to the Model Rules 2011

Part 1 – Preliminary

1. Definitions

(1) In this Constitution:

Club means Mercedes-Benz Club (NSW) Incorporated.

Club Year means the year ending on 31 October.

Director-General means the Director-General of the Department of Services, Technology and Administration

Ex-officio Role means an Executive Committee member appointed to attend any sub-committee of the Club to ensure Club policies are adhered to.

Executive Committee Member means a member elected to control and manage the affairs of the Club.

Financial Year means the year ending on 30 June;

Membership Year is 1st July to following 30th June

Member means a member, however described, of the Club.

Membership means one (1) primary member and a maximum of one (1) associate member, the fees due for which are currently paid.

Ordinary Executive Committee Member means a member of the Executive Committee who is not an Office-Bearer of the Club.

Secretary means:

- (a) the person holding office under this Constitution as Secretary of the Club, or
- (b) If no such person holds that office, the Public Officer of the Club

Special General Meeting means a general meeting of the Club other than an Annual General Meeting called to deal with a Special Resolution.

Special Resolution means a resolution determined at a Special General Meeting that requires a 75% of members present at a meeting and eligible to vote.

The Act means the Clubs Incorporation Act 2009.

The Regulation means the Clubs Incorporation Regulation 2010

Vehicles mean and include any forms of conveyance whether self-propelled or

taken in tow and forms of conveyance used or capable of being used for the purpose of carriage of persons and goods generally.

(2) In this Constitution:

(c) a reference to a function includes a reference to a power, authority and duty, and

(d) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the Interpretation Act 1987 apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

2. Club Objects

The objects of the Mercedes-Benz Club (NSW) Inc. are:

(1) The principal object of the Club is to provide a forum and meeting point for all for the dissemination of information to the public and more particularly, but without limiting, the generality of the foregoing:

(2) To maintain links, membership and affiliation with the Mercedes-Benz Classic Car Club International GmbH stationed in Stuttgart.

(3) To promote the restoration, maintenance, use and display of Mercedes-Benz, Benz, Mercedes, Maybach and other Daimler AG vehicles and to arrange sporting and recreational activities for the participation, benefits and enjoyment of Club members.

(4) To confer and liaise with and arrange for the participation of other organisations and persons with the object of supporting the Vehicle Movement both old and new.

(5) To promote and to conduct investigation and research and the dissemination of advice and information concerning preservation of vehicles and their use and display.

(6) To encourage governments, their departments and instrumentalities regarding the preservation, display and acquisition of historic vehicles and the provision of suitable museum buildings and facilities.

(7) To encourage the preservation of technical publications and material and memorabilia generally in respect of vehicles.

(8) To engage in activities related generally to the above objects.

3. Duty of Care Statement

All drivers of motor vehicles have a duty of care to themselves and other road users. For the purpose of this section, road users include drivers of motor vehicles and non-motorised vehicles (bicycles, horse-drawn carriages, scooters, wheel chairs etc), their passengers, other drivers and passengers of vehicles/motor vehicles and all pedestrians. The Club also has a duty of care to its participants attending any official event

A duty of care also exists with the various associated sub-committees of the Club organising any social activity or event.

See Appendix 1 By-Law 1 Duty of Care Policy and Procedure.

Part 2 - Membership

4. Membership Generally

(1) A person is eligible to be a member of the Club if:

(a) the person is a natural person, and

(b) the person has been nominated and approved for membership of the Club in accordance with clause 7.

(2) A person is a member of the Club if his/her membership fees are paid and his/her membership has not been revoked.

5. Categories of Membership

- (1) The Club shall consist of only two classes of members being:
 - (a) Ordinary (Primary and Associate) members.
 - (b) Life Members:-
 - (i) Life Members will not be required to pay annual subscription fees and they will retain the same voting rights and all privileges and benefits afforded to Ordinary Members.
 - (ii) See Appendix 2 By-Law 2 Procedure for Awarding Life Membership.
- (2) Joint Membership:
 - (a) The Club accepts joint applications for membership from any two individuals (comprising one Primary and one Associate Member who are:-
 - (i) members of the same family (husband, wife, children)
 - (ii) in a permanent relationship as defined under law (de-facto relationship – Property (Relationships) Act; NSW Relationship Register)
 - (b) Joint applicants shall be treated as separate ordinary members each with a separate right to attend meetings and vote
 - (c) Should it be necessary to terminate the membership of one member of a joint application, the membership of both shall be terminated. The member who was not responsible for the termination action may re-apply for continuation of the membership in their name.
- (3) Associate members under the age of 18 shall be able to attend meetings but do not have a right to vote.

6. Qualification for Membership

- (1) Membership shall be open to persons over the age of 18 years deemed by the Club to be of good character and standing, who are owners of, lessees of, or are in the process of buying a Mercedes-Benz vehicle.
- (2) Membership may also include persons who are recognized as the “nominee” (of company owned Mercedes-Benz vehicle) by the NSW Roads and Marine Services.
- (3) Up to 10% of the Club membership may comprise Mercedes-Benz enthusiasts who do not own a Mercedes-Benz or who do not own a vehicle.
- (4) From time to time Daimler AG requests that owners of other Daimler AG brand family vehicles be allowed to join the Club. Such members will be regarded as outside of the 10% level nominated in (3) above.

