**Constitution Template – Regional Organisation**

**INTRODUCTORY NOTES**

* This is a template constitution suitable for a regional organisation that is an incorporated society and is a member of a national organisation. This template is not designed for a sports/recreation hub, but it could be a base to be carefully adapted and added to for that purpose. Some guidance occurs at 3.1, 4.3 & 6.2.
* To maintain incorporated status, your organisation must re-register on the [Incorporated Societies Register](https://is-register.companiesoffice.govt.nz/) under the [Incorporated Societies Act 2022](https://www.legislation.govt.nz/act/public/2022/0012/latest/LMS100809.html) (**Inc Soc Act**) by April 2026 with a constitution that complies with the Act and the [Incorporated Societies Regulations 2023](https://www.legislation.govt.nz/regulation/public/2023/0240/latest/LMS891513.html) (**Inc Soc Regulations**).
* This template constitution is only a starting point. You may need to seek advice to ensure your constitution is suitable for your requirements.
* Before seeking legal advice reach out to your national (or regional for clubs) organisation as they may have a legal advisor already identified with the right skill and experience.
* Legal advisors would ideally have sport and recreation specific knowledge and experience as well as a deep understanding of the new Incorporated Societies act (2022) and Regulations.
* If they do not already have sport and recreation specific constitutional templates this template along with guidance notes and the check list have been designed to avoid duplication of error and cost.
* A regional organisation should also check in with their national organisation to understand if the national organisation will provide assistance or a template constitution that is customised to their code and its structure. Regional organisations should wait to see if this or other assistance may be available to save you significant time and cost.
* As discussed in the Governance section of the [Nine Steps to Effective Governance](https://sportnz.org.nz/media/1627/nine-steps-to-effective-governance-building-high-performing-organisations.pdf) (pages 42 and 43, 50 to 53), sport/recreation networks can be structured in a number of ways including as a federal or unitary structure. This template constitution has been drafted to address different structures, so it will need to be carefully amended to fit the structure that your organisation is a part of.
* The constitution should set out the purposes and rules by which the organisation will operate. Details for the day-to-day management of the organisation or the procedures by which the purposes are to be implemented can be included in bylaws.
* If your regional organisation is a member of another incorporated society (for example if you are in a sport network and you are a member of your national orgainsation), you should check if that organisation requires anything specific to be included in your constitution.

**HOW TO USE THIS DOCUMENT**

GUIDANCE NOTES

* Words in purple are GUIDANCE notes to assist you with drafting your constitution. Remove these before you finalise your constitution.

MANDATORY REQUIREMENTS

* Words in red indicate that the related clause is a MANDATORY REQUIREMENT. It must be in your constitution to meet the requirements of the Inc Soc Act.

ORGANISATION SPECIFIC

* Words in green means you need to insert your ORGANISATION SPECIFIC wording.

OPTIONAL WORDING

* Wording in blue is OPTIONAL WORDING. You can include these if they apply to your organisation’s circumstances.

CHARITY

* Consider words in orange if you are, or are seeking to be, a CHARITY. Your constitution must comply with registration requirements under the Charities Act 2005.
* Before finalising your constitution check the cross referencing of clauses is correct, especially in clauses where there are different options that may be used (eg clause 6)
* Check table of contents numbering is correct.

**CONSTITUTION**

**OF**

**[FULL ORGANISATION NAME] INC.**

**[organisation name]**

**Constitution**

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[organisation name]

Constitution

# Definitions and interpretation

### **Definitions:** In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

### **Act** means the Incorporated Societies Act 2022, including any amendments, and any regulations made under that Act.

### **AGM** or **Annual General Meeting** means a meeting of the Members held once a year convened under this Constitution.

### **Appointment Panel** has the meaning given to it in clause 6. [Guidance: Include if you have an Appointment Panel.]

### **Board** means [organisation]’s governing body. [Guidance: The Inc Soc Act uses ‘committee’ to refer to the governing body of the society, but it can be described however you like e.g. Committee, Executive etc. ‘Board’ is used in this template.]

### **Board** **Member** means a member of the Board, including the Chair.

 **Bylaws** means any bylaws, policies, regulations and codes of [organisation] made under clause 15.

### **Casual Vacancy** is a vacancy which arises when a Board Member [or the President, Secretary or Treasurer] does not serve their full term of office. [Guidance: Include reference to the president, secretary and/or treasurer if you have these roles at your club, but they are not committee members.]

### **Chair** means the Board Member appointed as chair of [organisation] under this Constitution.

### **Chief Executive** means the person in the highest-ranking management position in [organisation]. [Guidance: Change position title as appropriate.]

### **Club** means a group of individuals with an interest in [sport/recreation] that meets the requirement for membership set out in clause 4.4. [Guidance: Include if required.]

### **Constitution** means this Constitution, including any amendments and any schedules to this Constitution.

### **Contact Details** means a physical or an electronic address and a telephone number.

### **Diversity, Equity and Inclusion** means ensuring fair and equitable opportunities are available to everyone to participate in sport and recreation irrespective of age, ability, ethnicity, gender, national origin, race, religion, sexual orientation, beliefs, or socio-economic status.

### **General Meeting** means an AGM or SGM of [organisation].

### **Interested** has the meaning given in section 62 of the Act. [Guidance: Section 62, Inc Soc Act states that an officer (**A**) is **interested** in a matter if A:

### may obtain a financial benefit from the matter; or

### is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, sibling, nephew, niece, uncle, aunt, or first cousin of a person who may obtain a financial benefit from the matter; or

### may have a financial interest in a person to whom the matter relates; or

### is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or

### is interested in the matter because the society’s constitution so provides.

### However, A is not interested in a matter:

### merely because A receives an indemnity, insurance cover, remuneration, or other benefits authorised under the Inc Soc Act; or

### if A’s interest is the same or substantially the same as the benefit or interest of all or most other members of the society due to the membership of those members; or

### if A’s interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence A in carrying out A’s responsibilities under the Inc Soc Act or the society’s constitution; or

### if A’s interest is of a kind that is specified in the society’s constitution.]

### **Matter** has the meaning given in section 62(4) of the Act. [Guidance: Section 62(4), Inc Soc Act states that **matter** means a society’s performance of its activities or exercise of its powers; or an arrangement, an agreement, or a contract (a transaction) made or entered into, or proposed to be entered into, by the society.]

### **Member** means each person who for the time being is a member of [organisation] and includes all classes of members described in clause 4.3.

### **[national organisation]** means [national organisation] Incorporated.

### **Officer** means a Board Member and any natural person occupying a position in [organisation] that allows the person to exercise significant influence over the management or administration of [organisation].

### **Ordinary Resolution** means a resolution passed by a majority of votes cast.

### **Purposes** means the purposes of [organisation] described in clause 3.1.

### **Region** means the geographical area as determined by [national organisation] to be the region represented by [organisation] and within which the primary base of activities of [organisation] is located and is at the date of adoption of this Constitution, [region].

### **SGM** or **Special General Meeting** means a meeting of the Members, other than an AGM, called for a specific purpose or purposes.

### **Special Resolution** means a resolution passed by a [percentage]% majority of votes cast. [Guidance: Normally a special resolution is passed by a 75% majority, but you may specify a higher percentage.]

1. **Working Day** has the meaning given to that term under the Legislation Act 2019 and excludes the day observed as the anniversary in [province where registered office is]. [Guidance: **working day** under the Legislation Act means a day of a week other than:

### a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day;

### a day in the period commencing with 25 December in a year and ending with 2 January in the following year;

### if 1 January falls on a Friday, the following Monday;

### if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday;

### if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday.]

### **Interpretation:** Unless the context otherwise requires:

#### Words referring to the singular include the plural and vice versa.

#### Clause headings are for reference only.

#### Expressions referring to writing include references to words visibly represented, copied, or reproduced, including by email.

#### Reference to a person includes any other entity or association recognised by law and vice versa and any reference to a particular entity includes a reference to that entity’s successors.

#### A reference to any legislation includes any statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.

#### All periods of time or notice exclude the days on which they are given.

### **Notices:** Subject to any other notice requirements in this Constitution, any notice or other communication given under this Constitution must be in writing and will be given to:

#### a Member if sent to the address set out in their Contact Details;

#### [organisation] if sent to [email address] or by post to [organisation]’s registered office set out on the Register of Incorporated Societies. [Guidance: Recommend including a generic email address so it is not affected by people leaving the organisation e.g. admin@sport.co.nz.]

