**NZCF Incorporated Society Reregistration**

Consultation Document

## Contact: Craig Hall, Chairperson of the NZCF Registration Subcommittee

*Craig.hall@newzealandchess.co.nz* *or 021 1289543*

## Introduction

The New Zealand Chess Federation Incorporated (NZCF) is an incorporated society registered under the Incorporated Societies Act 1908. With the 1908 Act being replaced by the Incorporated Societies Act 2022 (the Act in this document), NZCF is required to reregister as an incorporated society by 5 April 2026. Failure to reregister would mean NZCF would be deregistered and would no longer exist as a legal entity, requiring it to cease operating and be wound up. At a Special General Meeting held 25 February 2024, NZCF member clubs agreed that NZCF should work toward reregistration.

A major part of reregistration is agreeing to a modified or new constitution and regulations/bylaws (see Appendix A for an assessment of the current constitution against the legal requirements). NZCF’s current structure for this aims to cover the legal requirements in the constitution and other aspects e.g. FIDE requirements in regulations/bylaws. This is recommended to continue because process requirements are less onerous to update regulations/bylaws (as outlined in the constitution) than constitutions (which require updating MBIE and the Charities Register).

This consultation document is intended to collect feedback on these from clubs, players and others with an interest in chess. Questions are provided as prompts for feedback – while some can be answered simply e.g. Yes/No, feedback such as rationale will be very helpful. Once that feedback has been collected, the information will be used to inform drafting amendments or new documents.

NZCF is also a registered charity in accordance with the Charities Act 2005 and a member of the Fédération Internationale des Échecs (FIDE – the world chess federation and governing body). These are not the main drivers of the review, but have relevant requirements that will require consideration as part of drafting, as will some other laws e.g. Privacy Act 2020, Human Rights Act 1993, Income Tax Act 2007, Financial Reporting Act 2013. Being a registered charity makes NZCF exempt from income tax and donations are eligible for tax credits, so no changes will be proposed which endanger that. As FIDE is a member of the International Olympic Committee (IOC), chess is effectively an Olympic sport (NZCF is an associate member of the NZ Olympic Committee) which adds some requirements.

Some useful information and resources (including templates) are also available courtesy of Sport NZ: <https://sportnz.org.nz/resources/incorporated-societies-act-2022-and-regulations/> Where a reference is made to a Sport NZ recommendation, it is based on the national sports organisation template and other resources here (the club templates may also be useful reading for clubs considering reregistration). Some references are made to individual national sports organisations and other national chess federations – generally these are based on either the organisation’s website or, for NZ organisations, the latest constitution uploaded at [www.societies.govt.nz](http://www.societies.govt.nz) (search the register for the sports organisation and look at the filings). Note that page is the official page of the Ministry of Business, Innovation and Employment (MBIE), which is the government department responsible for incorporated societies. That page also some good resources and information.

Law firm Parry Field also has a very good information hub online with resources, explanations and occasional webinars (and recordings): <https://www.parryfield.com/home/blogs/resources-for-the-incorporated-societies-act-2022/>

## Legal Requirements

Section 5 of Schedule 1 of the Act[[1]](#footnote-2) sets out the legal requirements of applying to reregister. The main one is a constitution which must meet the requirements of section 22[[2]](#footnote-3). The minimum requirements of a constitution are:

* the name of the society
* the purposes of the society
* how a person becomes a member of the society, including a requirement that a person must consent to be a member
* how a person ceases to be a member of the society
* arrangements for keeping the society’s register of members up to date
* the composition, roles, functions, powers, and procedures of the committee of the society, including:
	+ the number of members that must or may be on the committee
	+ the election or appointment of officers
	+ the terms of office of the officers
	+ the functions and powers of the committee
	+ grounds for removal from office of officers
	+ how the chairperson (if any) will be elected or appointed and whether that person will have a casting vote if there is an equality of votes
	+ the quorum and procedure for committee meetings, including voting procedures
* how the contact person or persons will be elected or appointed
* how the society will control and manage its finances
* the method by which the constitution may be amended
* procedures for resolving disputes, including providing for how a complaint may be made
* arrangements and requirements for general meetings, including:
	+ the intervals between annual general meetings (AGMs)
	+ the information that must be presented at general meetings
	+ when minutes are required to be kept
	+ the manner of calling general meetings
	+ whether and, if so, how written resolutions may be passed in lieu of a general meeting
	+ the time within which, and manner in which, notices of general meetings and notices of motion must be notified
	+ the quorum and procedure for general meetings, including voting procedures (for example, whether votes may be cast by post or by electronic means), procedures for proxies (if any), and whether the quorum takes into account members present by proxy or casting postal votes or votes by electronic means
	+ the arrangements and requirements for special general meetings (unless that provision has been negated)
* the nomination of a not-for-profit entity, or a class or description of not-for-profit entities, to which any surplus assets of the society should be distributed on a liquidation of the society or on, or to enable, the removal of the society from the register.

There are also Charities Act 2005 requirements:

* Only act to advance charitable purposes
* Distribution of surplus assets after liquidation must be to another organisation with charitable purposes
* Must have a rule preventing amendments that would allow the organisation to operate for private profit or purposes other than charitable purposes

Most of these have their own section of the 2022 Act or Charities Act which has to be complied with and may be subject to other requirements as outlined earlier. To help provide feedback, these are set out individually with the current NZCF constitution wording and legal requirements. Other options may also provided for consideration.

### Society Name

Currently: New Zealand Chess Federation Incorporated

Legal requirement: name must end with ‘Incorporated’, ‘Inc’ or ‘Manatōpū’

Recommendation: No change

### Society Purposes

Currently (NB: referred to as objects in the 1908 Act):

1. To encourage, foster and regulate the game of chess in New Zealand.
2. To arrange, regulate and control such matches, tournaments, competitions and other chess events as it may deem desirable.
3. To maintain a register of chess players with such measurements of comparative performance as it may deem desirable.
4. To promote and further international cooperation in chess and in pursuance thereof to affiliate with any international chess organisation and to permit, encourage and assist financially or otherwise the participation by New Zealand chess players in international events.
5. To select those chess players who shall represent New Zealand at international events.
6. To raise money in any manner for any of the aforesaid objects.
7. To acquire by purchase, lease, hire, gift or otherwise and to sell or otherwise dispose of, lease, let, lend, mortgage or otherwise deal with any real or personal property for or in connection with any of the aforesaid objects.