7. Application for Membership

- (1) A written application for membership of the Club, together with the appropriate joining and membership fees payment, shall be lodged with the Membership Secretary or Secretary of the Club on the approved Club application form as issued by the Executive Committee, from time to time.
- (2) Application may be made electronically on the approved form but must include an electronic signature and CVV for credit card payment nominated on the form.
- (3) As soon as practicable after receiving an application for membership with the correct payment, the Secretary shall refer the application to the Membership Secretary who shall process the application in conjunction with the Treasurer, who will first process the payment.
- (4) In the event that the Membership Secretary shall have any doubts about any application, the application shall be referred to the Executive Committee for their determination and the decision of that Committee shall be final.
- (5) The determination of the Membership Secretary shall be ratified by the members at the next General Monthly Meeting and then notified to the applicant of his/her successful induction.
- (6) The Membership Secretary shall enter the nominee’s names in the register of

members and, on the names being so entered, the nominees becomes members of the Club.

8. Cessation of Membership

- (1) A person ceases to be a member of the Club if the person:
 - (a) dies, or
 - (b) resigns membership, or
 - (c) is expelled from the Club, or
 - (d) fails to pay the annual membership fee under clause 10 (2) within three (3) months after the fee is due.
- (2) Resignation of membership:
 - i. A member may resign from membership of the Club by giving notice in writing to the Membership Secretary or the Secretary of the member's intention to resign or not renewing his/her membership.
 - ii. If a member of the Club ceases to be a member under sub-clause (a) and in every other case where a member ceases to hold membership, the Membership Secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member. They will stay on the register for a further period of twelve (12) months from last renewal date.
- (3) Membership entitlements not transferable
A right, privilege or obligation which a person has by reason of being a member of the Club:-
 - (a) is not capable of being transferred or transmitted to another person, and
 - (b) terminates on cessation of the person's membership.

9. Register of Members

- (1) The Membership Secretary shall establish and maintain a register of members of the Club specifying the name, postal and residential address of each person who is a member of the Club together with the date on which the person became a member, their email addresses and the vehicles owned.
- (2) The register of members shall be kept in New South Wales by the Membership Secretary.
- (3) The register of members shall be open for inspection, free of charge, by any Club member at any reasonable hour, subject Clause 9 (5).
- (4) A member of the association may obtain a copy of any part of the register, subject to privacy restrictions, on payment of a fee of not more than \$1 for each page copied.
- (5) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection that information must not be made available for inspection unless such information is required to be disclosed by Law.
- (6) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:-
 - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the Club or other material relating to the Club, or
 - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (7) The membership list can only be used by Club members for Club business. It cannot be sold or given to outside businesses, individuals or third parties.

10. Fees and Subscriptions

- (1) All annual subscriptions shall become payable on the FIRST DAY OF JULY each year
- (2) A new member of the Club must, on application for admission to membership

of the Club, pay to the Club a joining fee as determined by the Executive Committee from time to time.

- (3) In addition to any amount payable by the member under sub-clause (2), a member of the Club must pay to the Club an annual membership fee as determined by the Executive Committee from time to time. There shall be pro-rata membership fees in respect of new members joining during the membership year as determined by the Executive Committee from time to time
- (4) Where a member does not renew his/her membership within three (3) months of it falling due, that membership will cease. The Club magazine will not be forwarded to the member where the renewal subscription has not been paid within three (3) months of it falling due.
- (5) To be eligible for continuous membership award the membership must be continuous except that the Executive Committee may declare membership to be continuous if the member can show due cause for continuation (e.g. ill health) and the period of ex-membership is less than twelve (12) months.
- (6) The Executive Committee may from time to time decide to offer multi-year membership at a discounted rate. Where a membership is terminated as a result of disciplinary action, the remaining membership will not be refunded.

11. Members' Liabilities

The liability of a member of the Club to contribute towards the payment of the debts and liabilities of the Club or the costs, charges and expenses of the winding up of the Club is limited to the amount, if any, unpaid by the member in respect of membership of the Club as required by clause 10 Fees and Subscriptions above.

12. Resolution of Disputes

- (1) Where disputes arise between members it is the duty of the Executive Committee to ensure harmony is maintained for the betterment of the Club. The Executive Committee may give the members involved in dispute the opportunity to have the Executive Committee mediate the complaint in the first instance (see Appendix 3 By-Law 3 Dispute Resolution – Mediation Procedure).
- (2) The Club shall not become involved in disputes which are not related directly to Club business including disputes between non-members and Club members.
- (3) A dispute between a member and one or more members (in their capacity as members) of the Club or a dispute between a member and the Club are to be referred to a Community Justice Centre for mediation under the Community Justice Centres Act 1983.
- (4) If a dispute is not resolved by mediation within three (3) months of the referral to a Community Justice Centre, the dispute is to be referred to arbitration.
- (5) The Commercial Arbitration Act 1984 applies to any such dispute referred to arbitration.

