



28 August 2024

**To:** Snow Sports New Zealand Members  
**From:** Nic Cavanagh, Snow Sports NZ Chief Executive  
**Subject:** Proposed changes to the Snow Sports NZ Constitution

---

### ***Background***

- A. As an incorporated society, Snow Sports New Zealand ("**Snow Sports NZ**") is required to re-register under the Incorporated Societies Act 2022 ("**Act**"). It has until April 2026 to do so. As part of the re-registration process Snow Sports NZ needs to update its Constitution to reflect certain new requirements under the Act. It is also an opportunity to undertake a broader review of the Constitution to ensure it reflects Snow Sports NZ's strategic and operational environment.
- B. Snow Sports NZ engaged with Gibson Sheat Lawyers to assist with a review and update of Snow Sports NZ's Constitution .
- C. To better understand the changes proposed, this paper sets out:
  - (a) Part 1: What changes need to be made to comply with the Act;
  - (b) Part 2: What has been removed from the Constitution due to it being obsolete or redundant;
  - (c) Part 3: What changes we recommend making to enhance the Constitution.
- D. Please be aware that this paper does not purport to set out all changes to the Constitution. Some clauses have moved position for a more logical sequence or been simplified. Other tidy-up changes are made throughout the Constitution and clause cross references have been updated. A marked-up version of the Constitution is available on request if members would like to see all changes.
- E. Where we refer to a clause, we mean the clause number in the draft Constitution. In some cases, however, we need to refer to "former clauses" where it is proposed that a clause is deleted, and we are referring to the clause number in the current Constitution.

### ***Part 1: Changes made to comply with the Act***

- 1. **Anti-doping** (clause 27): The Sports Anti-Doping Rules are now made by the Integrity Commission under the Integrity Sport and Recreation Act 2023.
- 2. **Member consent** (clause 6.3): The Constitution must include a requirement that a person must consent to be a member.

3. **Register of members** (clause 13.1): The Constitution must include the arrangement for keeping Snow Sport NZ's register of members up to date. The register must contain the name and contact details of Members, the date each person became a Member, the name of each person who has ceased to be a member of Snow Sports NZ within the previous 7 years and the date on which each person ceased to be a Member.
4. **Qualification** (clause 15.4) and **Disqualification** (clause 15.5): The Act requires that a person must consent to be a Board Member and must certify that are not disqualified under the Act and the Constitution from being a Board Member.
5. **Officers' duties** (clause 16.1): This has been updated to reflect the officers' duties set out in the Act. Any additional duties could be set out in a Board charter.
6. **Interests** (clause 16.2 – 16.7): These new clauses largely reflect the conflict of interests regime set out in the Act, including how 'interested' is defined, disclosure requirements and the consequences of being interested.
7. **Business of AGM** (clause 22.6): The following items of business must be discussed at each AGM:
  - (a) an annual report on the operations and affairs of Snow Sports NZ during the most recently completed accounting period; and
  - (b) notice of any disclosures of conflicts of interest made by Board Members, including a brief summary of the matters, or types of matters, to which those disclosures all relate.
8. **Errors** (clause 22.11): The Act provides that an accidental omission to give notice of a General Meeting to a Member or a failure to receive notice of a General Meeting by a Member does not invalidate the proceedings at that General Meeting.
9. **Contact Person** (clause 23.13): Snow Sports NZ must have a Contact Person and the Constitution must set out how they are appointed.
10. **No personal benefit** (clause 25.2) and **No pecuniary profit** (clause 29.2): These clauses are required by the IRD for sports club and charities seeking an income tax exemption.
11. **Dispute resolution** (clause 26): The Constitution must include procedures for resolving disputes and how a complaint may be made. The disputes procedure must be consistent with the rules of natural justice.
  - (a) The proposed clauses set out how Snow Sports NZ might manage disputes and other matters arising that are dealt with under policies or bylaws (for example the Member Protection Policy), while ensuring that it complies with the Act's requirements. It provides a disputes procedure which is largely based on the optional dispute procedure set out in Schedule 2 of the Act. Snow Sports NZ also has dispute procedures within its Constitution for certain circumstances, for example removing a Board Member. The flow chart in Appendix A helps to determine the correct procedure for handling a certain dispute or other matter.
  - (b) There is a wide range of disputes to consider that can arise in sport (such as doping, selection, match fixing etc.), as well as the interaction between disputes and integrity matters. The Integrity Code will likely set minimum requirements for handling complaints and disciplinary procedures, as well as prescribing mechanisms for making complaints to the Commission. It isn't known yet if an organisation's disputes clause will be required to cross-reference the Integrity Code. Sport New Zealand's recommendation as at June 2024 is that if an organisation

feels ready to re-register under the Act it should do so and deal with any additional changes that may come as a consequence of the Integrity Code later.