Legal requirement: Any lawful purpose except operating for financial gain of members. As a charity, must be one or more charitable purposes[[3]](#footnote-4).

The 2022 Act automatically gives incorporated societies the legal rights to f and g[[4]](#footnote-5), but although these do not need to be included, there may be some benefit to showing equal importance to other objects (they are currently included because the 1908 Act did not allow borrowing money without it being specifically authorised). Besides those, a-e provide for:

* a general purpose for useful things not included elsewhere e.g. organising training of players and trainers, badge system, maintaining a website
* regulating tournament play and organisation of NZCF tournaments e.g. Congress and also bringing FIDE events to NZ e.g. Zonals
* maintaining one or more rating lists
* joining FIDE, being active in Oceania and Asia, joining any other international chess bodies where that would be useful; assisting and funding players to attend international events
* selecting representative players for World, Asian and Oceania events e.g. the Olympiad, Zonals, World Junior Championship

Current NZCF objects have been deemed charitable, so any changes should be carefully considered. Sport NZ suggest making the phrase ‘amateur sport’ prominent (helps with charitable objects and income tax exemptions). Adding ‘promote’ to the first object/purpose might be useful.

Question 1: Should any purposes be added, removed or changed?

### Becoming a Member

Currently:

Affiliate Members by application – must be incorporated chess clubs (interpreted to be incorporated societies but not specifically stated as such).

Associate Members by application – any other group e.g. school chess clubs

Life Members – individuals nominated by affiliate members and elected at AGM

Legal requirements:

Must have a provision for persons to become a member, including consent to become a member (for corporate members, consent is given in writing by a person acting under express or implied authority). Members must be natural persons (people) or corporate members which is a general term for incorporated societies, companies, charitable trusts, government agencies including local government, schools, universities etc. (and others, but those are the most likely to be involved in chess). Members cannot be unincorporated groups of people – these would be members individually, not a group member.

Consent can be included in processes e.g. directly stated in email, or as part of a form, but including the requirement in the constitution can be a useful reminder. Note that this includes life members.

The main reason/philosophy for the current membership categories is that NZCF was set up by chess clubs for chess, and the direction of NZCF should be set by independent chess clubs, which is why only affiliate members can vote. NZCF does not have a lot of members, so this also avoids other entities e.g. schools joining in sufficient numbers to take NZCF over. ‘Chess club’ is not currently defined but should be, and can be checked against the applicant’s constitution before admission in the case of incorporated societies.

This is common for national sports organisations in NZ where the sport is mostly organised by or around clubs e.g. bowls, rugby, cricket, tennis, netball all have membership structures where clubs join the national body, or clubs join a regional body which joins the national body (also the Australian Chess Federation – state chess associations are the members of ACF, not clubs or individuals).

Some form of status/recognition could be an alternative to membership for chess organisations which are not eligible to be members e.g. regional bodies (like Auckland Chess Association), unincorporated groups, or are entities which are not member-based but potentially have a reason to have formal status and recognition by NZCF e.g. a company or organizer. FIDE offer this as do some national sports organisations.

Membership of some national chess federations is only by individual membership i.e. individuals join the national federation directly which manages subscriptions etc. and individuals vote at the AGM. In this structure, individual members join NZCF directly (usually through the website) and players would be required to be members to play in rated tournaments, matches etc. Most management is by the equivalent of NZCF Council and clubs have little to no responsibilities or input and would have the opportunity to reduce subscriptions accordingly. Some examples include USA, Canada and Ireland.

A hybrid model of corporate (club) membership and individual membership is also an option i.e. clubs are voting members (so control the direction of NZCF) while individuals (including members of clubs) are non-voting members. This would most likely include the ability to join NZCF both directly or via a club, or potentially join a club and NZCF via the NZCF website. Athletics NZ operates like this (and many sports offer the ability to sign up for clubs via the national sports organisation through a unified club and national system).

Current NZCF requirements only relate to entity type and acceptance by current members, so occasionally clubs are founded, join NZCF early on, and then fold without having really operated – Hibiscus Coast Chess Club is a recent example. Declining membership applications without reason is generally not seen as acceptable by courts – in practice, membership applications have to be accepted if they meet the stated criteria. Having one or more minimum requirements e.g. operate for a period of time such as 1 year and/or a minimum membership size would help avoid that, as would non-membership options like affiliation. Requirements around minimum standards or wording to be included in a member’s constitution are also possibilities (Bowls NZ does the latter).

There are currently few requirements for ongoing membership so this is worth considering further, and no mechanism for dealing with clubs which no longer meet the criteria of their membership type – this will need to be included if a membership structure which based on clubs being members is retained (whether similar to the current model or a hybrid model as noted above).

The current NZCF constitution is silent on how to treat clubs that are part of larger entities e.g. school or university chess clubs. Schools, universities and Polytech(s) are Crown Entities, which are a type of corporate entity, so can join societies. University and Polytech Student Associations are usually incorporated societies which offer clubs as part of those, so those can also join societies. Sports clubs for different sports can be founded or amalgamate to share premises and facilities, and these can also join societies. Current NZCF interpretation is that chess clubs within incorporated societies are able to join NZCF as affiliate members while chess clubs within other entity types can join as associate members. While there are not many NZCF members like this currently, it is not clear how independent of the student association management committee a university chess club would always be, for example. If this is retained, the details of how that will work will need to be explicitly stated in the constitution.

Question 2: Should NZCF continue with a membership structure where only incorporated society chess clubs can be voting members?

Question 3: Should NZCF have other membership or non-membership affiliation options? (if answering yes, suggestions are encouraged)

Question 4: Should NZCF move to individual or hybrid membership?

Question 5: Should clubs that are part of larger organisations e.g. schools be able to join NZCF as members? Should it be different for clubs that are part of incorporated societies rather than other entity types?