13. Disciplining of Members

- (1) Every member of the Club undertakes to comply with the Rules and By-Laws of the Club and any refusal or neglect to do so shall render such member liable to expulsion.
- (2) The Executive Committee shall have the power to censure, suspend or expel any member for any conduct which, in its opinion, is unbecoming of a member and/or brings the reputation of the Club or any of its members into disrepute.
- (3) A complaint may be made to the Executive Committee by any person that is a member of the Club:
 - (a) has refused or neglected to comply with a provision or provisions

- of this Constitution, or
- (b) has wilfully acted in a manner prejudicial to the interests of the Club.
- (4) The Executive Committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (5) If the Executive Committee decides to deal with the complaint, the Executive Committee:-
- (a) must cause notice of the complaint to be served on the member concerned, and
 - (b) must give the member at least fourteen (14) days from the time the notice is served within which to make submissions to the Executive Committee in connection with the complaint
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
 - (d) may choose to evaluate the complaint by appointing a sub-committee for that purpose.
 - (e) may require the member concerned to attend a meeting with the Executive Committee or its appointed sub-committee to determine what action needs to be taken with respect to the complaint at a place and time agreeable to both parties and provided that such agreement is not unreasonably withheld.
- (6) The Executive Committee may, by resolution, expel the member from the Club or suspend the member from membership of the Club if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (7) If the Executive Committee expels or suspends a member, the Secretary must, within seven (7) days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the Committee for having taken that action and of the member's right of appeal under clause 14.
- (8) The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
 - (b) if within that period the member exercises the right of appeal, unless and until the Club confirms the resolution under clause 14, whichever is the later.
- (9) Any member expelled in accordance with the Constitution or otherwise ceasing to be a member of the Club shall forfeit all rights to a claim upon the Club or its property or funds, as would otherwise be available by reason of membership.

14. Right of Appeal of Disciplined Member

- (1) A member may appeal to the Club in a Special General Meeting against a resolution of the Executive Committee under clause 13 within seven (7) days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect and provided that:-
- (i) The member has met all reasonable requests by the Executive Committee to meet with the Executive Committee or a sub-committee of the Executive Committee
 - (ii) That the member can show that they have just cause to request an appeal (i.e. that the expulsion was unfair, in contravention of this Constitution, discriminatory or based on incorrect information)
 - (iii) That the member is willing to bear fifty (50) per cent of the cost of the appeal and the payment is made prior to any costs being incurred by the Club in calling or convening the Special General Meeting. The payment is not refundable.
- (b) The notice may, but need not, be accompanied by a statement of the

- grounds on which the member intends to rely for the purposes of the appeal.
- (c) On receipt of a notice from a member under sub-clause (1), the Secretary must notify the Executive Committee which is to convene a Special General Meeting of the Club to be held within twenty eight (28) days after the date on which the Secretary received the notice.
 - (d) At the Special General Meeting of the Club convened under sub-clause (3)
 - (e) no business other than the question of the appeal is to be transacted, and
 - (f) the Executive Committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (g) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
 - (2) The appeal is to be determined by a 75% majority of votes cast by members of the Club at the meeting and who are entitled to vote.
 - (3) During the appeal period all rights and privileges of the concerned member are suspended.

Part 3 - The Executive Committee

15.

Powers of the Executive Committee

Subject to the Act, the Regulation and this Constitution and to any resolution passed by the Club in general meeting, the Executive Committee:-

- (1) is to control and manage the affairs of the Club, and
- (2) may exercise all such functions as may be exercised by the Club, other than those functions that are required by this Constitution to be exercised by a general meeting of members of the Club, and
- (3) has power to perform all such acts and do all such things as appear to the Executive Committee to be necessary or desirable for the proper management of the affairs of the Club.

16. Composition and Membership of the Executive Committee

(1) The Executive Committee is to be elected at the Annual General Meeting of the Club and to consist of:-

- (a) the Office-Bearers of the Club, and
- (b) the Vice-President, or Vice Presidents when more than one is deemed necessary by the Executive Committee, AND at least three (3) Ordinary Executive Committee Members.
- (2) The minimum number of Executive Committee members is to be seven (7) and can be added to as deemed necessary by the Executive Committee, from year to year
- (3) The Office-Bearers of the Club are as follows-
 - (a) the President,
 - (b) the Treasurer,
 - (c) the Secretary,
- (4) The Office Bearers may make decisions regarding Club business between Executive Committee Meetings but these decisions are to be ratified by the Executive Committee at the earliest following Executive Committee Meeting
- (5) Signatories for contracts and other binding agreements are the Office Bearers only.
- (6) An Executive Committee member may hold up to two (2) offices (other than both the President and Vice-President offices).
- (7) Each member of the Executive Committee is, subject to this Constitution, to hold office until the conclusion of the Annual General Meeting following the date of the member's election, but is eligible for re-election.