### **Receipt of notices:** A notice is deemed to have been received:

#### if given by post, when left at the address of that party or five Business Days after being put in the post; or

#### if given by email, upon production of a physical copy of the email detailing the time and the date the email was sent (provided that the sender does not receive any "out of office" auto-reply or other indication of non-receipt),

#### provided that any notice or communication received or deemed received after 5pm on a Working Day, or on a day which is not a Working Day, will be deemed not to have been received until the next Working Day.

# Details of [organisation]

### **Name:** The name of the society is [full legal name of organisation] [Incorporated / Inc / Manatōpū] (**[short name of organisation]**). [**MANDATORY CLAUSE:** Name of your society is required to be in your constitution – sections 26(1)(a) and 11, Inc Soc Act. Name must end with Incorporated, Inc or Manatōpū.] [GUIDANCE: check name on cover page is consistent]

### **Charitable status:** [organisation] is already, or intends after incorporation to be, registered as a charitable entity under the Charities Act 2005. [Guidance: Include if your organisation is or intends to be registered as a charitable entity.]

### **Status:** [organisation] is the regional association for [national organisation] and related activities in the Region and is bound by and must observe the rules of [national organisation].

### **Registered office:** The registered office of [organisation] is at the place the Board decides. [Guidance: This is not required to be in your constitution. If you wish to include it, it is recommended you leave out reference to a specific place and leave this to the board to determine as it may change.]

### **Contact person:** At its first meeting following an AGM, the Board must appoint or reappoint at least one, and a maximum of three, persons to be the contact person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of Incorporated Societies of any change in the contact person or their Contact Details. [**MANDATORY CLAUSE:** How the contact person(s) will be elected or appointed is required to be in your constitution – sections 26(1)(g) and 113, Inc Soc Act.] [Guidance: This template suggests the Board appoints a contact person, but this position could be elected, or be part of another established position.]

# Purpose and powers

### **Purpose:** The [charitable] purposes of [organisation] are to: [**MANDATORY CLAUSE:** Purposes of your society are required to be in your constitution – section 26(1)(b) and 12, Inc Soc Act.][Guidance: This list of purposes is an example only, amend the list of purposes to set out what your organisation has been established to do. The purposes are not the vision, mission, goals or powers of your organisation. You may already have a well-established set of purposes that you wish to retain. If your organisation is, or wants to become, a charity the purposes in your constitution must reflect a charitable purpose, e.g. advancement of education or a matter beneficial to the community. The wording is critical and you should seek specific legal and tax advice.]

#### be a member of [national organisation] for the Region;

#### lead the promotion, development and administration of [sport] within the Region and to do so in a manner that is consistent with the requirements of [national organisation], mainly as an amateur sport for the well-being, benefit and recreation of the general public; [Guidance: The reference to amateur sport is relevant to satisfying the requirements for income tax exemption for amateur sport bodies under [section CW46, Income Tax Act 2007](https://www.legislation.govt.nz/act/public/2007/0097/latest/DLM1513279.html).]

#### support and assist its Members to deliver [sport/recreation/play] in the Region;

#### promote opportunities and facilities to enable, assist and enhance the participation, enjoyment and performance in [sport/recreation/play] in the Region;

#### lead, promote and enable Diversity, Equity and Inclusion across the whole organisation including governance of [organisation] and participation in [sport/recreation/play]; [Guidance: Sport New Zealand Ihi Aotearoa expects to see organisation boards continue to take a proactive approach to organisational and participant diversity, including gender across its networks. Diverse and balanced leadership brings breadth of perspective, better decision making and creates stronger organisations.]

#### promote, develop and co-ordinate [sport/recreation] competitions in the Region;

#### publish and enforce the rules of [sport] in the Region in a manner consistent with the requirements of [national organisation];

#### protect the integrity of [sport/recreation] and [organisation] by developing and enforcing standards of conduct, ethical behaviour and implementing good governance in the Region;

#### [Guidance: The list of purposes below are examples for recreation organisations, amend the list of purposes to set out what your organisation has been established to do. You may already have a well-established set of purposes that you wish to retain.]

#### be the regional body in the Region to promote, develop, foster and administer [recreation] for the health, well-being and benefit of the general public in New Zealand/Aotearoa;

#### promote the highest possible standards for operational procedures, competence and equipment for [recreation] in the Region;

#### facilitate training for [recreation instructors/guides] in the Region;

#### work collaboratively and co-operatively with other bodies and organisations concerned with [recreation] in the Region;

#### [Guidance: The list of purposes below are examples for sport/recreation hubs, amend the list of purposes to set out what the hub organisation has been established for. You may already have a well-established set of purposes that you wish to retain.]

#### establish a multi-purpose sports and recreation hub for [include sport and recreation activities] based at [area of hub facility];

#### bring sport and recreation organisations together so that they can benefit from each other’s skills, capability and experience;

#### build, develop, manage, lease, retrofit, rent and/or own facilities in its own right; provide sustainable infrastructure that emphasises the sharing of flexible and fit-for-purpose spaces ensuring fun and wellbeing for the community.

### **Tikanga:** The tikanga, kawa, culture or practice of [organisation] is as follows: [insert], and this Constitution must be interpreted having regard to that tikanga, kawa, culture or practice.

### **Capacity and powers:** [organisation] has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter into any transaction, subject to this Constitution, the constitution of [national organisation], the Act, any other legislation, and the general law. [Guidance: Section 18, Inc Soc Act provides that societies have the capacity and powers stated above. If there are any restrictions on your organisation’s capacity and powers, e.g. on a power to borrow or sell/acquire assets, you may include these here or elsewhere in your constitution.]

# Members

### **Application:** An application to become a Member (**Application**) must be in the form required by [organisation]. All Applications are decided by [insert e.g. the Board or by a delegated person/subcommittee], which may accept or decline an Application in its absolute discretion. A person becomes a Member when their Application has been accepted and they have [paid the required membership fees and] satisfied any other preconditions. [**MANDATORY CLAUSE:** How a person becomes a member of your society is required to be in your constitution – sections 26(1)(c) and 76, Inc Soc Act.][Guidance: Amend to reflect how a person becomes a member. Sometimes there is no formal approval process and the membership is accepted by default by completing the form and submitting it (for example, online). If this is the case there should always be a mechanism to decline membership. If you have different application processes for different categories of members, specify these here.]

### **Member consent:** A person or entity consents to become a Member by [insert, e.g. by submitting an Application to the organisation or paying fees], unless otherwise specified in this Constitution. [**MANDATORY CLAUSE:** A requirement that a person must consent to be a member of your society is required to be in your constitution – sections 26(1)(c) and 76, Inc Soc Act.] [Guidance: Existing members (those who joined before your organisation reregisters under the Inc Soc Act) will not be required to confirm their consent. For more guidance on obtaining member consent and what may or may not constitute consent see [here](https://is-register.companiesoffice.govt.nz/law-changes-for-societies/whats-changing-for-members/).]

### **Members:** The Members of [organisation] are Clubs and any other categories of member as the Board determines. [Guidance: Amend to reflect your members and their obligations. You may wish to take advice or talk to your national organisation in determining member structure. Amend to reflect the members of a sport/recreation hub which may be the initial members, and then other members who join later.]

### **Clubs:** A Club that wishes to be a Member must make an Application under clause 4.1. In addition to the obligations as a Member under clause 4.6, each Club that is a Member will:

#### administer, promote, and develop [sport/recreation] in the Club in a manner that is consistent with the Purposes, this Constitution and any Bylaws;

#### maintain registration as an incorporated society under the Incorporated Societies Act 1908 or the Act; [Guidance: Most clubs are incorporated, but consider if clubs are required to be incorporated societies. If they are not incorporated there are issues to consider – see this note [Incorporated Societies, unincorporated groups or a hybrid arrangement?](https://sportnz.org.nz/media/oqlp0sz1/1-sport-nz-guidance-note-incorporated-unincorporated-or-hybrid-002.pdf) Include reference to the 1908 Act during the transition period (Oct 2023 – Apr 2026) when societies can be registered under either Act.]

#### ensure its constitution is not inconsistent with this Constitution, provide [organisation] with a copy of its constitution and all proposed amendments to it. The Board may require a Club to amend its constitution if it, or any proposed amendment, is inconsistent or in conflict with, this Constitution, any Bylaws or the constitution of its Regional Body;

#### maintain an updated register of members and, on request, provide [organisation] with full access to that register, in compliance with the privacy laws; [Guidance: Include this if required for the administration of your sport/recreation. If you do include it, obligations arise under privacy law. All organisations should have a privacy policy that covers, among other matters, obtaining consent of individuals to allow their personal information to be provided to other specified organisations. See Sport New Zealand Ihi Aotearoa template [privacy policy](https://sportnz.org.nz/resources/privacy-policy/).]