Question 6: Should there be additional requirements for clubs joining NZCF? If a member resigns or is expelled, should there be additional requirements for them to rejoin e.g. repaying any debts owing? (if answering yes, suggestions are encouraged)

Question 7: How should applications to join NZCF be made and approved?

Question 8: How should life memberships be awarded, and what rights and responsibilities, if any, should they have?

### Ceasing to be a Member

Currently:

* Resign in writing to the Secretary; or
* Expulsion by the AGM either for being unfinancial (3 months’ overdue for any invoice/fees, 1 month for membership or tournament levies) or a serious breach of the rules, regulations, resolutions or decisions of NZCF; or
* Die (for life members); or
* Cease to exist (legal persons – this is by operation of the 1908 Act).

Legal requirements:

Must have a process for members to cease membership. As noted, legal persons which cease existing automatically cease to be members, but this is not currently stated in the constitution or regularly checked – this is something that could be checked prior to giving AGM notice or as part of the annual form if that is retained. For incorporated societies, this is most commonly by being deregistered for not filing their annual returns – incorporated societies tend to just stop operating and filing their annual returns, and are deregistered by MBIE rather than officially wind up and distribute the assets. In the new Act, incorporated societies can be deregistered by MBIE if they have less than 10 members (individual members count as 1, corporate members count as 3 for this purpose) – this could be an ongoing requirement for NZCF membership. NZCF also does not check constitutional changes but probably should be sent updated constitutions when member clubs update them – while constantly monitoring member clubs may not seem ideal, it does allow prompt action if needed e.g. a club stops being a chess club or amalgamates with other non-chess clubs to become a multisport club.

In practice, NZCF member clubs resign when the annual affiliation form is due but not provided, and the Secretary or another Councillor follows up. Covid introduced an issue in that some clubs went into recess i.e. stopped meeting, but did not officially resign as members or wind up (some clubs were in recess for 4 years – 2020-2023 inclusive). Council waived the requirement to provide forms and levies in these cases, but questioned the need for it eventually. Given it is not difficult to join or resign from NZCF, clubs being encouraged to resign and join when operational again would be tidier from an administrative point of view. Note that an incorporated society which has not operated for 12 months or more can be dissolved by MBIE.

Expelling members from NZCF is quite onerous in that it can only be done by the AGM. Depending on specifics, that may also need to be done by an SGM, and would be easier if done by Council for things like not returning end-of-year affiliation forms or other evidence of cessation of operations.

Question 9: Should there be ongoing requirements for members of NZCF? If so, how should this be monitored? (if answering yes, suggestions are encouraged – current requirements are to return an annual information form and pay membership levies)

Question 10: Should members which no longer meet the criteria of their membership category be moved to the correct category, expelled, suspended until they meet the criteria, or something else? (suggestions are encouraged)

Question 11: How should members be expelled from NZCF? Should it be different for different issues e.g. unfinancial vs breaking rules (suggestions are encouraged)?

## Register of Members

Currently:

Secretary maintains the register of affiliated, associate and life members. Must include name, postal address, and details of club officers which should be advised after the AGM or any changes are made. These details are also provided on the annual affiliation form so can be updated from that.

Legal requirements:

Must keep a register of members which contains:

* the name of each member; and
* the last known contact details of each member; and
* the date on which each person became a member; and
* all other information prescribed by the regulations (currently: retain names and dates of cessation of membership for former members for 7 years).

Must update the register of members as soon as practicable after becoming aware of changes. Must have arrangements for how the register will be kept up to date. Last known contact details requires at least a phone number and email address – for corporate members, this will also need to include the contact person’s name.

This does not prevent NZCF collecting other information as it currently does in the annual affiliation form. NZCF also maintains a register of active players – this is separate, but is required to maintain a rating list and for FIDE. This is not required by the Act and could be moved into regulations e.g. Rating Regulations. If moving to individual membership, the register of members would include all individual members (this would be managed with software). The Privacy Act applies to the collection and storage of personal information of individuals (but does not prevent it) – the information needs to be securely stored, accurate and able to be corrected on request of the individuals.

Question 12: Other than legally required technical changes, does this need to change?

## The Committee (Council)

For this section, the current state and legal requirements will be broken down into subheadings for some analysis and feedback. The basic legal requirements are:

Must include the composition, roles, functions, powers, and procedures of the committee of the society, including:

* the number of members that must or may be on the committee; and
* the election or appointment of officers; and
* the terms of office of the officers; and
* the functions and powers of the committee; and
* grounds for removal from office of officers; and
* how the chairperson (if any) will be elected or appointed and whether that person will have a casting vote if there is an equality of votes; and
* the quorum and procedure for committee meetings, including voting procedures

The legal function of the committee is to manage the operation and affairs of a society, or management under the direction or supervision of the committee, and the committee has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of the society.

### Composition, Election or Appointment, Term

Currently:

* Four Office-bearers – the President, Vice-President, Treasurer and Secretary (offices of Treasurer and Secretary may be held by the same person)
* Four resident councillors (or five if Treasurer and Secretary are the same person)
* Two regional councillors each for Auckland and Wellington and one each for Central North Island, Canterbury and Otago – regional councillors are not elected for the region where Council is domiciled (currently Auckland); regional boundaries are not defined

This makes up the Council (NZCF’s committee). Councillors are nominated by an affiliate or associate member and elected at the AGM (but no election procedures provided). Their term expires at the following AGM so will usually be 1 year. Where there are vacancies, Council may co-opt Councillors. Patron and vice-patrons are also officers of NZCF but are not Councillors (patron roles are usually major donors or well-known people to bring attention to the sport e.g. the governor-general Dame Cindy Kiro is patron of NZ Cricket, Rowing NZ and NZ Football).

Legal requirements:

Must state the number of members that must or may be on Council with a minimum of 3, how officers are elected or appointed, and the terms of office of the officers. Officers must be natural persons (individuals) and are committee members and anyone occupying a position that allows the person to exercise significant influence over the management or administration of a society e.g. chief executive. More than half of Council must be made up of officers who are either members of the society or members of corporate members of the society.