16. Election of Executive Committee Members

- (1) Election of Executive Committee members is to take place annually at the

- Annual General Meeting
- (2) Nominations of candidates for election as Office-Bearers of the Club or as Ordinary Executive Committee Members:
 - (a) must be made in writing, signed by two (2) members of the Club and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination),
 - (b) must be for a specific position on the Executive Committee and
 - (c) must be delivered to the Secretary of the Club at least seven (7) days before the date fixed for the holding of the Annual General Meeting at which the election is to take place.
 - (3) If only one candidate is nominated for a specific vacancy on the Executive Committee, the candidate nominated is taken to be elected to the position.
 - (4) If more than one candidate is nominated for a specific vacancy on the Executive Committee, a ballot for the position is to be held according to the terms of sub-clause (7) below.
 - (5) If no prior nominations are received to fill a specific vacancy on the Executive Committee, further nominations for the vacancy are to be received at the Annual General Meeting as per sub-clause (2) (a) and (b) above. Sub-clause (3) and (4) apply to the nomination.
 - (6) If insufficient further nominations are received, any vacant positions remaining on the Executive Committee are taken to be casual vacancies.
 - (7) The ballot for the election of Office-Bearers and Ordinary Executive Committee Members of the Executive Committee is to be conducted at the Annual General Meeting in such usual and proper manner as the Executive Committee may direct.
 - (8) A person nominated as a candidate for election as an Office-Bearer or as an Ordinary Executive Committee Member of the Club must be a financial member of the Club at the time of nominating for the vacancy and at the Annual General Meeting.
 - (9) No office bearer shall serve for more than (3) years consecutively in a specific role. Office Bearers are eligible to be re-elected to positions previously held, after another person has served in that position for at least a term of one year.

17. The President

- (1) The President shall preside at all meetings to regulate and keep order in all proceedings.
- (2) The President shall:
 - (a) Plan, lead, organise within the President's role.
 - (b) Ensure all rules of the Constitution are carried out.
 - (c) Ensure all Executive Committee Members understand and carry out their responsibilities and duties.
 - (d) Shall delegate an ex-officio position on each Club sub-committee to the various Executive members.
 - (e) Liaise with the Public Officer on policy issues.
 - (f) Liaise with the Public Officer re scrutineers for the elections at the Annual General Meeting and any voting at Special General Meetings
 - (g) Write a report for inclusion in the Club magazine for each issue.

18. Secretary

- (1) The Secretary of the Club must, as soon as practicable after being appointed as Secretary, lodge notice with the Club of his or her address.
- (2) It is the duty of the Secretary to:
 - (a) record the elections and appointments of Office-Bearers and Ordinary Executive Committee Members of the Executive Committee
 - (b) record the names of members of the Executive Committee present at Executive Committee Meeting, Special General

- Meetings, the Annual General Meeting and General Monthly Meetings
- (c) keep minutes of all proceedings at Executive Committee Meeting, Special General Meetings, the Annual General Meeting and General Monthly Meetings
 - (d) receive and attend to all correspondence
 - (e) carry out Office-Bearer duties as appropriate
 - (f) carry out any other duties as required including ex-officio positions on sub-committees.
 - (g) liaise with the Public Officer on policy issues.
 - (h) Liaise with the Public Officer re scrutineers for the elections at the Annual General Meeting and any voting at Special General Meetings.
- (3) receive nominations for Club vacancies and prepare documentation required for Club elections
- (4) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

19. Treasurer

It is the duty of the Treasurer of the Club to:

- (1) ensure that all money due to the Club is collected and received and that all payments authorised by the Club are made
- (2) ensure that correct books and accounts are kept showing the financial affairs of the Club, including full details of all receipts and expenditure connected with the activities of the Club
- (3) ensure that all money received is banked as soon as possible
- (4) ensure that online, electronic and debit payments are completed as soon as possible and that associated personal information is kept secure or destroyed as soon as transactions are completed
- (5) ensure that no private bank account, debit or credit card information is released to any third party either inside or outside the Club
- (6) prepare a monthly financial report and a six (6) monthly financial forecast for the Executive Committee
- (7) have available a financial report for distribution to members as required at Monthly General Meetings
- (8) prepare a Statement of Receipts and Expenditure and Balance Sheet, setting forth the financial business of the Club since the beginning of the preceding financial year for use by the Auditor
- (9) arrange with the Audit Officer for an audit of the books and preparation of a financial report for the Annual General Meeting
- (10) liaise with the Auditor on financial policy matters related to Club operations
- (11) carry out Office-Bearer duties as appropriate
- (12) carry out any other duties as required including ex-officio positions on sub-committees

20. Vice-President

The Vice-President shall:

- (1) Act, in the role of the President when appropriate.
- (2) Act, as ex-officio on sub-committees where delegated.
- (3) Carry-out any other duties as required by the President.

21. Membership Secretary

The Membership Secretary shall be appointed by the Executive Committee and shall:

- (1) keep a register of the members of the Club setting forth their names, addresses, details of vehicles and email addresses.
- (2) collect all applications for membership of the Club, process them and arrange for them to be confirmed for membership at the next Monthly General Meeting as defined in clause 7. Application for Membership above
- (3) collect all fees, new and renewal, and deliver such money to the Treasurer as

- soon as practicable after collection.
- (4) with delegated Ordinary Executive Committee members, review and follow up those members who have not renewed their membership.
 - (5) write a report on the membership for the Club magazine.
 - (6) ensure there is a current membership list for use for the elections at the Annual General Meeting or for Special General Meetings
 - (7) provide membership lists to authorised Club committee members so that they can complete their duties
 - (8) act as ex-officio on sub-committees where delegated

22. Ordinary Executive Committee Member(s)

The Ordinary Executive Committee Member's duties shall be divided between the Ordinary Executive Committee Members.

