

# Ashtead Squash Rackets Club Ltd.

## - notes on new Articles of Association

### **Why have the Articles of Association changed?**

It is important that ASCRC Ltd is compliant with current legislation. The existing Articles for the Company are the original ones - detailed in the 'Memorandum & Articles of Association of ASRC Ltd', dated 29/3/1966. In the interim 50+ years, the prevailing Companies Act has changed significantly and, most especially since the new Companies Act of 2006, there is an associated need to update our prevailing Articles.

### **What are the main areas of change?**

The main areas of change are summarised in the table provided ("*ASRC Ltd ARTICLES : ISSUES & PROPOSED CHANGES*") and include:-

(i) Membership - rules on becoming a member and the legal requirement for the Company to maintain its own register of Members.

(ii) Company winding-up & distribution of funds - definition of the process for company winding-up; the replacement of the previous principle of funds to be transferred to a similar body by the principle of funds to be distributed among Members (and the rules thereof).

(iii) Sale of Company assets - any sale of Company property is subject to approval by members.

### **Sample Questions/Answers re the new Articles**

#### **1. What is the impact of the new Articles on the CASC status of the Club?**

None. The Company and the Club continue to be two separate legal entities, with the Club operating under licence from the Company, allowing it to use the land & buildings.

#### **2. Can Directors decide who is/is not a Member?**

Anyone over 18 commencing or renewing their membership of the Club will, as in the past, automatically become a member of the company. The Directors do, however, have the power to deny membership to individuals under particular circumstances - but the Directors are required by Company Law to act in good faith and in the best interest of the Company as a whole, and cannot act in a discriminating way. The new Articles also specifically provide that the Directors can only refuse an application for membership if, acting properly and reasonably, they consider it to be in the best interests of the Company to do so.

An existing member can only be expelled from membership if, in the Directors' reasonable opinion, he/she is guilty of conduct which has or is likely to have a serious adverse effect on the Company or to bring the Company into disrepute, or if he/she has breached the Articles or otherwise acted in a manner which is contrary to the interests of the Company as a whole. However, the Directors must give the member concerned an opportunity to make representations, and they must consider the member's representations and inform the member of their decision. The member could then apply to the court if he/she felt the Directors had acted unreasonably.

### **3. Who decides on the sale of the land/buildings owned by the Company?**

Any disposal of the Company's property (or substantial part thereof) can only be made after approval by Members by Special Resolution [see #8 below].

### **4. Can the Directors get involved in how the Club is run (setting subscription rates, court fees etc)?**

No. The Directors are only involved in safeguarding the assets of the Company - i.e. the land & buildings. The Directors have no involvement in the operation of the Club and can only get involved if the Club operates in such a way that is contrary to the rules of the Licence provided to the Club by the Company.

### **5. Can the Directors block any planned development by the Club?**

The Directors can only be involved if a planned development is likely to impact the value of the asset (the land & buildings) or if it is contrary to the rules of the Licence (see above) - for example in terms of meeting health & safety requirements. As an example, any plans for building work would need the approval of the Directors, whereas plans for marketing the club, or changing the membership categories would not. It is a legal requirement that all decisions taken by the Directors must be made in good faith and in the best interests of the Company overall - if not, the Directors are legally liable and can be taken to court.

### **6. Can any Member of the Club become a Director of the Company?**

Any Member can apply to become a Director. Directors are appointed either by a vote by the other Directors, or by a vote by the Members at a General Meeting (as long as sufficient advance notice [14+days] is given to the Directors of the intention to propose a named Member as a Director). At every AGM, the 2 longest serving Directors (since their last appointment) retire from their position, but are eligible for re-election. The maximum number of Directors is 6.

### **7. How have the new Articles been compiled?**

The Directors have had meetings and extensive email correspondence with solicitors, and have requested and received input (questions/comments) from individual Members. A copy of all of the associated email correspondence is presented in a separate document at the Club.

### **8. What is the difference between Ordinary and Special Resolutions?**

Company decisions are made by passing resolutions - some can be passed by Directors, and some require passing by the company's members. There are basically 2 types of Resolution:-

**Ordinary Resolution** : can be passed by a simple majority.

**Special Resolution** : can be passed by a majority of no less than 75%.

For ASRC Ltd, certain decisions can only be made by a Special Resolution - these include : making changes to the Articles of Association; changing the company name; instructing the Directors to take, or refrain from taking, specified action.

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The proposed new Articles protect all members of the Company through being fully legally compliant. It has been a long and difficult process to ensure that the Articles are fully compliant with the latest company legislation whilst fully incorporating and safeguarding ASRC's structure and requirements, but we believe the proposed Articles represent a significant improvement in the legal structure for the Company.