Officers must consent in writing and certify that they are not disqualified from being an officer (MBIE have a form which can be used). The listed reasons for disqualifications are being a person who is:

* under 16 years of age
* an undischarged bankrupt
* prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993
* disqualified from being an officer of a charitable entity under section 36C of the Charities Act 2005
* a person who has been convicted and sentenced within the last 7 years for:
1. an offence under subpart 6 of Part 4 of the Incorporated Societies Act 2022
2. a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961):
3. an offence under section 143B of the Tax Administration Act 1994 (tax evasion)
4. an offence under section 22(2) of the Incorporated Societies Act 2022
5. a substantially similar offence in a country, State, or territory other than New Zealand
6. a money laundering offence or an offence relating to the financing of terrorism, whether in New Zealand or elsewhere
* subject to any of the following orders:
1. a banning order
2. an order under section 108 of the Credit Contracts and Consumer Finance Act 2003
3. a forfeiture order under the Criminal Proceeds (Recovery) Act 2009
4. a property order made under the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act
* subject to an order that is substantially similar under a law of a country, State, or territory outside New Zealand that is a country, State, or territory prescribed by the regulations
* in relation to any particular society, a person who does not comply with any qualifications for officers contained in the society’s constitution

The last bullet point could be used to set a higher minimum age or term limits, for example. Another suggestion would be a time-bar e.g. 1 year for someone removed from office for non-attendance.

Standard governance advice for national sports organisations (from Sport NZ and governance reviews e.g. the Pilkington Review of NZ Rugby) is to have a strong separation between governance (the committee) and operations (employees, usually led by a Chief Executive), and for the committee to be reasonably small and focus primarily on organisational strategy. For example, NZ Cricket has 10 directors and NZ Rugby has 9 directors (NZCF has 13 Councillors). Additionally, the committee structure is commonly a board of directors who then elect a chairperson and usually do not have positions like Secretary or Treasurer because paid employees or contractors perform those tasks (this is a Sport NZ recommendation to make the committee/board responsible for required tasks rather than individual roles)

Some or all officers/directors may also be appointed through a recruitment process rather than elected or a recruitment process recommends one candidate to the AGM for approval (effectively a confidence vote).

However, this is not automatically applicable to NZCF as NZCF does not have a paid management position or full-time employees, so the ongoing work is generally performed by Council and other volunteers and some work by contractors, making it difficult to separate governance and operations and useful to have sufficient Councillors that the volunteer workload can be shared. An alternative option would be to expand NZCF revenue sufficiently to pay for contractors or one or more employees to do most of the work. Currently Council is based in Auckland, and must be based (domiciled) somewhere. Given modern videoconferencing options e.g. Zoom, Council does not need to be based in a particular city or region, so a different structure is possible. Some possibilities:

* geographic regions (for legal simplicity, boundaries would most likely be defined by reference to boundaries/areas of local government i.e. city, district, regional and unitary councils) potentially with proportional representation
* roles e.g. treasurer, secretary – England Chess Federation’s committee is primarily role-based e.g. Director of Home Chess, Director of Women’s Chess etc.
* minority representation e.g. women, ethnicities
* age groups e.g. juniors and seniors
* skills-based e.g. lawyer, commercial expertise
* player representatives
* arbiter representatives
* presidents/chairpersons/appointed committee member of all member clubs
* A mix of the above

|  |  |
| --- | --- |
| **Role Type** | **Factors to consider** |
| Region-based | * Easy to understand and define
* Can be difficult to balance regional and national interests (a key finding of the NZ Rugby review)
 |
| Role-based | * Roles are known in advance and the role is understood by potential officers
* If specific roles are not included, work may not get done
 |
| Skills-based | * Useful way to get expertise e.g. lawyers without needing to pay per use
* May not understand chess or be willing to be on Council without being paid
 |
| Player/arbiter reps | * Perspective of the main users/clients of NZCF
* A role does not guarantee outcomes and may be difficult to fill in some years
 |
| Minority representatives  | * Voice and opportunity for groups not otherwise represented
* A role does not guarantee outcomes and may be difficult to fill in some years
 |
| Age group representatives | * Seniors tend to be well-represented
* Juniors less so despite half of the membership of NZCF member clubs being juniors – could be useful to get their input into NZCF direction as they will be the ones inheriting the future.
* Although juniors are U20, could be U25.
* As above, a role does not guarantee outcomes and may be difficult to fill in some years
 |
| Club appointment | * Ensures clubs and club interests are represented
* Elections not necessarily required
* Can be difficult to balance club and national interests
* Would be 16 Councillors currently – if NZCF continued to grow, could get unwieldy quickly
* Potentially limited accountability for non-performance or non-attendance
 |

Question 13: How big should Council be? What roles should Council have? Should there be a chairperson/president? (suggestions encouraged)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Question 14: Should Councillors be elected, appointed or a mix? If elected, at the AGM or not, and by what voting method?

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Question 15: Should Council continue to co-opt to fill vacancies? Should Council be able to co-opt for certain skills or representation where that might be helpful?

Question 16: How long should the term be? Should it be different for different roles?

Question 17: Should it be a requirement for all Councillors to be a member of NZCF or a member club? If not, what percentage? (min. 50%)

Question 18: Are there other requirements/disqualifying factors to add? Should employees/contractors be able to be Councillors?

Question 19: Should we continue to have a patron and vice-patrons? If not, why not? If so, should they be elected or appointed?

## The functions and powers of the committee

Currently: Council manages NZCF other than matters reserved to NZCF in general meeting. Reserved matters are:

* Amending the constitution or supplementary regulations
* Setting membership fees and tournament levies
* Setting honoraria for Councillors
* Appointing the auditor
* Electing life members
* Hearing an appeal if a membership application is objected to
* Expelling a member from NZCF
* Electing Council, patron and vice-patron(s)
* Removing or replacing one or more Councillors
* Dissolving/liquidating NZCF

Most of these are covered elsewhere, so those individual items are not discussed here. Honoraria (a small payment as a gesture of appreciation) have not been set since NZCF incorporated in 1991 and auditors are not currently legally required so are not appointed (the cost outweighs the benefit). Given the obvious conflict of interest in Council setting honoraria for Councillors, that is not suggested to change at this point. If NZCF reaches a threshold where auditing or reviewing is required, having Council able to appoint an auditor or reviewer would be more flexible than leaving the matter to the AGM (auditors and reviewers have professional obligations so any reasonable appointment will suffice).