The Ordinary Executive Committee Member shall:

- (1) act as a liaison officer for Club members who do not hold sub-committee positions or defined Club roles
- (2) act as ex-officio on sub-committees where delegated.
- (3) With the Membership Secretary review and follow up those members who have not renewed their membership
- (4) carry out any other duties as required by the President.

23. Auditor

- (1) An Auditor shall be appointed by the Executive Committee at the first Executive Committee meeting after the Annual General Meeting.
- (2) The Auditor shall:
 - (a) be an ex-officio Office-Bearer of the Club.
 - (b) have the power at all times to examine the books and documents of the Club
 - (c) as soon as possible after the close of the Financial Year in each year audit a Statement of Receipts and Expenditure and Balance Sheet, setting forth the financial business of the Club since the beginning of the preceding financial year. The Treasurer shall prepare these statements. Any report of the Auditor shall be submitted to the Annual General Meeting.
- (3) A person is not eligible to be the Auditor unless the person resides in the New South Wales and is at least 18 years of age. The Auditor may not be a Club member.

24. Public Officer

- (1) The Public Officer shall be appointed by the Executive Committee at the first Executive Committee meeting after the Annual General Meeting.
- (2) Such Public Officer shall be an ex-officio Office-Bearer of the Club.
- (3) At any time when no Public Officer has been appointed, the Secretary shall also hold the office of Public Officer.
- (4) It is the responsibility of the Executive to invite the Public Officer to take up such position.
- (5) The Public Officer shall:
 - (a) ensure that any changes to the Executive Committee and /or Constitution of the Club are reported to the Department of Fair Trading.
 - (b) ensure that such reports are sent to the Department within the time frame laid down under the Act.
 - (c) be an Advisory to the Executive Committee on policy, Constitution and notice of motion.
- (6) The Public Officer is liable to prosecution under the Act if these requirements are not adhered to.
- (7) The President may request the Public Officer to conduct the election of Office-Bearers or to chair the AGM
- (8) A person is not eligible to be the Public Officer unless the person resides in New South Wales and is at least 18 years of age.

25. Magazine Editor

The Magazine Editor shall be appointed by the Executive Committee and shall

- (1) Manage production of the Club magazine to the budget and schedule determined by the Executive Committee from time to time, ensuring that the editorial policy and quality of the magazine are maintained to a high standard.

26. Casual Vacancies

- (1) In the event of a casual vacancy occurring in the membership of the Executive Committee, the Executive Committee may appoint a member of the Club to fill the vacancy and the member so appointed is to hold office, subject to this Constitution, until the conclusion of the Annual General Meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the Executive Committee occurs if the member:-
 - (a) dies, or
 - (b) ceases to be a member of the Club, or
 - (c) becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth, or becomes bankrupt and a trustee is appointed to administer the bankrupt's estate.
 - (d) resigns office by notice in writing given to the Secretary, or
 - (e) is removed from office under clauses 28 or 13, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is absent without the consent of the Executive Committee from three (3) consecutive meetings of the Executive Committee, or
 - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than three (3) months, or
 - (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act 2001 of the Commonwealth.

27. Removal of Executive Committee Members

- (1) The Club in Special General Meeting may by resolution remove any member of the Executive Committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the Executive Committee to whom a proposed resolution referred to in sub-clause (1) relates makes representations in writing to the Secretary or President (not exceeding a reasonable length) and requests that the representations be notified to the members of the Club, the Secretary or the President may send a copy of the representations to each member of the Club or, if the representations are not so sent, the member is entitled to require that the representations be read out at the Special General Meeting at which the resolution is considered.

28. Executive Committee Meetings and Quorum

- (1) **The Executive Committee must meet at least three (3) times in each period of twelve (12) months at such place and time as the Executive Committee may determine.**
- (2) Additional meetings of the Executive Committee may be convened by the President or by any member of the Executive Committee.
- (3) **Oral or written notice of a meeting of the Executive Committee must be given by the Secretary to each member of the Executive Committee at least forty eight (48) hours** (or such other period as may be unanimously agreed on by the members of the Executive Committee) before the time appointed for the holding of the meeting.

- (4) Notice of a meeting given under sub-clause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Executive Committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any four (4) members of the Executive Committee constitute a quorum for the transaction of the business of a meeting of the Executive Committee.
- (6) No business is to be transacted by the Executive Committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the Executive Committee:
 - (a) the President or, in the President's absence, the Vice-President is to preside, or
 - (b) if the President and the Vice-President are absent or unwilling to act, such one of the remaining members of the Executive Committee as may be chosen by the members present at the meeting is to preside.

29. Delegation by Executive Committee to Sub-committee

- (1) The Executive Committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the Club as the Executive Committee thinks fit) the exercise of such of the functions of the Committee as are specified in the instrument, other than:
 - (a) this power of delegation, and
 - (b) a function which is a duty imposed on the Executive Committee by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the Executive Committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Executive Committee.
- (6) The Executive Committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn as it thinks proper.

30. Voting and Decisions

- (1) Questions arising at a meeting of the Executive Committee or of any sub-committee appointed by the Executive Committee are to be determined by a majority of the votes of members of the Executive Committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the Executive Committee or of any sub-committee appointed by the Executive Committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to clause 28 (5), the Executive Committee may act despite any vacancy on the Executive Committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Executive Committee or by a sub-committee appointed by the Executive Committee is valid and effectual, despite any defect that

may afterwards be discovered in the appointment or qualification of any member of the Executive Committee or sub-committee.