#### lead, promote and enable Diversity, Equity and Inclusion across the whole Club including governance of the Club and participation in [sport/recreation];

#### act in good faith with loyalty to [organisation] to ensure the maintenance and enhancement of [organisation] and [sport/recreation], and its reputation.

### **Life Members:** Life Membership may be granted in recognition and appreciation of outstanding service by an individual to [organisation]. Any Member may nominate an individual to become a Life Member by giving notice to the Board setting out the grounds for the nomination. The Board must then determine whether the nomination should be forwarded to a General Meeting for determination by the Members. A person may only be elected as a Life Member by [an Ordinary / a Special] Resolution at a General Meeting. A person consents to becoming a Life Member on acceptance of their life membership. Life Members have such rights and benefits as determined by the Board. [Guidance: Example only. Amend to reflect the nomination process e.g. you may have a Life Member subcommittee.]

### **Member rights and obligations:** Members acknowledge and agree that:

#### they are bound by, and will comply with, this Constitution and the Bylaws, and to the extent they apply, the rules, procedures or policies of [national organisation that the organisation is a member of]; [Guidance: Check with your national organisation that you are a member of to understand if there are any rules you need to comply with and include in your constitution.]

#### they are subject to the jurisdiction of [organisation];

#### they are entitled to all rights and entitlements granted by this Constitution or as determined by the Board;

#### to receive, or continue to receive or exercise member rights, they must meet all the member requirements set out in this Constitution and the Bylaws or as otherwise set by the Board, including payment of any membership or other fees within the required time period;

#### if they fail to comply with sub-clause (d) the Board may terminate their membership, but the Member continues to be bound by this Constitution;

#### they do not have any rights of ownership of, or the automatic right to use, the [organisation]‘s property; and

#### they will promote the interests and Purposes of [organisation] and must not do anything to bring [organisation] into disrepute. [Guidance: Members have rights to request information held by your organisation which are set out in sections 80 – 83, Inc Soc Act. This is not required to be in your constitution so this template does not include these, but you should be aware of your organisation’s rights and obligations if you receive such a request and ensure you comply with the Inc Soc Act and, if relevant, the Privacy Act 2020.]

### **Suspension of Member:** If a Member is, or may be, in breach under clause 4.6, and the Board believes it is in the best interests of [organisation] to do so, the Board may suspend the Member until final determination of the matter under the dispute resolution process applicable to the matter. Before invoking any such suspension, the Member must be given notice of the suspension.

### **Suspension of Member rights:** Unless otherwise determined by the Board, while a Member is suspended the Member is not entitled to attend, speak or vote at a General Meeting, or to any other rights or entitlements as a Member and is not entitled to continue to hold office in any position within [organisation] until such time as the alleged breach is resolved or determined.

### **Ceasing to be Member:** A Member ceases to be a Member: [**MANDATORY CLAUSE:** How a person ceases to be a member of your society is required to be in your constitution – section 26(1)(d), Inc Soc Act.] [Guidance: It is important to have a clear record of when a person ceases to be a member because it impacts on their right to e.g. enter competitions, represent the organisation and vote. The list below are examples that you may wish to adapt.]

#### if an individual on death, or if a body corporate on liquidation;

#### by giving notice to the Board of their resignation;

#### if their membership is terminated under clause 4.6(e);

#### if their membership is terminated following a dispute resolution process or such other process set out or referred to in this Constitution.

### **Consequences of ceasing to be a Member:** A Member who ceases to be a Member:

#### remains responsible to pay all their outstanding membership and other fees to [organisation];

#### must return all of the [organisation]’s property if required;

#### ceases to be entitled to any rights of a Member.

### **Membership fees:** [insert how membership and other fees are set e.g. The Board will decide any membership and other fees payable by Members and the due date for those fees. The Board may determine different levels of membership fees and other fees for different types of Members. [Guidance: Best practice is for the Board to set membership fees after undertaking consultation as it sees fit. If your organisation has a different process, you may include this here.]

### **Member register:** The Board will keep an up-to-date Member register, which includes each Member’s name, Contact Details and the date they became a Member. A Member must provide notice to the Club of any change to their Contact Details. The Member register will be updated as soon as practicable after the Board becomes aware of changes of the information recorded in the Member register. The Board will keep a record of those who have ceased to be a Club member within the previous 7 years and the date on which they ceased to be a member. [**MANDATORY CLAUSE:** Arrangements you have for keeping your society’s register of members up to date is required to be in your constitution – sections 26(1)(e) and 79, Inc Soc Act and clause 13, Inc Soc Regulations.] [Guidance: When collecting personal information you must comply with the Privacy Act 2020. See Sport New Zealand Ihi Aotearoa template [privacy policy](https://sportnz.org.nz/resources/privacy-policy/).]

# General Meetings

### **AGM:** An AGM must be held once a year at the time, date and place as the Board decides, but not more than 6 months after the balance date of [organisation] and not more than 15 months after the previous AGM. [**MANDATORY CLAUSE:** Intervals between AGMs are required to be in your constitution – sections 26(1)(k)(i) and 84, Inc Soc Act.]

### **Notice of AGM:** The Members must be given at least [time period] notice of the AGM. Notice to Members of an AGM may be given by posting on [organisation]’s website. [**MANDATORY CLAUSE:** Manner of calling general meetings is required to be in your constitution – section 26(1)(k)(iv), Inc Soc Act. The time within which, and manner in which, notices of general meetings and notices of motion must be notified is required to be in your constitution – section 26(1)(k)(vi), Inc Soc Act.] [Guidance: Ability to give notice of the AGM on your website may be useful to include if you have hundreds or thousands of members.]

### **Business of AGM:** The following business will be discussed at the AGM: [**MANDATORY CLAUSE:**Information that must be presented at general meetings is required to be in your constitution – sections 26(1)(k)(ii) and 86, Inc Soc Act. Section 86, Inc Soc Act requires the items in (b)(i), (ii) and (iv) to be presented at each AGM.]

#### confirmation of the minutes of the previous AGM;

#### the Board’s presentation of the following information during the most recently completed accounting period:

##### the annual report;

##### the annual financial statements;

##### the auditor’s report to members on the financial statements audited by a qualified auditor or the review report of the financial statements; [Guidance: Include if the financial statements are required to be audited or reviewed by law, or the Board requires it. Section 106 Inc Soc Act requires the auditor to report to members on the audited financial statements. The audit requirement arises for:

##### a non-charity, if in each of the 2 preceding accounting periods, the total operating payments of the organisation and all entities it controls (if any) is $3m or more – clause 16, Inc Soc Regulations;

##### a charity if it is ‘large’, if in each of the 2 preceding accounting periods, the total operating expenditure of the organisation and all entities it controls (if any) is $1.1m or more. If it is not ‘large’ but in each of the 2 preceding accounting periods the total operating expenditure of the organisation and all entities it controls (if any) is $550,000 or more, the charity is ‘medium’ and must have their financial statements audited or reviewed by a qualified auditor. See sections 42C, 42D, Charities Act 2005.]

##### notice of any disclosures of conflicts of interest made by Officers (including a brief summary of the Matters, or types of Matters, to which those disclosures relate);

#### the election of any Board Members;

#### the appointment or announcement of any Appointed Board Members; [Guidance: Include if this occurs at the AGM.

#### Also include a clause category for any position which is not on the Board but is elected at the AGM by members. Eg sometimes a President is elected but is not a Board member.]

#### consideration of any motions proposing to amend this Constitution that have been properly submitted for consideration at the AGM;

#### consideration of any other items of business that have been properly submitted for consideration at the AGM.

### **Notice of proposed motions:** Members must give notice of any proposed motions and other items of business to the [organisation] at least [time period] before the date of the AGM. [**MANDATORY CLAUSE:** Time within which, and manner in which, notices of motion must be notified is required to be in your constitution – section 26(1)(k)(vi), Inc Soc Act.]

### **Notice of agenda:** Notice of the agenda containing the business to be discussed at the AGM must be sent to all persons entitled to attend the AGM at least [time period] before the date of the AGM. [**MANDATORY CLAUSE:** Time within which, and manner in which, notices of motion must be notified is required to be in your constitution – section 26(1)(k)(vi), Inc Soc Act.] No additional items of business can be voted on other than those set out in the agenda, but the Members present may agree [insert by Special Resolution or unanimously] to discuss any other items.

