**Constitution Template – Regional Organisation**

**SUMMARY OF CHANGES IN NEW VERSION (JUNE 2024)**

The constitution template has been updated as at June 2024. It will be useful to look at this summary if you were part-way through updating your constitution based on the earlier version.

**Clause 1.2(e) (Interpretation):** new wording of “*any secondary legislation*” has been inserted.

#### ***(e)*** *A reference to any legislation includes any secondary legislation, 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.*

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**Clause 1.4(a) (Notices):** the word “*Business*” has been replaced with the word “*Working*” to correct the terminology used in the template.

### ***(a)*** *if given by post, when left at the address of a person or five ~~Business~~ Working Days after being put in the post; or*

**Clause 4.7 (Suspension of a Member):** the word “*invoking*” has been replaced with the word “*imposing*” in the second sentence.

### ***4.7*** *…Before ~~invoking~~ imposing any such suspension, the Member must be given notice of the suspension.*

**Clause 6.2 (Composition):** a new paragraph and a new guidance note have been included to provide for the section 45(3) exemption relating to having a majority of independent board members.

### *This 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.*

### *Guidance note: You must include the last paragraph of clause 6.2 if your constitution requires or allows for the possibility that a majority of the Board will not be made up in the way required by section 45(3). See explanation in the next paragraph. In some cases, this might be very clear because your constitution has clauses that require a majority of the Board to be appointed by a process that only allows persons who are independent of the Members or the organisation to be eligible to apply. In other cases, anyone may be eligible to apply for election/appointment and, depending on the outcome of those processes, a majority of the Board could be persons who are not Members. If your constitution does not require elected or appointed Board members to be Members or representatives of bodies corporate that are Members, then it is possible you will not comply with section 45(3) and you should include this paragraph.*

**Clause 6.13(c) (Removal of a Board Member):** a tidy up change is made to this paragraph.

### ***(c)*** *Before considering a motion for removal, the Board Member ~~affected~~ who is the subject of the motion must be given:*

**Clause 13 (Indemnity and insurance):** headings are added to the clauses.

### ***1.3.1 Indemnity:*** *…*

### ***13.2 Insurance:*** *…*

### ***13.3 Indemnity for Officers:*** *…*

**Clause 15 (Bylaws):** the words “*and Integrity*” have been added to the title. The words “*this Constitution*” have been inserted in clause 15.1, as well as a new guidance note.

New clauses 15.2 to 15.4 and a guidance note have been inserted.

### ***15 Bylaws and Integrity***

### ***15.1*** *The Board may make and amend Bylaws for the conduct and control of [organisation name]’s activities and codes of conduct applicable to Members. Any Bylaw must be consistent with this Constitution, the Purposes, the Act and any other laws. All Bylaws are binding on [organisation name] and the Members. [Guidance note: Section 28(2), Inc Soc Act provides that a Bylaw purportedly made by a society has no effect to the extent that it contravenes, or is inconsistent with, the Act, any other legislation or the society’s constitution.]*

*[Guidance: The* [*Integrity Sport and Recreation Act 2023*](https://legislation.govt.nz/act/public/2023/0048/latest/whole.html#LMS787103) *(****ISRA****), which provides for a new Integrity Sport and Recreation Commission (****Commission****), comes into force no later than 1 July 2024. The Commission will issue the Code of Integrity for Sport and Recreation (****Integrity******Code****) after 1 July 2024.*

*The recommended approach is to authorise the national sport/recreation organisation to adopt an integrity code, given that these organisations will generally be the governing body for the activity in New Zealand. Clauses 15.2 to 15.4 are provided as an example to enable the effective application of an integrity code across a sport or recreation. Check with your national organisation to see if the clauses need to be adjusted before you re-register.*

*An integrity code adopted by a national sport/recreation organisation will bind its members (ie your regional organisation) automatically.*

*Being bound by an integrity code will mean your organisation will need to comply with any minimum standards or other obligations contained in that integrity code. These obligations may take immediate effect, while for others there may be a period of time following adoption before the minimum standard needs to be met. In either case, it will be important to work with the Commission and your national organisation to make sure you understand the implications of being bound by a particular integrity code as early as possible.*

*Include clause 15.4 if you are part of a federated structure (or a hybrid structure where some members of the clubs or other tiers are not directly members of the national organisation) to allow for a cascading regime of clauses which bind each membership level in the structure. Clauses relating to the integrity code will need to be included in the constitutions of your clubs that have members who are not directly members of the national organisation.]*

### ***15.2 Definition:*** *In this clause 15.2* ***Integrity Code*** *means an integrity code issued by the Integrity Sport and Recreation Commission under section 19 of the Integrity Sport and Recreation Act 2023.*

### ***15.3 Integrity Code binding:*** *If [national organisation] adopts an Integrity Code, [organisation] is bound by the Integrity Code. [Guidance: Section 21(2)(b)(i), ISRA.]*

### ***15.4 Application to Members:*** *If [national organisation] adopts an Integrity Code, all Members of [organisation] agree to the application of the Integrity Code to them and agree to be bound by it and must include a similar clause in their constitutions to bind their members.*

**Clause 18 (Dispute resolution)**: Some changes are made to the guidance note with new wording in yellow highlighting. A new example disputes resolution clause is included.