Part 4 - General Meetings

31. Annual General Meetings

- (1) The Club must hold its Annual General Meetings:
 - (a) within six (6) months after the close of the Club's financial year, or
 - (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.
- (2) The Annual General Meeting of the Club is, subject to the Act and to sub-clause (1), to be convened on such date and at such place and time as the Executive Committee thinks fit.
- (3) In addition to any other business which may be transacted at an annual general meeting, the business of the Annual General Meeting is to include the following:-
 - (a) to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting,
 - (b) to receive from the Executive Committee reports on the activities of the Club during the last preceding financial year,
 - (c) to elect Office-Bearers of the Club and Ordinary Executive Committee members,
 - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (4) The Annual General Meeting must be specified as such in the notice convening it.

32. Special General Meetings

- (1) Calling Special General Meetings
 - (a) The Executive Committee may, whenever it thinks fit, convene a Special General Meeting of the Club.
 - (b) The Committee must, on the requisition in writing of at least fifteen (15) per cent of the total number of members, convene a Special General Meeting of the Club.
 - (c) A requisition of members for a Special General Meeting:
 - (i) must state the purpose or purposes of the meeting,
 - (ii) must be signed by the members making the requisition,
 - (iii) must be lodged with the Secretary and
 - (iv) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
 - (d) If the Executive Committee fails to convene a Special General Meeting to be held within one (1) month after that date on which a requisition of members for the meeting is lodged with the Secretary, any one or more of the members who made the requisition may convene a Special General Meeting to be held not later than three (3) months after that date.
 - (e) A Special General Meeting convened by a member or members as referred to in sub-clause (1) (b) must be convened as nearly as is practicable in the same manner as Special General Meetings are convened by the Executive Committee and any member who consequently incurs expenses is entitled to be reimbursed by the Club for any expenses so incurred.
- (2) Notice of Special General Meeting
 - (a) Except if the nature of the business proposed to be dealt with at a Special General Meeting requires a Special Resolution of the Club, the Secretary must, at least fourteen (14) days before the date fixed for the holding of the Special General Meeting, give a notice to each member specifying the place, date and time of the

- meeting and the nature of the business proposed to be transacted at the meeting.
- (b) If the nature of the business proposed to be dealt with at a Special General Meeting requires a Special Resolution of the Club, the Secretary must, at least twenty one (21) days before the date fixed for the holding of the Special General Meeting, cause notice to be given to each member specifying, in addition to the matter required under sub-clause (2) (a), the intention to propose the resolution as a Special Resolution.
- (3) Content
- (a) No business other than that specified in the notice convening a Special General Meeting is to be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted under clause 32 (3).
 - (b) A member desiring to bring any business before a Special General Meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a Special General Meeting given after receipt of the notice from the member.

33. Monthly General Meetings

- (1) The Club will hold Monthly General Meetings at a place and time to be determined by the Executive Committee.
- (2) The content of the meetings will be determined by the President and/or Vice-President or other delegate as required.
- (3) The Membership Secretary shall provide a list of potential new members to be ratified as per clause 7.
- (4) The Treasurer will have available for perusal by members a summary monthly financial report.
- (5) A member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary to be included in the Agenda.
- (6) No business requiring a Special Resolution will be transacted without prior written notice to the Secretary and prior notification of the members in keeping with clause 33. A Special General Meeting will be called to deal with such matters.
- (7) Matters may arise within general business that requires a ballot to conclude. The ballot will be held in accordance with clauses 38, 39 and 40.

34. Quorums for General Meetings (Monthly, Special and Annual)

- (1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this Constitution to vote is present during the time the meeting is considering that item.
- (2) Twenty (20) members present (being members entitled under this Constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
 - (a) if convened on the requisition of members, is to be dissolved, or
 - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least three (3)) are to constitute a quorum.

35. Presiding Member for General Meetings (Monthly, Special and Annual)

- (1) The President or, in the President's absence, the Vice-President, is to preside as chairperson at each general meeting of the Club.
- (2) If the President and the Vice-President are absent or unwilling to act, the members present must elect one of their numbers to preside as chairperson at the meeting.

36. Adjournment

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for fourteen (14) days or more, the Secretary must give written or oral notice of the adjourned meeting to each member of the Club stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in sub-clauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

37. Making of Decisions

- (1) A question arising at a general meeting of the Club is to be determined by either:
 - (a) a show of hands, or
 - (b) if on the motion of the chairperson or if five (5) or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot.
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or carried by a particular majority, or lost, or an entry to that effect in the minute book of the Club, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of, or against that resolution.
- (3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

38. Special Resolutions

A Special Resolution may only be passed by the Club in accordance with section 39 of the Act.

39. Voting

- (1) On any question arising at a general meeting of the Club a member has one vote only.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) A member is not entitled to vote at any general meeting of the Club unless all money due and payable by the member to the Club has been paid.
- (4) A member is not entitled to vote at any general meeting of the Club if the member is under 18 years of age.

40. Proxy Votes not Permitted

Proxy voting must not be undertaken at or in respect of a general meeting.