### **Calling of SGM:** The Board must call a SGM if it receives a written request stating the purpose of the SGM from the Board itself; or by [percentage]% of Members. [**MANDATORY CLAUSE:** Manner of calling general meetings is required to be in your constitution – section 26(1)(k)(iv), Inc Soc Act.] [Guidance: Consider carefully how many members are required to call a SGM. It is useful to use a percentage rather than a specific number of members so that if member numbers change significantly the percentage is still proportionate to the overall membership. The percentage should not be too easy nor too hard to meet to avoid SGMs being called often or too difficult to call.]

### **Notice of SGM:** Members must be given at least [time period] notice of the SGM, unless the Board, in its discretion, decides that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members. A SGM may only consider and deal with the business specified in the request for the SGM. [**MANDATORY CLAUSE:** Time within which, and manner in which, notices of general meetings must be notified is required to be in your constitution – section 26(1)(k)(vi), Inc Soc Act.]

[Guidance: Arrangements and requirements for SGMs under section 64(3), Inc Soc Act (relating to a situation where 50% or more of board members have a conflict of interest and cannot vote and section 64(3) has not be negated) are required to be in your constitution – section 26(1)(k)(vii), Inc Soc Act. This template does not include any specific requirements for this type of SGM and the clauses above relating to SGMs would apply to that situation.]

### **Method of holding meeting:** A General Meeting may be held by a quorum of people being assembled at the time and place appointed for the meeting, participating by audio link, audio-visual link or other electronic communication or by a combination of those methods. [Guidance: Section 87, Inc Soc Act allows for this, subject to your constitution, so if you wish to prohibit attendance by some of these methods, do so here.]

### **Quorum:** No business may occur at any General Meeting unless a quorum is present at the meeting’s start time. The quorum for a General Meeting is [percentage]% of the Members who are entitled to vote, including Members present by casting votes by electronic means [or by proxy]. The quorum must always be present during the General Meeting. [**MANDATORY CLAUSE:** Quorum for general meetings is required to be in your constitution – section 26(1)(k)(vii), Inc Soc Act.] [Guidance: If you allow voting by proxy, post or electronic means, it is mandatory to include whether the quorum takes into account members present by proxy or casting postal votes or votes by electronic means. The quorum is the minimum number of percentage of members who must attend a General Meeting. To cater for fluctuating numbers of members consider using a dual assessment. For example, x number of members or y% of members eligible to vote, whichever is the lower so it defaults to the easiest threshold to fulfill.]

### **No quorum at AGM:** If a quorum is not met within 30 minutes of the AGM’s scheduled start time, the AGM is adjourned to a day, time and place set by the chair of the AGM. If no quorum is met at the further AGM, the Members present, in person or through audio, audio visual link or other electronic communication, 15 minutes after the further AGM’s scheduled start time are deemed to constitute a valid quorum.

### **No quorum at SGM:** If a quorum is not met within 30 minutes of the scheduled start time of the SGM, the SGM is cancelled.

### **Control of General Meetings:** [insert] chairs General Meetings. If that person is unavailable, a Board Member (appointed by the Board) will preside. In the absence of both of those persons, the Members present will elect a person to chair the General Meeting. [Guidance: Insert who chairs the meeting, it may be the chair or (if you have one) the president. If members have searching questions of the board, a president or person who is not a board member may be in a better position to ensure good control of the meeting. If the chair of the meeting is standing for re-election, another person should chair that part of the meeting.]

### **Omissions and irregularities:** The General Meeting and its business will not be invalidated if one or more Members do not receive notice of the meeting. The General Meeting and its business will not be invalidated by an irregularity, error or omission in notices, agendas and papers of the meeting or the giving of notice within the required time frame or the omission to give notice to all Members and any other error in the organisation of the meeting if:

#### the chair of the meeting in their discretion determines that it is still appropriate for the meeting to proceed despite the irregularity, error, or omission; and

#### a motion to proceed is put to the meeting and a majority, of two-thirds of votes cast, is obtained in favour of the motion to proceed.

### **Attendance:** Members and any other persons invited by the Board are eligible to attend and speak at General Meetings. [Guidance: Other persons may be e.g. auditor/reviewer, Patrons etc. All Members have a right to attend an AGM unless, if your organisation has 1,000 or more members at the time that an AGM is called, your constitution may restrict that to delegates or other representatives of Members – clause 14, Inc Soc Regulations. There is also a 5-year exemption if, as at 4 Oct 2023, your current constitution included a restriction on attendance at AGMs to delegates or other representatives of Members – clause 7 of schedule 1, Inc Soc Regulations. That 5-year exemption runs until 5 Oct 2028.]

### **Voting:** The voting entitlement for each Member eligible to vote is as follows: [insert]. [**MANDATORY CLAUSE:** Voting procedures of your society is required to be in your constitution – section 26(1)(k)(vii), Inc Soc Act.] [Guidance: Voting entitlements can be structured in different ways e.g. 1 vote per Club or proportional voting depending on the number of individual members per Club etc.]

### **Voting by electronic means:** Voting by electronic means is permitted. [Guidance: Members are permitted to vote by electronic means if your constitution allows it – section 93(2), Inc Soc Act. It doesn’t define ‘electronic means.’ This template does not include postal voting but it is permitted if your constitution allows it.]

### **Voting by proxy:** Proxy voting is permitted. The chair of the General Meeting must receive notice of the proxy signed by the Member prior to the start of the meeting. The form of the proxy is: *I [insert name] of [insert address] being a member of [organisation] appoint [insert name of proxy] as my proxy to speak [and vote] for me at the General Meeting to be held on [insert date] and at any adjournment of that General Meeting. I direct my proxy to vote in the following manner [insert resolutions and whether the proxy is to vote for or against].* [**MANDATORY CLAUSE IF PROXIES ARE PERMITTED:** If you allow proxy voting, the procedures for proxies are required to be in your constitution – section 26(1)(k)(vii), Inc Soc Act.] [Guidance: Proxy votes allow members who can’t attend an ability to appoint another member to speak / vote on their behalf. Virtual meetings are increasingly used so the inclusion of proxies may not be necessary. Allowing proxies invites the risk of people collecting proxies and using them to leverage the vote in a certain way. Ideally you want people to be present and to have the benefit of any discussion before exercising a vote. If proxy voting is permitted you will need to specify whether the quorum includes proxy voting in clause 5.8. There are two types of proxies – a general, where the person you appoint can act in their discretion when voting on resolutions, and a specific, where you direct the person to vote on resolutions in a specific way for you. Include the last sentence in this clause if it is a specific proxy.]

### **Conduct of voting:** Voting is conducted by voices or a show of hands as determined by the chair of the meeting, unless a secret ballot is called for and approved by the chair or [number] of Members or as otherwise required under this Constitution. [**MANDATORY CLAUSE:** Voting procedures of your society are required to be in your constitution – section 26(1)(k)(vii), Inc Soc Act.]

### **Minutes:** Minutes must be kept of all General Meetings. [**MANDATORY CLAUSE:** When minutes are required to be kept is required to be in your constitution – section 26(1)(k)(iii), Inc Soc Act. A society must ensure minutes of its AGM are kept – section 84(3)(b), Inc Soc Act.]

### **Resolution:** An Ordinary Resolution of Members at a General Meeting is sufficient to pass a resolution, except as specified in the Act or this Constitution. [**MANDATORY CLAUSE:** Voting procedures of your society are required to be in your constitution – section 26(1)(k)(vii), Inc Soc Act.]

### **Resolution passed in lieu of meeting:** A resolution in writing signed or consented to by email or other electronic means by a [percentage that is 75 or higher (75% is required under the Inc Soc Act)]% majority of Members is valid as if it had been passed at a General Meeting provided the requirements under sections 89 to 92 of the Act are complied with. Any resolution may consist of several documents in the same form each signed by one or more Members. [**MANDATORY CLAUSE IF WRITTEN RESOLUTIONS PERMITTED:** If written resolutions can be passed in lieu of a general meeting, it is mandatory to include how written resolutions may be passed in lieu of a general meeting for the purposes of section 89 in your constitution – sections 26(1)(k)(v) and 89, Inc Soc Act.] [Guidance: Section 90, Inc Soc Act requires that the proposed resolution under section 89:

* is dated with the date on which the proposed resolution is first sent to a person entitled to vote for the purpose of approval (the circulation date); and
* is sent to an address for each person who is entitled to vote; and
* as far as is reasonably practicable, is sent on the circulation date; and
* states that the proposed resolution lapses if it is not passed within 3 months (or any shorter period provided in the constitution) after the circulation date.

### Section 91, Inc Soc Act provides that an accidental omission to send a proposed resolution or statement under [section 90](https://www.legislation.govt.nz/act/public/2022/0012/latest/whole.html#LMS246458) to a person entitled to vote does not invalidate a resolution passed under [section 89](https://www.legislation.govt.nz/act/public/2022/0012/latest/whole.html#LMS238718). Section 92, Inc Soc Act provides the society must send a copy of the resolution to all those entitled to vote who did not approve the resolution and on whose behalf the resolution was not approved within 5 working days after a resolution is passed.]