Legal requirements: The legal function of the committee is to manage the operation and affairs of a society, or management under the direction or supervision of the committee, and the committee has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of the society. This allows for delegation to individuals or committees.

National sports organisations are generally governed by their committees (most of which are referred to as boards) with not many reserved matters. Of the reserved matters listed, only amending the constitution and dissolving NZCF are legally required to be authorised by a resolution at a general meeting. For the most part, governance reviews of national sports organisations (and Sport NZ) advise that the best long-term results for a sport are realised by having the board govern and plan the sport nationally, and for the AGM and members to agree to the constitution and review the annual report and finances as the basis for whether the board were successful or not, and consider whether to re-elect or reappoint the board members based on the reports.

Question 20: Are there any other matters that should be reserved to general meetings?

­­

Question 21: Should Council be required to bring specific events to the attention of clubs? If "Yes", then list applicable events.

Question 22: If one of the specified events occurred should it automatically trigger an SGM?; or make it easier for Clubs to require that an SGM take place?

Question 23: Should approval to proceed with annual plans be voted on at the AGM? Should a separate vote take place on each proposed initiative, or on any initiative where the budgeted spend exceeds some specified limit? Suggest an appropriate limit.

Question 24: Should Council be required to develop an annual plan, including budgetary information, for any new initiatives? Should consultation on the plan with Clubs be required? What form should the consultation take?

Question 25: Should approval to proceed with annual plans be voted on at the AGM? Should a separate vote take place on each proposed initiative, or on any initiative where the budgeted spend exceeds some specified limit? Suggest an appropriate limit.

Question 26: What other accountability/reporting should Council provide or do? How often?

## Grounds for removal from office of officers

Currently: A Councillor who does not attend 3 consecutive Council meetings without apology automatically vacates office. Other than that, Council or individual Councillors may only be removed or replaced by a general meeting. The grounds for this are not stated.

Legal requirements:

There are some automatic legal grounds for ceasing to be an officer – resignation, death, disqualification. If there are other grounds for removal from office, these are also required to be listed in the constitution. Some common reasons for removal would be:

* Charged with an offence above a threshold e.g. maximum sentence of imprisonment for 2 years or more
* Convicted of an offence above a threshold e.g. maximum sentence of imprisonment for 3 months or more
* Some form of no-confidence vote
* Non-attendance of meetings
* Being sanctioned under a formal disciplinary or complaints process for serious misconduct (or similar wording/threshold)
* Breaching obligations of an officer to a society e.g. breaking conflict of interest rules, not acting in the best interests of the society, breaching fiduciary duty to the society
* Acting in a manner prejudicial to the society/sport
* Bringing the society into disrepute
* Cease to be a member of the society (relevant if individual NZCF membership is chosen)
* Cease to be a member of any member society (relevant if current structure is retained)
* The member that appointed the officer ceases to be a member (if positions are appointed by individual clubs, and the club ceases to be a member, that could be a ground for removal or disqualification for any Councillors they have appointed)

Some of these factors may be better suited to being listed as reasons for disqualification in which case removal would be automatic e.g. conviction of a criminal offence above an agreed threshold. Suspension of an officer pending investigation should also be considered as an option.

The constitution or policy documents/regulations have to provide for the process as well – this must include some level of natural justice (in practice, informing the Councillor of the concern with sufficient notice of the meeting at which the decision will be taken, and information to prepare a defence).

Removal via general meetings has solid democratic reasoning behind it (particularly no-confidence votes) but can be cumbersome if urgent action is required, and can have a chilling effect on committees if it can be done for no reason (this was identified as a problem for NZ Rugby in their governance review as board members reported that they could not always govern in the best interests of rugby in NZ due to threats of removal by SGM). A common requirement is for any votes to be at a higher threshold than a simple majority e.g. 75%.

An independent decision-maker (whether an appointed individual or committee) is also an option, particularly for resolving complaints.

Question 27: What reasons should be included as reasons for removal from office?

Question 28: Should suspension of Councillors be available as an option? If so, for what reasons?

Question 29: Should Councillors be removed from Council by a Council vote, an SGM, or depends on the reason (if the latter, lists for each would be helpful)? What should be the voting threshold?

## The Chairperson

Currently: The chairperson and deputy chairperson are the President and Vice-President respectively and are both elected Councillor roles. The chairperson has a deliberative and casting vote.

Legal requirements: Constitution must state how the chairperson (if any) will be elected or appointed and whether that person will have a casting vote if there is an equality of votes.

Practically, it is recommended to have a chairperson for committee meetings. While there are options like taking turns on a roster of sorts, having a known chairperson is the most common practice. The two main options are either to elect them directly as president or chairperson, or to leave it to the Council to elect their own chairperson (same applies to vice-president/deputy).

There are reasons for and against having a casting vote – they are rare at Council meetings. Sport NZ recommend not having a casting vote as their view is that if there is not a clear majority in favour of a resolution, it should fail. On the other hand, if the president or chairperson is elected based on proposing policies, giving the chairperson a casting vote requires a majority to oppose them in those policies, not just an even number of Councillors.

Question 30: Should the Council chairperson be elected/appointed as part of the duties of a role, or should Council elect their own chairperson?

## Quorum and procedure for committee meetings, including voting procedures

Currently: A quorum is 5 Councillors and regional Councillors are not expected to attend. Meetings can be called by the president, secretary or any 2 Councillors. Council should meet monthly (in principle). Council powers are to be exercised by resolution but voting procedure is not stated – votes are usually by voice or individual count if needed, with occasional votes by email. Meetings can be held in person or online using videoconferencing software. Meeting procedure is largely self-governed with minutes kept by the Secretary and required to be sent to members or published online.

Legal requirements: Must include quorum, procedures and voting procedures in the constitution but there are no specific requirements for any of these.