41. Postal Ballots

Postal ballots are not to be undertaken in respect of any general meeting.

Part 5 - Miscellaneous

42. Insurance

The Club must effect and maintain insurance.

43. Funds

(1) Source:

- (a) The funds of the Club are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the Club in general meeting, such other sources as the Executive Committee determines.

(2) Management

- (a) All money received by the Club must be deposited as soon as practicable and without deduction to the credit of the Club's bank or other authorised deposit-taking institution account.
- (b) The Club must, as soon as practicable after receiving any money, issue an appropriate receipt.
- (c) Subject to any resolution passed by the Club in general meeting, the funds of the Club are to be used solely in pursuance of the objects of the Club in such manner as the Executive Committee determines.
- (d) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any two (2) authorized signatories of the Executive Committee and consistent with current Banking Signing Authorisations in place with the Club's official Bank at any time.
- (e) Executive Members of the Club shall be reimbursed any personal monies that are expended on behalf of the Club in carrying out their office, provided they are properly documented and signed by the Executive member.
- (f) Non-Executive members will be reimbursed any personal monies expended on behalf of the Club, provided such expenditure has the prior approval of the Executive Committee and provided that such expenditure is properly documented and signed when submitted for reimbursement.

44. Change of Name, Objects and Constitution

- (1) The statement of objects and this Constitution may be altered, rescinded or added to only by a special resolution of the Club.
- (2) An application to the Director-General for registration of a change in the Club's name, Objects or Constitution in accordance with section 10 of the Act is to be made by the Public Officer or an Executive Committee member.

45. Custody of Books and Records

The Secretary, Membership Secretary and Treasurer must keep in their collective custody or under their control, all records, books and other documents relating to the Club and relevant to their roles, except as otherwise provided by this Constitution,

46. Inspection of Books and Records

- (1) The following documents must be open to inspection, free of charge and subject to privacy considerations, by a member of the Club at any reasonable hour:-
 - (a) records, books and other financial documents of the Club,
 - (b) this Constitution,
 - (c) minutes of all Executive Committee meetings and general meetings of the Club.
- (2) A member of the Club may obtain a copy of any of the documents referred to

in sub-clause (1), subject to privacy considerations, on payment of a fee of not more than \$1 for each page copied plus postage costs if applicable.

47. Service of Notices

- (1) For the purpose of this Constitution, a notice may be served on or given to a person:-
 - (a) by delivering it to the person personally, or
 - (b) by sending it by pre-paid post to the address of the person, or
 - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:-
 - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
 - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
 - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

48. Financial Year

The Financial Year of the Club is each period of twelve (12) months after the expiration of the previous financial year of the Club, commencing on 1 July and ending on the following 30 June.

49. Surplus property.

The Executive has the authority to dispose of Club surplus property as deemed fit.

In the Event of the dissolution or winding up of the Club, the Executive will organise the sale of Club property and the proceeds will be donated to a registered charity.

50. Conditional Registration Scheme (Club Plates)

- (1) Rules governing the issue and regulations of the Conditional Registration System (CRS) for members shall be treated as a regulation of the Club, rather than part of the Constitution, as NSW Roads and Maritime Services controls the eligibility and usage of the system.
- (2) The Club will keep current a scheme which complies with the CRS.
- (3) The CRS Director is responsible for ensuring that the scheme is managed on behalf of the Club subject to approval of the Executive Committee.

Appendix 1

By-Law 1- Duty of Care Policy and Procedure.

Regarding this Constitution, duty of care relates to drivers and passengers of motor vehicles involved in any way with an outing or event organised by the Mercedes-Benz Club of (NSW) Incorporated (hereinafter called "the Club").

Drivers and passengers involved in any event organised by the Club must exercise a duty of care regarding their management and control of a vehicle. Mainly, all drivers must conform to all laws already gazetted. The onus is on the driver to exercise a degree of care, which any reasonable and prudent person exercising common sense would do, and drive according to all prevailing conditions. No driver is exempt from exercising a duty and degree of care which would be appropriate for any given prevailing condition. If passengers are not Club members then it should be the prime responsibility of the driver to ensure all passengers observe the same duty of care towards others as required of members by the constitution.

Should any member of the Club observe any manner of driving which they perceive (as a reasonable and prudent person exercising common sense) to be in a manner negligent or dangerous, that member should advise the organiser of such driving. The organiser and/or sub-committee member in authority will address the issues with the driver concerned. It is the discretion of the sub-committee member in authority as to how to deal with the issue in an appropriate manner.

Damage to Vehicles or Injury or Death to Persons:

Each driver is responsible for their own manner of driving. For any event the Club organises using a public road/road related area, all vehicles involved in the event should be registered accordingly and the driver should be appropriately licenced. The Club takes no responsibility whatsoever for any mishap where damage is occasioned to a vehicle or property, or an injury or death which occurs from that mishap. The sole responsibility for that mishap and any damage/injury occurring as a result rests with the driver or person at fault. The Club will not mediate on any decision of fault, and will remain independent of any criminal or civil liability claims.

With regards to property insurance, this responsibility rests with the lawful owner of the vehicle. No insurance administered by the Club will cover damage to members' vehicles or any property attached to or belonging to that vehicle.