# Board

### **Functions and powers:** Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution the Board must manage, direct or supervise the operation and affairs of [organisation] and has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of [organisation]. [**MANDATORY CLAUSE:** Functions and powers of the committee is required to be in your constitution – sections 26(1)(f)(iv) and 46, Inc Soc Act.] [Guidance: This clause sets out section 46, Inc Soc Act.]

### **Composition:** The Board consists of: [**MANDATORY CLAUSE:** Number of members that must or may be on the committee is required to be in your constitution – sections 26(1)(f)(i) and 45, Inc Soc Act.] [Guidance: You must have a minimum of 3 board members. Under section 45(3), Inc Soc Act a majority of your board members must be Members or representatives of bodies corporate who are Members. There is a 5-year exemption to this if your constitution expressly provides for the majority of the Board to be made up of officers who are not Members or representatives of bodies corporate that are Members – clause 6, schedule 1, Inc Soc Regulations. The exemption ends 5 Oct 2028. On re-registration organisations must indicate to the Registrar that they do not comply with section 45(3) and are relying on the exemption. It’s important to notify the Registrar, so that MBIE can then understand the number and nature of organisations that have this level of independence on their board and support Sport New Zealand Ihi Aotearoa in advocating for a permanent exemption from the section 45(3) requirement. See commentary on governance structure and independent directors in the [Nine Steps to Good Governance](https://sportnz.org.nz/media/4668/nine-steps-fourth-edition-final-version.pdf), pages 120 and 121.

### Amend to reflect your board composition if you are a sport/recreation hub. Often the initial members, and also Council and iwi, have rights to appoint board members.]

#### up to [number] persons elected at the AGM under [insert clause 6.3 or 6.4] (**Elected Board Members**); and

#### up to [number] persons appointed under clause 6.3 (**Appointed Board Members**).

### **President, Secretary, Treasurer**: [Guidance: Given it can be difficult to fill specific roles (e.g. secretary and treasurer), a modern governance approach that can be more effective is to elect a board to ensure all functions are performed & allow the board to assign people to positions/tasks as needed. This template does not include a president, secretary or treasurer. Please see the Club Constitution Template Version B if you have specific roles on your board, e.g. president, secretary, treasurer, that you wish to be specifically elected by members. If you do, be careful about the numbering and cross-referencing in all of this clause 6 and elsewhere.

### There is no legal requirement to have a president. Often the chair is the head of the society and the board. If your president is a board member, they will be an “officer” and have officers’ duties set out in the Act. If your president is not a board member, they will not be an “officer” unless they exercise significant influence over the management or administration of the society.]

[**MANDATORY CLAUSE:** Election or appointment of officers is required to be in your constitution – section 26(1)(f)(ii), Inc Soc Act.] [Guidance: This template sets out two options: You need to choose one.

* Option 1: Election of some Board Members and appointment of other Board Members by an appointment panel.
* Option 2: Election of all Board Members.]

### **Election and appointment of Board Members:** Board Members are appointed and elected as follows: [Guidance: Include this section if you have Elected and Appointed Board Members and delete ‘Election of Board Members’ section. Include the ‘Appointments Panel’ section. Amend if your elections/appointments do not take place or are announced at the AGM.]

#### The Appointment Panel must call for nominations for any Elected Board Member positions, and applications for any Appointed Board Member positions, in each case that are to be vacated by a date set by the Board and if no date is set, at least [number e.g. 90] days before the AGM.

#### Applications and nominations are made in the forms decided by the Appointment Panel and must be received by the Appointment Panel by the date set by the Board and if no date is set, at least [number e.g. 60] days before the AGM. [Guidance: We recommend the form is sufficiently detailed and includes a requirement for disclosure of any actual or potential conflicts of interests or if the person is involved/closely connected with a person or activity which has or may bring the organisation or the sport/recreation into disrepute or which may be prejudicial to the purposes or the interests of the organisation and/or the sport/recreation if they become a board member.]

#### The Appointment Panel must undertake its responsibilities as set out in the sub-clause headed “**Appointment Panel**”.

#### At least [number e.g. 30] days before the AGM, the Appointment Panel:

##### must notify the Board of the Appointed Board Member(s) who are to assume office; and

##### may notify the Board of any recommended nominations whom it considers would best suit the vacant positions of Elected Board Members for consideration at the AGM. [Guidance: Optional to include a recommendation from the Appointments Panel if you feel it is appropriate. Amend as applicable if elections are not held at the AGM.]

#### In turn, the Board must, at least [number e.g. 21] days before the AGM, notify the Members of:

##### the Appointment Panel’s decision regarding any Appointed Board Members it has appointed;

##### recommendations (if any) of nominations that the Appointment Panel considers would best suit the vacant positions of Elected Board Members; and [Guidance: Optional to include.]

##### the names of any other nominations for the vacant positions of Elected Board Members.

#### Elections of the Elected Board Members at the AGM will take place as follows:

##### if there are more nominees than number of positions available, the election is by secret ballot, unless otherwise decided by the Chair of the General Meeting and approved by a Special Resolution of Members. If a secret ballot is held, two scrutineers must be appointed at the General Meeting to count the votes;

##### those nominees who have the highest number of votes in their favour to fit the number of vacant positions are declared elected; [Guidance: This is an example only, other voting options are possible.]

##### if the number of votes for one or more nominees is equal to another nominee, a further vote will be held between the tied nominees;

##### if there is only one nominee for a vacant position, that person is declared to be elected without the need for a vote.

### **Election of Board Members:** Board Members are elected as follows: [Guidance: Include this section if you only have Elected Board Members and delete ‘Election and Appointment of Board Members’ and ‘Appointment Panel’ sections. This is an example of elections held at the AGM. Amend if elections are held at a different time.]

#### the Board must call for nominations for any Elected Board Member positions that are to be vacated at an AGM at least [number e.g. 90] days before the AGM; [Guidance: You may wish to include the option for people to apply at the meeting if it is not uncommon for there to be an insufficient number of applicants.]

#### nominations are made in the form decided by the Board and must be received by the date set by the Board and if no date is set, at least [number e.g. 60] days before the AGM; [Guidance: We recommend the form is sufficiently detailed and includes a requirement for disclosure of any actual or potential conflicts of interests or if the person is involved/closely connected with a person or activity which has or may bring the organisation or the sport/recreation into disrepute or which may be prejudicial to the purposes or the interests of the organisation and/or the sport/recreation if they become a board member.]

#### the Board must give notice of the nominations to all Members at least [number e.g. 21] days before the AGM;

#### at the AGM, if there are more nominees than number of positions available, the election is by secret ballot, unless otherwise decided by the Chair of the General Meeting and approved by a Special Resolution of Members. If a secret ballot is held, two scrutineers must be appointed at the General Meeting to count the votes;

#### those nominees who have the highest number of votes in their favour to fit the number of vacant positions are declared elected; [Guidance: This is an example only, other voting options are possible.]

#### if the number of votes for one or more nominees is equal to another nominee, a further vote will be held between the tied nominees;

#### if there is only one nominee for a vacant position, that person is declared to be elected without the need for a vote.

### **Appointment Panel:** [Guidance: Include this clause if you have Appointed Board Members.]

#### There will be a Board Appointment Panel (**Appointment Panel**) comprising of the following people (each a **Panel Member**):

##### the Chair, or if the Chair is not eligible or willing to serve on the Appointment Panel or is seeking reappointment or re-election to the Board, then another Board Member who is eligible to serve on the Appointment Panel and is not seeking re-appointment or re-election to the Board as determined by the Board;

##### a nominee who is independent of [organisation] and is experienced in governance and the functions and appointment process of board members in New Zealand, as determined by the Board;

##### a nominee who is independent of the Board and has an interest and understanding of [sport/recreation/play] in New Zealand, as determined by the Board,

#### and the Appointment Panel must be diverse and inclusive and as a minimum must always have diversity of gender among its people. [Guidance: Amend to suit the composition of your panel. Gender diversity on the panel should be achievable.]

#### A person will not be eligible to be a Panel Member or remain as a Panel Member if any of the circumstances listed in the sub-clause headed “**Disqualification**” have occurred or occur.

#### If the Board as a whole has been removed, resigns en masse, or does not have a quorum and is unable to appoint the Appointments Panel, it will be appointed by Sport New Zealand Ihi Aotearoa.