*[****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. It is recommended that you firstly 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. In turn, consider whether your organisation can assist your clubs with guidance to help them as they prepare to re-register. 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.*

*The following clauses provide an example of how an organisation might manage disputes and other matters arising that are dealt with under policies or regulations, while ensuring that it complies with the Inc Soc Act requirements, as well as providing a dispute resolution procedure which is largely based on Sch 2 of the Act. The flow chart below helps to determine the correct procedure for handling a certain dispute or other matter.]*

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### ***16.1 Definitions:*** *In this clause 16:*

#### ***Dispute*** *means a disagreement or conflict between and among any one or more Members, any one or more Officers and [organisation], that relates to an allegation that:*

##### *a Member or an Officer has engaged in misconduct; or*

##### *a Member or an Officer has breached, or is likely to breach, a duty under this Constitution or the Act; or*

##### *[Organisation] has breached, or is likely to breach, a duty under this Constitution or the Act; or*

##### *a Member’s rights or interests as a member have been damaged or Members’ rights or interests generally have been damaged; [Guidance: Section 38(1), Inc Soc Act.]*

#### ***Disputes Procedure*** *means the procedure for resolving a Dispute set out in clauses 16.5 to 16.13;*

#### *a* ***Member*** *is a reference to a Member acting in their capacity as a Member; [Guidance: Section 38(3)(a), Inc Soc Act.]*

#### *an* ***Officer*** *is a reference to an Officer acting in their capacity as an Officer. [Guidance: Section 38(3)(b), Inc Soc Act.]*

### ***16.2 Application of other legislation to a Dispute:*** *The Disputes Procedure will not apply to a Dispute to the extent that other legislation requires the Dispute to be dealt with in a different way. The Disputes Procedure will have no effect to the extent that it contravenes, or is inconsistent with, that legislation. [Guidance: Section 42(2), Inc Soc Act. As examples, the Employment Relations Authority has exclusive jurisdiction to make determinations about employment relationships problems; and, if provided for in an integrity code, the Integrity Commission may establish a disciplinary panel to determine breaches of an integrity code.]*

### ***16.3 Application of other procedures under this Constitution or in a Bylaw:***

#### *If the Dispute is dealt with by a separate procedure under this Constitution or in a Bylaw (****Other Procedure****), that Other Procedure applies to the exclusion of the Disputes Procedure. If any part of the Other Procedure is inconsistent with the rules of natural justice, that part will not apply, but the remainder of the Other Procedure will continue to apply together with adjustments as determined by the Board in its discretion so that the Other Procedure is consistent with the rules of natural justice. [Guidance: For example, there is a separate procedure in this Constitution for removing a Board Member at clause 6.13. You must make it clear to your Members where these Other Procedures are found and ensure that they are easy to access. Bylaws is an umbrella term used to cover bylaws, policies, regulations and codes that your organisation might have e.g. policies on competition manipulation, selection appeals, corruption and fraud, member protection, code of conduct and rules of the game.]*

#### *If the conduct, incident, event or issue does not meet the definition of a Dispute and is managed by any Other Procedure, that Other Procedure applies to the exclusion of the Disputes Procedure.*

### ***16.4 Application of the Disputes Procedure:*** *If the Dispute is not required by other legislation to be dealt with in a different way and it is not dealt with by any Other Procedure, the Disputes Procedure applies to the Dispute.*

*Disputes Procedure*

### ***16.5 Raising a complaint:***

#### *A Member or an Officer may start the Disputes Procedure (a* ***Complaint****) by giving written notice to the Board setting out:*

##### *the allegation to which the dispute relates and who the allegation is against; and*

##### *any other information reasonably required by [organisation].*

#### *[Organisation] may make a Complaint involving an allegation against a Member or an Officer by giving notice to the person concerned setting out the allegation to which the Dispute relates.*

#### *The information given must be enough to ensure a person against whom the Complaint is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response. [Guidance: Section 38(2) and cl 2, Sch 2, Inc Soc Act.]*