NZCF’s current meeting procedures are aligned with Sport NZ and MBIE recommendations in their template constitutions but the NZCF constitution will need to include more detail. Most boards are required to meet 4-6 times per year (so quarterly or every 2 months) – this would be preferable to allow Council to consider different operating models and reduce time burden on Councillors. No change is proposed to minutes or voting procedures other than having to state voting procedures.

Question 31: How much should the quorum be, and should it be a percentage or fixed number of Councillors?

Question 32: Should Council continue to meet monthly? If not, how often?

Question 33: Are there any other procedures that should be included?

## How the contact person will be elected or appointed

Current: New requirement so the constitution is silent.

Legal requirements: Must have at least 1 contact person for MBIE to contact if necessary, and may have up to 3. Contact details will not be published, just held by MBIE. Must be at least 18 and live in NZ. Societies must advise MBIE within 20 working days of election or appointment, and societies have 20 working days to elect/appoint a contact person if there are no contact persons. Officers may be contact persons but it is not a requirement that a contact person is also an officer.

There are some options – appointment by Council is simplest, or automatically including being a contact person as the responsibility of a particular officer e.g. secretary.

Question 34: Should the contact person(s) be appointed by Council, elected as part of a role, or elected separately?

Question 35: Should there be 1, 2 or 3 contact persons, or left to Council to decide?

## How the society will control and manage its finances

Currently: The Treasurer collects and accounts for money received by NZCF and makes payments as approved by Council. The Treasurer also prepares the financial statements for presentation at the AGM. Not specified in the constitution, but both of these are done using Xero accounting software with the assistance of a paid contract administrator. As a registered charity using accrual accounting, NZCF is a tier 3 reporter and required to upload the financial statements to the Charities register annually (tier 1 is the highest level e.g. government agencies, and tier 4 is the lowest – these standards are maintained by the external reporting board aka XRB).

Legal requirements: How the society will control and manage its finances must be in the constitution. Mainly, XRB’s accounting standards must be followed (also a requirement of the Charities Act 2005) and financial statements must be presented to the AGM and uploaded to the Charities website. For societies which are not charities, statements are uploaded to the MBIE website instead and there is an additional threshold below which XRB standards do not apply (there are still minimum standards).

The simplest and most flexible option would be a clause that Council is responsible for managing and controlling NZCF finances – this avoids the possibility of legal standards changing and rendering the constitution unlawful. AGM reporting would continue to include the presentation of financial statements (this is a legal requirement for AGMs).

Question 36: Should there be a clause that Council is responsible for managing and controlling NZCF finances or should it be more detailed? If more detailed, what should it include?

## The method by which the Constitution may be amended

Currently: By notice of motion to AGM or call an SGM (see AGM section for requirements to call an AGM or SGM). The motion requires a simple majority of votes cast. Amendments are not permitted if they affect the non-profit status of NZCF. The updated constitution is required to be uploaded to the MBIE website and Charities register.

Legal requirements: Amendments must be in writing and approved at a general meeting by a resolution passed by a majority of votes cast, or by a resolution passed in lieu of a meeting.

Minor or technical amendments may use a different process if it has a minor effect or is to correct errors or similar technical changes e.g. fixing cross-references, numbering, headings etc. In this case, proposed amendments must be sent to all members in writing and any member can prevent the changes by objecting, so the chances of misuse are low. This is automatically permitted, so is not able to be opted out of (although any member who does not agree with the process will always be able to block its usage).

Sport NZ recommend that the threshold to amend or replace a constitution should be a higher majority e.g. 67% or 75%.

The updated constitution is required to be uploaded to the MBIE website and Charities register. Preventing amendments that affect the non-profit status of NZCF is required to be retained but may need technical updates to meet legal requirements.

Question 37: Should the current method of changing the constitution be retained? If not, why not? What changes, if any, should be made?

## Procedures for resolving disputes and complaints

Currently: Council may hear disputes referred to it by affiliates (this is not defined further). The Supplementary Regulations require NZCF to have a complaints policy and procedure and anti-bullying and harassment policy, and the Tournament Regulations allow Council to ban players (but not officials e.g. arbiters). FIDE have a large ethics code[[5]](#footnote-6) which applies, and being an Olympic sport imposes integrity requirements as well (integrity includes anti-doping, cheating, match-fixing etc, but also things like harassment).

Legal requirements: Must have procedures for resolving disputes and complaints. Disputes are between 2 members, or a member and an officer, or 2 officers, or a member and the society itself, or an officer and the society, and include complaints. Procedures must be consistent with natural justice (the default procedures in the 2022 Act[[6]](#footnote-7) are automatically considered consistent).

Given FIDE and Olympic integrity requirements as noted, and other potential disputes such as selection appeals, this is best left for expert/legal advice.

## Arrangements and requirements for general meetings

For this section, the current state and legal requirements will be broken down into subheadings for some analysis and feedback. The legal requirements that must be included in the constitution are:

* the intervals between annual general meetings (AGMs)
* the information that must be presented at general meetings
* that minutes are required to be kept
* the manner of calling general meetings
* whether and, if so, how written resolutions may be passed in lieu of a general meeting
* the time within which, and manner in which, notices of general meetings and notices of motion must be notified
* the quorum and procedure for general meetings, including voting procedures (for example, whether votes may be cast by post or by electronic means), procedures for proxies (if any), and whether the quorum takes into account members present by proxy or casting postal votes or votes by electronic means
* the arrangements and requirements for special general meetings (SGMs)

Currently: General Meetings are either the Annual General Meeting (AGM) or Special General Meetings (SGMs). The AGM must be held in March of each year (can be electronic or in person) and material circulated by 15 January (31 January for financial reporting). Business of the AGM:

* To confirm the minutes of the previous annual general meeting and those of any special general meeting.
* To receive and adopt the annual report and accounts
* To elect the Patron and Vice-patrons for the ensuing year.
* To elect members of the Council for the ensuing year.
* To appoint the auditor if deemed necessary.
* To fix any honoraria for the ensuing year.
* To elect new members or expel present members.
* To make, amend or repeal any of the Federation's rules or regulations.
* To fix membership fees for affiliated clubs and associate members, and to set the level for tournament levies.
* To award master titles.
* Other business.