#### The convenor of the Appointment Panel is the person who is the Chair or the Board member referred to in category (i) of the composition of the Appointment Panel above.

#### Panel Members remain in office for the period necessary to fulfil their responsibilities in relation to each vacancy of a Board Member for which the Appointment Panel was established. A person is not eligible to serve on the Appointment Panel following the fifth anniversary of their first appointment to the Appointment Panel.

#### The Appointment Panel is independent of the Board and is responsible for:

##### advertising, identifying and inviting suitable candidates to apply for appointment as an Appointed Board Member;

##### receiving and assessing applications from candidates for appointment as Appointed Board Members, including undertaking such enquiries and holding interviews and meetings as it sees fit;

##### deciding the candidates to be appointed as Appointed Board Members;

##### receiving and assessing applications from candidates for election as Elected Board Members at an AGM, including undertaking such enquiries and holding interviews and meetings as it sees fit; [Guidance: Include if the panel considers candidates for Elected Board Member positions. Amend if the election is not held at the AGM.]

##### recommending to the Members at, or prior to, an AGM at which any vacancy in the positions of Elected Board Member arises, the applicant(s) whom the Appointment Panel considers would best suit the positions. [Guidance: Include if the panel recommends candidates for Elected Board Member positions to the AGM. Amend if the election is not held at an AGM. The panel has the right to not recommend a candidate standing for election, but all candidates must be included in the election ballot unless they are disqualified from being a board member.]

#### In determining the Appointed Board Members, [and recommending persons to be Elected Board Members] [Guidance: Include wording in square brackets if the panel recommends candidates for Elected Board Member positions], the Appointment Panel will do so based on merit and will consider the following factors about the candidate and the Board as a whole:

##### prior experience as a director, trustee, officer or experience in any other governance role;

##### knowledge of, and experience in [sport/recreation] organisations generally;

##### understanding of the legal, regulatory, fiduciary and ethical obligations of Board Members;

##### the desire for conflicts of interest on the Board to be minimised;

##### the desire for a wide range of knowledge, skills, and experience on the Board; and

##### the desire for diversity and inclusion on the Board.

#### No Panel Member may seek to become a Board Member while a Panel Member.

#### Unless otherwise set out in this Constitution, the Appointment Panel may decide its own process.

#### The quorum for a meeting of the Appointment Panel is [number] Panel Members. [Guidance: Adjust the quorum as appropriate to suit the number of panel members.]

#### Any decision of the Appointment Panel regarding the appointment of Appointed Board Members and the persons to be recommended as Elected Board Members must be [insert e.g. unanimous if panel consists of 3 people, or at least 75% if panel consists of 4 people].

#### All information received by the Appointment Panel and its discussions must be kept confidential except to the extent required by law. Panel Members must notify the convenor of any potential conflict of interest in considering any candidate. If the convenor considers it appropriate to do so, they may require that Panel Member to vacate their position. If the convenor considers they may have a potential conflict of interest, they must notify the other Panel Members and the Board. If the Board considers it appropriate to do so, it may require that convenor to vacate their position.

#### The Board may remove any Panel Member if the Board considers, in its sole discretion, that:

##### that Panel Member has a conflict of interest which has not been satisfactorily resolved to the satisfaction of the Board; or

##### there are circumstances which may give rise to a question of actual or apparent bias in the Appointment Panel’s composition and/or process. [Guidance: Optional to include sub-clause (m) and sub-clause (n).]

#### Before removing any Panel Member, the Board must:

##### notify that Panel Member of its proposal to remove them;

##### give that Panel Member and the other Panel Members the opportunity to make submissions on the proposed removal and the opportunity to be heard.

#### Any vacancy in the Appointment Panel will be replaced by the person or organisation that appointed the Panel Member for which the vacancy arises.

### **Qualification:** Every Board Member must, in writing:

#### consent to be a Board Member; and

#### certify that they are not disqualified from being elected, appointed or holding office as a Board Member by this Constitution or under section 47 of the Act or under section 36B of the Charities Act 2005. [Guidance: Include wording in orange if your organisation is a charity. Section 47, Inc Soc Act sets out disqualifying factors such as being under 16 years old, an undischarged bankrupt, a person who is prohibited from being a director under other legislation, a person who is disqualified from being an officer of a charity etc.]

### **Disqualification:** The following persons are disqualified from being elected, [appointed] or holding office as a Board Member[, or in the case of a Panel Member, from being or remaining as a Panel Member]: [Guidance: Include wording in blue if you have an Appointment Panel.]

#### A person who is an employee of, or independent contractor to [organisation].

#### A person who holds office with a Member, unless as a condition of becoming a Board Member they resign from office with the Member. [Guidance: Optional. If a person is an officer of a member club and your regional organisation, it may be a conflict of interest. It is good practice to require a person to resign from their club role before becoming a board member of your regional organisation.]

#### A person who is disqualified from being elected, [appointed] or holding office as a Board Member under section 47 of Act or under section 36B of the Charities Act 2005. [Guidance: Include wording in orange if your organisation is a charity.]

#### A person who has been removed as a Board Member following a process under this Constitution or any Bylaw.

### If an existing Board Member becomes or holds any position in (a) or (b) above then upon appointment to such a position, they are deemed to have vacated their office as a Board Member. If any of the circumstances listed in (c) above clause occur to an existing Board Member, they are deemed to have vacated their office upon the relevant authority making an order or finding against them of any of those circumstances.

### **Term of office:** The term of office for all Board Members is [number] years, expiring at the end of the relevant AGM. A Board Member may be re-elected [or reappointed] to the Board for a maximum of [number] consecutive terms of office. Prior to each AGM, the Board will advise the Appointment Panel of the schedule of rotation and the vacancies arising in Board Member positions at the AGM. The term of any period served to fill a Casual Vacancy is disregarded for the purposes of calculating the total term served. [**MANDATORY CLAUSE:** Term of office of officers is required to be in your constitution – section 26(1)(f)(iii), Inc Soc Act.] [Guidance: Amend depending on when the terms expire and whether Board Members are elected/appointed. Best practice indicates not more than 6 or 8 consecutive years are served. A person could serve at a later date if they don’t serve consecutive terms.]

### **Rotation:** [Guidance: A rotation provision is useful to minimise the risk of too many board members having terms that end at the same time and to support continuity of governance and stability of your organisation by retaining some experienced people on your board. If you are starting a new organisation with, e.g. 7 board members where the term of office is 3 years, you can say that 2 board members have terms of 1 year, 2 board members have terms of 2 years and 3 board members have terms of 3 years (or other mix of years as you wish). Where your organisation already exists you can start a rotation process in the same manner as above, but with assistance of a transition clause that specifies that the persons on the board who have time to run on their terms have their existing terms of office amended so that (using a similar example as above) 2 board members end their terms at the first AGM after adoption of the new Constitution, 2 board members end their terms at the second AGM after adoption and 3 board members end their terms at the third AGM after adoption (or whatever combination of existing and/or new terms provides the desired rotation outcome).]

### **Appointed Board Member vacancy:** If a Casual Vacancy of an Appointed Board Member arises: [Guidance: Include if you have Appointed Board Members.]

#### six (6) months or more after the last AGM, the remaining Board Members may:

##### refer the appointment to the Appointment Panel to fill with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable;

##### appoint a person of their choice to fill the Casual Vacancy; or

##### leave the Casual Vacancy unfilled until the next AGM;

#### less than six (6) months after the last AGM, the remaining Board Members must refer the appointment to the Appointment Panel to fill with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable.

### A person appointed to fill a Casual Vacancy of an Appointed Board Member continues until the expiry of the term of the person they replace. [Guidance: Include if you have Appointed Board Members. Best practice is for the person appointed to fill the vacancy is in the role until the end of the term of the person they are replacing so that the Board rotation is maintained. If a person is only appointed to fill the vacancy until the next AGM the Board rotation will not function properly.]

### **Elected Board Member vacancy:** If a Casual Vacancy of an Elected Board Member arises, the remaining Board Members may: [Guidance: This clause maintains the rotation of board members even where there is a casual vacancy.]

#### appoint a person of their choice to fill the Casual Vacancy until the expiry of the term of the person they replace;

#### appoint a person of their choice to fill the Casual Vacancy only until the next AGM, at which a person is elected to fill the remainder of the term of the Casual Vacancy;

#### leave the Casual Vacancy unfilled until the next AGM, at which a person is elected to fill the remainder of the term of the Casual Vacancy.