- (c) **Judiciary Committee** (clause 27) is replaced. Disputes between and among the Board, Members, Board Members, a Sport Committee or Sport Committee members (former clauses 34.2 and 34.3) are deleted.
- 12. **Notice of motion** (clause 31): This sets out the procedure for providing notice of a proposed motion to: appoint a liquidator; remove Snow Sports NZ from the Register of Incorporated Societies; and to distribute Snow Sports NZ's surplus assets.
- 13. **Indemnity and insurance** (clause 32): These clauses are updated to align with the Act. Good practice would involve entering into a deed of indemnity with all Board Members.

## **Part 2: Deletions**

- 14. **Definitions** (clause 1.1): Alpine, Alpine Club, Annual Report, Competitive Club, Defendant, Former Affiliate Member, Former Member Sport, Judiciary Committee, Life Member Committee, New Zealand Citizen or Resident, Objects, Recreational Club, Regulations, Sport NZ, Sports Tribunal, World Anti-Doping Agency definitions have been replaced or are not used.
- 15. **Regulations**: We understand that the majority of regulations referred to in the current Constitution do not exist.
- 16. **Differing fees** (former clause 12.2): The Board has all the powers necessary for governing and managing the operation of Snow Sports NZ, including the power to determine differing fees so this does not need to be specified.
- 17. **Privacy Act** (former clause 13.3) and **Inspection** (former clause 13.4): These are not necessary to include in Constitution, current law is Privacy Act 2020.
- 18. **Reinstatement** (former clause 14.6): Members were able to reinstate membership at a General Meeting. The Board has the discretion to determine a membership application.
- 19. **Powers of the Board** (former clause 16.2): The Board has all the powers necessary for governing and managing the operation of Snow Sports NZ so a list of specific powers is not necessary.
- 20. **Matters not provided for** (former clause 16.3): This is a repetition of clause 33.
- 21. **Expenses** (former clause 18.5): We understand that Board Member expenses are reimbursed by a different practice.
- 22. **Resolutions** (clause 17.4) and **Method of voting** (clause 23.4): Reference to facsimile.
- 23. **Business of AGM** (clause 22.6): 'Removal of Board Members' doesn't need to be a standing AGM agenda item.
- 24. **Common Seal** (former clause 30): This is no longer required under the Act.
- 25. **The New Zealand Policy on Sports Match Fixing and Related Corruption** (former clause 29): This is no longer a requirement of Sport NZ for investment and has been archived.
- 26. **Distributions** (former clause 33.4): Surplus assets (clause 31.3) already requires surplus assets go to not-for-profit entities.

### **Part 3: Recommended changes**

27. **Life Members** (clause 9): A new process where any Member may nominate an individual to become a Life Member and the Board will determine the nomination. Give Life Members the ability to vote at General Meetings.
28. **Member Rights & Obligations** (clause 11.1):
  - (a) Delete the following statements as they are not necessary: The Constitution and Regulations are necessary and reasonable for promoting the objects of Snow Sports NZ; the Constitution and Regulations are made in the pursuit of a common object, namely the mutual and collective benefit of Snow Sport NZ and its Members and Snow Sports.
  - (b) Add the following: Members are bound by the rules, procedures or policies of FIS and IPC; Members must comply with the Constitution, Policies and pay membership fees to enjoy their membership rights. If they don't, then the Board can terminate their members; Members don't have any automatic rights of ownership over Snow Sports NZ's property; Members must promote the interests and purposes of Snow Sports NZ and must not do anything to bring Snow Sports NZ into disrepute.
29. **Suspension of a Member** (clause 14.1): Provide the Board with the ability to suspend a Member if they are breaching their membership obligation and the Board believes it is in the best interests of Snow Sports NZ to do so.
30. **Disqualification** (clause 15.5(b)): A person cannot be a Board Member of both Snow Sports NZ and a Club at the same time.
31. **Vacancies** (clause 15.9(b)(ii)) and **Appointment and Election of Board Members** (clause 19.1(b)): If there is a vacancy of an Elected Board Member and the AGM is more than 6 months away, there is an electronic vote, as opposed to being required to call a SGM.
32. **Suspension of Board Member** (clause 15.10): Widen to allow Board to suspend a Board Member by 75% vote if any circumstances arise which are or maybe of concern to the Board.
33. **Sport Committees** (clauses 21 and 30.1): Re-draft of Sports Committees section. Clauses added establish Sport Committees, draw up terms of reference, have a minimum membership composition, set out the term of office for Sport Committee members, give the CEO the ability to suspend / remove Sport Committee members and for the Sport Committee to regularly report to the Board and Chief Executive.
34. **Methods of General Meetings** (clause 22.3): Allow for general meetings to be held by a combination of in person and by technology.
35. **Process for Election of Board Members** (clause 23.12): Instead of the Chair having a cast vote if there is a tie between applicants for Elected Board Member positions, allow for a further Member vote between the tied applicants.

**Appendix A – Flow chart for managing disputes**