Some of these are covered elsewhere in this review so will not be covered further here.

## Intervals between AGMs

Currently: Must be held in March, so no other time frame specified.

Legal requirements: No later than 6 months after 31 December and no more than 15 months since the last AGM.

If this is set as a particular month from January to June, then this is met. Consideration of timeline of notice and provision of documents should inform this (also see below) – with most clubs being closed in December and January, it may be better to hold the AGM later to allow a few months to generate the required reports and for club committees to consider the business of the meeting.

Question 38: Should this be a set month, or left to Council within the legal parameters?

## Information that must be presented at AGMs

Currently: Annual report and accounts which must be adopted/accepted but not have to be for the same period of time. Minutes of the last AGM and any SGMs since then.

Legal requirements: Annual report, financial statements, register of interests and any actions taken to manage any conflicts of interest must be presented – all are as recorded for the accounting period (the calendar year for NZCF).

There is no legal way to defer these to an SGM as they must be presented at an AGM, so a vote to adopt them leaves the risk of them being rejected, and there being no way for NZCF to comply with the 2022 Act. For that reason, a vote is not recommended (adopting by vote is not required by the Charities Act but was required by the 1908 Act).

Question 39: Is there any other information that should be included as requiring being presented to the AGM?

## That minutes are required to be kept

Currently: Minutes must be presented at the next AGM, which requires them to be kept in practice. Usually, they are sent to NZCF members within a month of the AGM and published on the NZCF website with the following AGM agenda if not before.

Legal requirements: Constitution must include arrangements for the minutes to be kept. Minutes are not required to be published, sent to members or approved at future AGMs, but minutes of the most recent AGM are required to be provided to members on request.

Question 40: Besides the requirement that minutes must be kept, what reporting/publishing requirements should there be? Should they continue to be approved at a following AGM?

## The manner of calling general meetings and the time within which, and manner in which, notices of general meetings and notices of motion must be notified

Currently: Notice of AGM must be sent to members on or before 15 January including notices of motion and names of those nominated for Council and life membership. Notice of SGMs must be sent at least 28 days beforehand including the business to be transacted. The definition of ‘sending’ is not stated but is commonly by email to the most recent contact address. Notices of motion (i.e. advance notice of a proposed resolution) are required for changes to the constitution, regulations, membership fees or tournament levies.

Legal requirements: Must include arrangements in the constitution, but no specific requirements as to how this is done. An irregularity in the manner of calling a general meeting is waived if all the members entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such members agree to the waiver. An accidental omission to give notice of a meeting to, or a failure to receive notice of a meeting by, a member does not invalidate the proceedings at that meeting.

As noted above (intervals between AGMs), this date should take into account the ability of Council to generate the required reports and other AGM business, and for club committees to consider the reports and AGM business, suggesting end of February/March for a May or June AGM. While specific dates could be provided, the dates can also be written as relative dates e.g. AGM must be held by end of June and members must be notified at least 3 months beforehand including reports and notices of motion. The main issue with lengthy notice periods is urgent issues arising or becoming known after the notification date. Arrangements for notifying members of general meetings will need to specify how all members will be notified and could include arrangements for posting on the NZCF website.

Question 41: How much time before the AGM should notice be required to be given? Should the date be the same as for the required reports to be provided?

Question 42: How much time before an SGM should notice be required to be given?

Question 43: Besides email to members, should notice of the AGM/SGMs and other documents be placed on the NZCF website?

Question 44: When should notices of motion, the agenda, and nominations for life membership and Council (depending on feedback on how officers should be appointed/elected) be sent to members? (suggestions are encouraged)

## Quorum and procedure for general meetings, voting procedures, proxies

Currently: No quorum stated. Clubs must appoint a delegate (who can be the same as the delegate for other clubs) and advise of same before the meeting. Voting is by voice or show of hands, but two delegates from affiliate clubs can request a vote to be by poll i.e. each affiliate club gets 1 vote per 20 members or part thereof up to a maximum of 4 votes. In practice, this is managed by having each club’s delegate give votes in alphabetical order by club name, and votes are tabulated by the minute-taker or returning officer if one was appointed, and checked by the chairperson who declares the result. All votes are won or lost by simple majority. The chairperson has a deliberative and casting vote. Attendance is reserved to delegates, life members and the President or Vice-President as the chairperson, although most Councillors usually attend, particularly the Secretary to take minutes and Treasurer for the financial report.

Legal requirements: Must include the number required for quorum, arrangements if quorum is not present, voting procedure e.g. who can vote, whether votes may be cast by post or by electronic means in addition to voting in person at a meeting, and whether the quorum takes into account members present by proxy or casting postal votes or votes by electronic means.

It is not a legal requirement that all members are able to vote. For incorporated societies with more than 1,000 members, it is not a requirement that all members are able to attend AGMs or SGMs (NZCF would meet this currently if the membership structure moved to a form of individual membership), in which case a method of appointing delegates/representatives is required.

Clubs appointing delegates who then vote at the meeting (whether online or in person) is common among national sports organisations with the same membership structure as NZCF. Delegates are usually required to be a member of the relevant club. Most also have options for proxy or postal voting, or both. Proxies are votes on forms provided before the meeting – if these are permitted, proxy forms should be included with the meeting notice. Postal votes are also votes by forms but sent by post prior to the meeting (a due date needs to be provided). For proxies and postal votes to be fully viable, notification of the agenda/business to members needs to include all resolutions requiring a vote – this is also recommended by Sport NZ. These would also largely eliminate the need for clubs to appoint delegates from another club. Common practice for delegates to NZCF’s AGM is for voting instructions to be provided beforehand, particularly for delegates appointed from other clubs, making it similar to proxy voting in practice.