### **Suspension of Board Member:** If any Board Member is or may be the subject of an allegation, notice or charge described in the sub-clause headed “**Disqualification**” or any circumstances arise in relation to a Board Member which are or may be of concern to the Board, the remaining Board Members may by Special Resolution suspend the Board Member from the Board and set conditions as it requires pending the final determination of the allegation, notice, charge or circumstances. Before imposing any suspension, the Board Member must be given notice of the suspension.

### **Removal of Board Member:**

#### The Board may, by Special Resolution, remove any Board Member from the Board before the expiry of their term of office if the Board considers the Board Member concerned:

##### has seriously breached duties under this Constitution or the Act; or

##### is no longer a suitable person to be a Board Member; or

##### is involved with, interested in, or otherwise closely connected to a person or activity which has or may bring [organisation] or [sport/recreation] into disrepute or which may be prejudicial to the Purposes or the interests of [organisation] and/or [sport/recreation] if they remain as a Board Member.

#### The Board Member who is the subject of the motion is counted for the purpose of reaching a quorum but will not participate in the vote on the motion.

#### Before considering a motion for removal, the Board Member affected by the motion must be given:

##### notice that a Board meeting is to be held to discuss the motion to remove the Board Member; and

##### adequate time to prepare a response; and

##### the opportunity prior to the Board meeting to make written submissions; and

##### the opportunity to be heard at the Board meeting.

### **Board Member ceasing to hold office:** A person ceases to be a Board Member if: [**MANDATORY CLAUSE:** Grounds for removal from office of officers is required to be in your constitution – sections 26(1)(f)(v) and 50(1)(b), Inc Soc Act.]

#### their term expires;

#### the person resigns by delivering a signed notice of resignation to the Board;

#### the person is removed from office under this Constitution;

#### the person becomes disqualified from being an officer under section 47(3) of the Act;

#### the person becomes disqualified from being an officer under section 36B of the Charities Act 2005; [Guidance: Include if your organisation is a charity.]

#### the person dies.

# Board meetings

### **Calling meetings:** Board meetings may be called at any time by the Chair or by [number] Board Members, but generally the Board meets [frequency]. [**MANDATORY CLAUSE:** Procedure for board meetings is required to be in your constitution – section 26(1)(f)(vii), Inc Soc Act.]

### **Meeting procedure:** Except to the extent specified in the Act or this Constitution, the Board may regulate its own procedure. [**MANDATORY CLAUSE****:** Procedure for board meetings is required to be in your constitution – section 26(1)(f)(vii), Inc Soc Act.]

### **Quorum:** The quorum for a Board meeting is [number] Board Members. [**MANDATORY CLAUSE:** Quorum for board meetings is required to be in your constitution – section 26(1)(f)(vii), Inc Soc Act.] Any Board Member may be counted for the purposes of a quorum, participate in any Board meeting and vote on any proposed resolution at a meeting without being physically present. This may only occur at Board meetings by audio or audio-visual link or other electronic communication provided that all persons participating in the Board meeting can hear each other effectively and simultaneously.

### **Chair:** At its first meeting following an AGM, the Board must elect a Chair. [**MANDATORY CLAUSE:** How the chair (if any) is elected or appointed is required to be in your constitution – section 26(1)(f)(vi), Inc Soc Act.] The role of the Chair is to chair meetings of the Board. If the Chair is unavailable, another Board Member must be appointed by the Board to undertake the Chair’s role during the period of unavailability.

### **Voting:** Each Board Member has one vote. Voting is by voices or on request of any Board Member by a show of hands or by a ballot. Proxy and postal votes are not permitted. Voting by electronic means is permitted. [**MANDATORY CLAUSE:** Voting procedures for board meetings is required to be in your constitution – section 26(1)(f)(vii), Inc Soc Act.] If there is an equality of votes, the Chair does not have a casting vote. [**MANDATORY CLAUSE:** If the Chair has a casting vote if there is an equality of votes, it is mandatory to include this in your constitution – section 26(1)(f)(vi), Inc Soc Act.] [Guidance: Best practice is for a chair not to have a casting vote as if something does not gain the required support to pass, it should not pass.]

### **Resolution in writing:** A resolution in writing signed or consented to by email or other electronic means by a majority of Board Members is valid as if it had been passed at a Board meeting. Any resolution may consist of several documents in the same form each signed by one or more Board Members.

# Officers’ Duties

### [Guidance: This clause includes a succinct statement of the officers’ duties in sections 54 – 59, Inc Soc Act. It is optional to include, but it is worthy of inclusion as a ready reference for officers without them needing to look at the Act or other guidance material. If there are other officers duties, roles or responsibilities, it is recommended these are set out in a Board Charter so changing these doesn’t require amending the Constitution at a General Meeting.]

### An Officer:

#### when exercising powers or performing duties as an Officer, must act in good faith and in what the Officer believes to be the best interests of [organisation];

#### must exercise a power as an Officer for a proper purpose;

#### must not act, or agree to [organisation] acting, in a manner that contravenes the Act or this Constitution;

#### when exercising powers or performing duties as an Officer, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances, taking into account, but without limitation the nature of [organisation], the nature of the decision and the position of the Officer and the nature of the responsibilities undertaken by them;

#### must not agree to the activities of [organisation] being carried on in a manner likely to create a substantial risk of serious loss to [organisation]’s creditors or cause or allow the activities of [organisation] to be carried on in a manner likely to create a substantial risk of serious loss to [organisation]’s creditors;

#### must not agree to [organisation] incurring an obligation unless the Officer believes at that time on reasonable grounds that [organisation] will be able to perform the obligation when it is required to do so; and

#### when exercising powers or performing duties as an Officer, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

##### an employee whom the Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned;

##### a professional adviser or expert in relation to matters that the officer believes on reasonable grounds to be within the person’s professional or expert competence; or

##### any other Officer or subcommittee of Officers on which the Officer did not serve in relation to matters within the Officer’s or subcommittee’s designated authority,

#### if the Officer, acts in good faith, makes proper inquiry where the need for inquiry is indicated by the circumstances, and has no knowledge that the reliance is unwarranted.

# Interests

### [Guidance: A conflicts of interests regime under the Inc Soc Act applies to your club by default, but certain sections can be modified, negated or limited (sections 63, 64, 65(1) and 73). This is an example of an interests regime. It is optional to include, but it is worthy of inclusion as a ready reference for when an interest arises.]

### **Register of interests:** The Board must keep a register of interest disclosures made by Officers.

### **Duty to disclose interest:** An Officer who is Interested in a Matter relating to [organisation] must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) to the Board, as soon as practicable after the officer becomes aware that they are interested in the Matter and include it in the register of interests.

### **Consequences of being interested:** A Board Member who is Interested in a Matter:

#### must not vote or take part in a decision of the Board relating to the Matter, unless all non-interested Board Members consent; [Guidance: Default position under section 64(1)(a) and 64(2), Inc Soc Act.]

#### must not sign any document relating to the entry into a transaction or the initiation of the Matter, unless all non-interested Board Members consent; [Guidance: Default position under section 64(1)(b) and 64(2), Inc Soc Act.]

#### must not take part in any Board discussion relating to the Matter or be present at the time of the Board decision, unless all non-interested Board Members consent; [Guidance: Default position in section 64(1)(c), Inc Soc Act is that an interested board member may take part in discussions unless the board decides otherwise. This clause modifies that position so an interested board member cannot take part in discussions unless the board agrees.]

#### may be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered. [Guidance: Default position under section 64(2)(a), Inc Soc Act.]

### **Calling of SGM:** Despite clause 9.3, if 50% or more BoardMembers are Interested in a Matter, an SGM must be called to consider and determine the Matter. [Guidance: Default position under section 64(3), Inc Soc Act, but can be modified or negated. It may be a rare occurrence for more than half of board members to be interested, so the requirement to call a SGM in those circumstances would be appropriate.]

### **Notice of failure to comply:** The Board must notify Members of a failure to comply with section 63 or 64 of the Act, and of any transactions affected, as soon as practicable after becoming aware of the failure. [Guidance: Default position under section 65(1), Inc Soc Act.]

# Patrons

### A person may be invited by the Board to be a Patron to show their support for [organisation] and to help establish or maintain public credibility of [organisation]. A Patron is entitled to attend and speak at General Meetings but has no right to vote. [Guidance: A patron does not have to be approved by the members at a general meeting, although this is traditionally the practice. A patron must accept this position so it is preferable for the board to be empowered to invite a person to fill this role.]

# Chief Executive

### [Guidance: Include if your organisation has a Chief Executive/General Manager.] **Role of Chief Executive:** A Board may engage a Chief Executive. The Chief Executive is under the direction of the Board and is responsible for the day-to-day management of the affairs of [organisation] under this Constitution and the Bylaws and within any delegated authority from the Board.