Registration and Driver's License:

The Club has no responsibility with regards to vehicles belonging to members involved in Club events. Each member participating in an organised event is to ensure their vehicles used are currently registered under the appropriate Act. Drivers of any vehicles are to be appropriately licenced to drive such vehicles. No member who is unlicenced, cancelled or disqualified from driving a motor vehicle is to drive any vehicle on a public road/road related area.

For any event organised on a private property, any driver not appropriately qualified to drive a vehicle, should advise the organiser immediately and in any case, before the event commences. The organiser has the discretion to allow or disallow the member from driving, only once all the facts are wholly and truthfully presented. Once the organiser has fairly assessed whether or not the subject driver may drive a vehicle on a private property, he/she will announce the decision to the person concerned and the committee member in authority. No reason for making that decision need be given.

Organising Events:

The person or sub-committee in charge of organising any event involving the Club must do

so with a view to ensuring the safe passage of all road users. The event must be organised with a key view to ensuring safety for all people attending (whether members or general public). All perceivable risks must be identified in the least, and action taken where ever possible to minimize potential danger, and ultimately, totally eliminate any identified risk. This notion simply aims at preserving all life and property, and is relevant whether using public road/road related areas or private property. The organising person/committee has the right to make any changes at any time, to further ensure the safety of all people attending an event.

Again, should a member or organising person/sub-committee identify a risk during an event (e.g. driving dangerously or with disregard), the person in authority retains the right to take whatever responsible and lawful steps are necessary to eliminate or mitigate that risk.

Each event is different. Therefore varying measures of risk assessment take place when organising and running an event. The organising person/sub-committee has the responsibility and right to implement appropriate measures to ensure the event is as safe as possible.

Consideration of Declaration:

The organiser of any event may consider presenting a declaration form for every member who participates in a Club event. This declaration will be read by the participating member. The declaration will detail any or all of the issues raised in this Constitution, wherever appropriate. The member will be asked to sign the declaration, as a statement of them reading, understanding and agreeing to adhere to responsibilities set out in that declaration. Such declaration may be considered necessary when events involving private property, racetracks, higher speeds or timed events are advertised.

Appendix 2

By-Law 2 Procedure for Award of Life Membership

- (1) The Executive Committee has the power to award Life Memberships which are awarded for:
 - (a) Dedicated service to the Club over a number of years.
 - (b) Outstanding achievements that have benefited the Club.
 - (c) Life Membership is not awarded simply on the basis of number of years of service
- (2) Life Membership is considered a great honour and will not be awarded without considerable care and consultation at Executive Committee level.
- (3) If the Executive Committee is of a common mind that a member is worthy of this honour, then it shall be awarded at a time and place as decided by the Executive.
- (4) Members will be presented with a Life Membership Badge on obtaining Life Membership.
- (5) Life Members will not be required to pay annual subscription fees and they will retain the same voting rights and all privileges and benefits afforded to Ordinary Members.

Appendix 3

By-Law 3 Dispute Resolutions – Mediation Procedure.

Disputes between members of the Club that are officially referred to the Executive Committee in writing, shall be mediated, initially by the Executive Committee:

- (1) The Executive Committee, through the Secretary, shall advise, in writing, the members who are parties to the complaint that they are required to attend an Executive Committee Meeting to address said complaint.
- (2) At least fourteen (14) days notice is to be given of such meeting. No other business shall be discussed at the meeting.
- (3) To ensure the participants are not overwhelmed, the Executive Committee will elect three of their members to hear the dispute.
- (4) The members of the Executive Committee hearing the complaint shall be at least (1) one more than the complainant.
- (5) The advice to the Executive, of the complaint, is to be set out exactly as notified.
- (6) On attendance at the meeting the members involved will make their submissions without the opposite complainant/s in attendance. The member bringing the complaint will present first.
- (7) The members of the Executive Committee on hearing the submissions are to ensure that the complaint is valid before proceeding.
- (8) Where the submission is found not to be valid, the member bringing the complaint will be advised. The other member will be advised that there is no case to answer. The Executive will thank both for their co-operation in the matter.
- (9) Where the submission is found to be valid both members will be called to join the meeting.
- (10) The complaint will be read and the members called will have the opportunity to fully present their case while both are in attendance.
- (11) The dispute resolution procedure will remain in session while there is an opportunity to satisfactorily resolve the complaint. The chairperson must ensure objectivity at all time.
- (12) Whether the complaint is resolved or not resolved, the chairman of the meeting shall advise all members in attendance, that all discussions, statements and submissions held, are to remain confidential. All parties shall agree to this requirement prior to the commencement of the mediation process.
- (13) Where a resolution cannot be achieved in accordance with The Community Justice Centre Act, 1983 the said complaint shall be referred within fourteen (14) days to the nearest Community Justice Centre.

Executive Committee member responsibilities:

- (14) It is the responsibility of all the Executive Committee members to make themselves fully aware of all the details of the complaint before the meeting is held.
- (15) Any member of the Executive Committee is to excuse themselves should a conflict of interest arise. A conflict of interest could include one of the attendees being a personal friend.

Member failure to attend dispute meeting:

Where members refuse to attend such meeting they will automatically be suspended from Club activities until such time as they are prepared to attend such meeting.