### ***16.6 Investigating and determining Disputes:*** *Unless otherwise provided, [organisation] must as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure the Dispute is investigated and determined. Disputes must be dealt with in a fair, efficient, and effective manner. [Guidance: Cl 5, Sch 2, Inc Soc Act.]*

### ***16.7 Decision to not proceed with a matter:*** *Despite the contents of the Disputes Procedure, [organisation] may decide not to proceed with a matter if:*

#### *the Complaint is trivial; or*

#### *the Complaint does not appear to disclose or involve any allegation of the following kind:*

##### *any material misconduct; or*

##### *any material breach or likelihood of material breach of a duty under this Constitution or the Act; or*

##### *any material damage to a Member’s rights or interests or Members’ rights or interests generally; or*

#### *the Complaint appears to be without foundation or there is no apparent evidence to support it; or*

#### *the person who makes the Complaint has an insignificant interest in the matter; or*

#### *the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under this Constitution; or*

#### *there has been an undue delay in making the Complaint; or*

#### *the Complaint involves two Members who are also members of an organisation (****Organisation X****) which is also a Member of [organisation] and the Complaint has either been dealt with by Organisation X or is required to be, pursuant to the dispute resolution procedures of Organisation X. [Guidance: Cl 6, Sch 2, Inc Soc Act, modified. Optional to include sub-clause (g). This sub-clause covers a situation in a hybrid federated model where, for example, 2 members of a club, who are also both members of the regional organisation, have a Dispute. This sub-clause allows the Dispute to be dealt with at the appropriate level.]*

### ***16.8 Complaint may be referred:*** *[Organisation] may refer a Complaint to:*

#### *a hearing body or person authorised, delegated or appointed by the Board to hear and resolve Disputes, and includes an arbitral tribunal (****Hearing Body****); or*

#### *a subcommittee or an external person to investigate and report; or*

#### *any type of consensual dispute resolution with the consent of all parties to the Complaint. [Guidance: Cl 7, Sch 2, Inc Soc Act, modified. Examples are mediation, facilitation or a tikanga-based practice.]*

### ***16.9 Hearing Body:*** *The Board may determine the composition, jurisdiction, functions and procedures of, and any sanctions which can be imposed by, any Hearing Body. Each Hearing Body has delegated authority by the Board to resolve, or assist to resolve, Complaints.*

### ***16.10 Bias:*** *An individual may not be part of a Hearing Body in relation to a Complaint if two or more members of the Board or of the Hearing Body consider there are reasonable grounds to believe that the individual may not be:*

#### *impartial; or*

#### *able to consider the matter without a predetermined view. [Guidance: Cl 8, Sch 2, Inc Soc Act.]*

### ***16.11 Complainant’s right to be heard:***

#### *The Member or Officer has a right to be heard before the Complaint is resolved or any outcome is determined. If* *[organisation] makes a Complaint, [organisation] has a right to be heard before the Complaint is resolved or any outcome is determined, and a Board Member may exercise that right on behalf of [organisation].*

#### *A Member or Officer or [organisation] must be taken to have been given the right if:*

##### *the Member or Officer or [organisation] has a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and*

##### *an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and*

##### *an oral hearing, if any, is held before the Hearing Body; and*

##### *the Member’s or Officer’s or [organisation]’s written statement or submission, if any, are considered by the Hearing Body. [Guidance: Cl 3, Sch 2, Inc Soc Act.]*

### ***16.12 Respondent’s right to be heard:*** *The Member or Officer who, or [organisation] which, is the subject of the Complaint (****Respondent****) has a right to be heard before the Complaint is resolved or any outcome is determined. If the Respondent is [organisation ], a Board Member may exercise the right on behalf of [organisation]. A Respondent must be taken to have been given the right if:*

#### *the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and*

#### *the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing, if one is to be held; and*

#### *an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and*

#### *an oral hearing, if any, is held before the Hearing Body; and*

#### *the Respondent’s written statement or submissions, if any, are considered by the Hearing Body. [Guidance: Cl 4, Sch 2, Inc Soc Act.]*

### ***16.13 Appeals:*** *There is no right of appeal or right of review of a decision unless specified. [Guidance: Your constitution may provide for whether and, if so, how a decision made under the procedures for resolving disputes may be subject to an appeal or review, section 44, Inc Soc Act. Consider what rights of appeal or review are available (if any) and to what body they may be appealed to or reviewed by. In short, a right of appeal allows a party to apply to a different or higher body to determine whether the original decision was correct. A right of review is a more confined right where a reviewer looks at whether the way the original decision was made was lawful, reasonable and procedurally correct. The reviewer usually won’t decide whether the decision was the ‘right decision’. This clause is optional to include.]*