### **Board involvement:** The Chief Executive may attend Board meetings on and when required by the Board but has no voting rights. [Guidance: Best practice is for a Chief Executive not to be part of the board to ensure the separation of governance and management.]

# Finances

### **Control and management of finances:** The funds and property of [organisation] are controlled, invested and disposed of by the Board, subject to this Constitution; and devoted solely to the promotion of the Purposes. [**MANDATORY CLAUSE:** How the society will control and manage its finances is required to be in your constitution – section 26(1)(h), Inc Soc Act.]

### **Balance date:** [organisation]’s balance date is [date] or on the date as the Board decides.

### **[Audit *or* review] of financial statements:** [organisation]’s financial statements must be [audited/reviewed] each year and the [audited *or* reviewed] financial statements must be submitted to the AGM. The [auditor *or* reviewer] will be appointed by the Board. [Guidance: See guidance at clause 5.3(b)(iii) regarding whether financial statements are required to be audited or reviewed at law. Include/amend this clause as applicable.]

### **No personal benefit:** The Officers and Members may not receive any distributions of profit or income from [organisation]. This does not prevent Officers or Members:

#### receiving reimbursement of actual and reasonable expenses incurred, or

#### entering into any transactions with the organisation for goods or services supplied to or from them, which are at arms’ length, relative to what would occur between unrelated parties,

### provided no Officer or Member is allowed to influence any such decision made by [organisation] in respect of payments or transactions between it and them, their direct family or any associated entity. [Guidance: This clause is required by the IRD for sports clubs and charities seeking an income tax exemption. See [IRD Guidance](https://www.ird.govt.nz/roles/not-for-profits-and-charities/before-you-start/rules-wording).]

# Indemnity and insurance

### [Guidance: Sections 94 – 98, Inc Soc Act regulates indemnities and insurance for officers, members and employees. The board may wish to consider the use of specific indemnity insurance and seek specialist advice on the suitability and extent of insurance cover.]

### [organisation] indemnifies its current and former Officers, Members and employees as permitted by section 96 of the Act. [Guidance: You may not indemnify for criminal liability or a liability that arises out of a failure to act in good faith and in what the officer, member, or employee believes to be the best interests of the organisation.

### With the prior approval of its Board, [organisation] may effect insurance for its current and former Officers, Members and employees as permitted by section 97 of the Act. [Guidance: Section 97, Inc Soc Act requires that the officers who vote in favour of authorising the insurance must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the organisation.]

### [organisation] is authorised to indemnify an Officer under section 96 of the Act or effect insurance for an Officer under section 97 of the Act for the following matters:

#### liability (other than criminal liability) for a failure to comply with a duty under sections 54 to 61 of the Act or any other duty imposed on the Officer in their capacity as an Officer; and

#### costs incurred by the Officer for any claim or proceeding relating to that liability. [Guidance: Consider carefully if you wish to indemnify or effect insurance for officers for a failure to comply with their officers duties under sections 54 – 61, Inc Soc Act. If you do, this must be expressly authorised by your constitution.]

# Amendments

### **Amendments:** This Constitution may only be amended or replaced by Special Resolution of Members at a General Meeting.[**MANDATORY CLAUSE:** Method by which the constitution may be amended is required to be in your constitution – sections 26(1)(i), 30 and 31, Inc Soc Act.]

### **No amendment:** No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals. [Guidance: This clause is required by the IRD for sports club and charities seeking an income tax exemption. See [IRD Guidance](https://www.ird.govt.nz/roles/not-for-profits-and-charities/before-you-start/rules-wording).]

### **Minor effect or technical alteration:** If an amendment to this Constitution would have no more than a minor effect or is to correct errors or makes similar technical alterations, then the Board may give notice of the amendment to every Member stating the text of the amendment and the right of Members to object to the amendment. If the Board does not receive any objections from Members within 20 Working Days after the date on which the notice is sent, or any longer period of time that the Board decides, then the Board may make that amendment. If it does receive an objection, then the Board may not make the amendment. [Guidance: This clause reflects section 31, Inc Soc Act. You can choose to include this clause, or simply rely on having the ability to make minor/technical amendments under the Inc Soc Act.]

# Bylaws

### The Board may make and amend Bylaws for the conduct and control of [organisation]’s activities and codes of conduct applicable to Members. Any Bylaw must be consistent with the Purposes, the constitution of [national organisation], the Act and any other laws. All Bylaws are binding on [organisation] and the Members. The making, amendment, revocation, or replacement of a Bylaw is not an amendment of this Constitution.

# Dispute resolution

[**MANDATORY CLAUSE:** Procedures for resolving disputes, including providing for how a complaint may be made, are required to be in your constitution – sections 26(1)(j), 38 to 44.] [Guidance: Dispute resolution procedures must be consistent with the rules of natural justice. Sch 2, Inc Soc Act contains optional dispute resolution procedures. Check in with your national organisation to understand if they are able to assist with a process that is suitable for the regional level in your sport/recreation. Check if any organisations that you are a member of have any requirements in relation to disputes. Consider any policies and regulations that sit outside of your constitution that currently contain dispute resolution procedures.]

# Liquidation and removal

### **Notice:** The Board must give notice to all Members at least 20 Working Days of a proposed motion:

#### to appoint a liquidator;

#### to remove [organisation] from the Register of Incorporated Societies; or

#### for the distribution of [organisation]’s surplus assets.

### The notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered. [Guidance: Section 228 requires the committee send written notice of the resolution to every member at least 20 working days before the general meeting at which the resolution is to be submitted. The notice must state:

### the time and place of the meeting;

### the nature of the business to be transacted at the meeting in sufficient detail to enable a member to form a reasoned judgement in relation to it;

### the text of the resolution;

### the right of a member to appoint a proxy or to cast a vote by post or electronic means (in all cases, if the society’s constitution allows); and

### for a resolution under [section 216(1)﻿(c)](https://www.legislation.govt.nz/act/public/2022/0012/latest/whole.html#LMS101110) (disposing surplus assets), a statement confirming that the committee has had regard to the society’s purposes.]

### **Special resolution:** Any resolution for a motion set out in clauses 17.1(a) to (c) must be passed by [insert an Ordinary / a Special] Resolution of Members. [Guidance: Under the 1908 Act resolutions passed at two meetings were required to wind up the organisation – the 2022 Act only requires one. Given the serious nature of this decision, consider whether this should be a Special Resolution.]

### **Surplus assets:** The surplus assets of the [organisation], after the payment of all costs, debts and liabilities, must be disposed of to [insert not-for-profit entity(ies) name(s) or organisation(s) with charitable status] or any other not-for-profit entity [which are exclusively charitable and] that shares similar purposes to the [organisation]. [**MANDATORY CLAUSE****:** Nomination of a not-for-profit, or class/description of not-for-profit entities to which surplus assets should be distributed to on a wind-up is required to be in your constitution – section 26(1)(i), Inc Soc Act.] [Guidance: A not-for-profit entity is defined in section 5(3), Inc Soc Act as: (a) a society incorporated under the Inc Soc Act; (b) a charitable entity (defined in section 4(1), Charities Act 2005); (c) any other society, institution, association, organisation or trust that is not carried on for the private benefit of an individual and whose funds are applied entirely or mainly for benevolent, philanthropic, cultural, charitable, sporting or public purposes in NZ and whose rules require that on winding up, any surplus assets must be given to other not-for-profits within the meaning of section 5(3), Inc Soc Act. Include the wording in orange if your organisation is charitable.]

# Matters not provided for

### If any matter arises that, in the opinion of the Board, is not provided for in this Constitution or any Bylaws, or if any dispute arises out of the interpretation of this Constitution or the Bylaws, the matter or dispute will be determined by the Board.

# Transition

### [Guidance: You may need to include a customised transition clause depending on the extent of your changes.] **Transition:** This clause 19 applies to facilitate transition of [organisation] from the previous [rules/constitution] to this Constitution. If this clause is inconsistent with any other clause in this Constitution, this clause applies to the extent of the inconsistency and the other clause will not.

### **Power of Board during transition period:** Subject to the Act, the Board may amend any requirement for and/or the date by which this Constitution requires anything to be done. This clause applies for [time period] and is solely to enable flexibility in the transition of [organisation] from the previous [rules/constitution] to this Constitution and to correct any unintended consequences occurring through different wording being used.

### **Transition of Board Members:**

#### [detail if the Board Members under the previous rules/constitution continue]

#### [to maintain/set up rotation of Board Members, state the number of Board members that must retire at the first AGM, and at the second AGM etc.]

#### [state whether the number of terms served under the previous rule/constitution count towards any maximum number of terms in this constitution]