In terms of voting procedure on a resolution, Sport NZ recommends voice or show of hands for delegates present unless secret ballot is requested or required by the constitution, and then adding postal or proxy votes to the tally. The poll as in the NZCF constitution would be fine other than not being simultaneous in how it’s usually handled currently (but this could be managed with electronic voting). Secret ballot is recommended by Sport NZ and FIDE for elections to avoid recriminations and negative actions based on voting record (for proxy and postal votes, these would be passed to the Returning Officer to count).

Whether the chairperson has a deliberative and casting vote varies – Sport NZ are silent on deliberative votes for the chairperson, but recommend against casting votes as their advice is that tied votes should just be lost. Dealing with tied election results will need consideration.

Question 45: Who should be able to attend? Should non-voting attendees be able to speak?

Question 46: What should be the quorum? Should it be a percentage of votes/members, fixed number of votes/members, or something else?

Question 47: Who should be able to vote?

Question 48: If corporate members e.g. clubs can vote, how should many votes should they get?

Question 49: Should postal/advance votes be permitted?

Question 50: Should proxy votes be permitted?

Question 51: How should votes be cast?

Question 52: Should the chairperson have a deliberative and/or casting vote?

Question 53: If there is an election at the AGM, should votes be cast the same way as other votes or by secret ballot? How should ties be resolved?

## Whether and, if so, how written resolutions may be passed in lieu of a general meeting

This is a new option so there is no current practice.

Legal requirements:

The constitution must state whether written resolutions may be passed in lieu of a general meeting, and if so, the procedure for this. A resolution voted on in this manner must achieve at least 75% of votes based on voting entitlement (not of the votes cast) to be approved. The written resolution and supporting documents must be sent by post or email to voting members (or similar means – posting on the website would not suffice by itself). The resolution automatically fails after 3 months unless the 75% threshold is reached. Votes are cast by signing the resolution or by other approved electronic means. The constitution can make the 75% threshold higher (but not lower), and reduce 3-month time frame (but not extend it).

This can’t be used to avoid AGMs but could be used instead of individual resolutions and/or SGMs in some instances. The higher threshold makes it hard to misuse. As noted above, most votes are cast based on prior instructions, so this fits in well with that. While it is not required to place the resolution or outcome on the NZCF website, doing so would be unlikely to cause problems.

Question 54: Should this option be included in the constitution? If so, 75% or higher, and 3 months or shorter? (if yes, suggestions encouraged if not the default)

## Arrangements and requirements for special general meetings

Currently: All general meetings other than the AGM are SGMs. These are convened by the Secretary by written request of Council or 4 affiliate clubs – the notices of motion (business of the meeting) must be included in the request. The SGM must be held within 6 weeks and notice sent to members at least 28 days before the SGM. Only the business for which the SGM was called may be transacted (considered and voted on). Minutes must be kept so they can be confirmed at the next AGM.

Legal requirements: SGMs must be provided for in the constitution but are only required to be held in situations where 50% of Council has conflicts of interests in a particular matter.

The 2022 Act effectively reserves some matters to the AGM (see above), but all other matters could be the subject of SGMs. There is no obvious reason not to be able to call an SGM rather than wait for the next AGM. The simplest way to cover arrangements is to use the same procedures as for AGMs.

Question 55: Other than technical changes to match AGM requirements, are any changes needed to the current requirements?

## Not-for-profit entity to receive any remaining proceeds after liquidation/winding up

Currently: After paying liabilities, the net proceeds are given or transferred to another organization that has similar objects and is a registered charity.

Legal requirements:

Must nominate a not-for-profit entity, or a class or description of not-for-profit entities, to which any surplus assets of the society should be distributed on a liquidation of the society or on, or to enable, the removal of the society from the register. A not-for-profit entity is defined as another incorporated society or registered charity, or an organisation that has similar requirements to these. The Charities Act requires that this entity must have charitable objects (in practice, that is usually another registered charity as an easy, objective, defendable way of determining whether the recipient entity has charitable objects).

Prior to liquidation and distribution of the net proceeds, a general meeting of the Federation must pass a resolution by a simple majority requiring the Federation to be wound up and confirm the resolution by a simple majority at a subsequent general meeting held at least 30 days after. NZCF would then appoint a liquidator.

The legal requirements do not include a subsequent meeting to confirm the resolution, but are otherwise the same. The constitution can have a longer or shorter period of notice, and can include a requirement to pass a resolution at a subsequent meeting.

Given the similarities between the legal requirements and the current NZCF process, no change in process is proposed other than any technical changes necessary to meet legal requirements. The main changes to consider would be whether to have a higher majority to approve liquidation e.g. 67% or 75%, and whether a subsequent meeting to confirm is required.

Question 56: Should the threshold for the resolution be higher than the current simple majority?

Question 57: Should NZCF retain the subsequent meeting to confirm the decision?

## Other Matters

## Bylaws, Penalties and Indemnity

There are three items which are not required to be in the constitution but will be included as highly advisable (and are only available as options if included in the constitution): making Bylaws (currently Regulations), providing for imposing penalties on members e.g. for non-payment of subscriptions or other fees, and providing indemnity (and obtaining indemnity insurance) for officers (including Council). The first two are current practice, so are not proposed to be changed. Indemnity is particularly important for anyone handling complaints as threats of defamation lawsuits are not uncommon. Note that any indemnity does not include criminal liability.

## Powers

Under the 1908 Act, incorporated societies only had the powers granted to them in their constitutions, so would often have lengthy lists and/or broad generic statements of permissible powers and activities. Under the 2022 Act, incorporated societies have full capacity to carry on or undertake any activity, do any act or enter into any transaction, subject to legislation and any restrictions included in the constitution. No list is required, nor does it need to be in the constitution, other than to restrict the activities or powers. NZCF does not currently have any restrictions so retaining the status quo is intended.

## Common Seal

This was a requirement of the 1908 Act but is not required by the 2022 Act so is not proposed to be retained.

## Inspection of Rules and Regulations

Rules/constitutions being available to members is a requirement of both the 1908 and 2022 Acts but is currently met by publishing these on the NZCF website – this practice is proposed to be continued.

Question 58: Are there any other matters which should be considered for inclusion in the constitution? Should legal requirements e.g. updating MBIE be included if they are not required to be included in the constitution?

­­­­­­­­­­­­­­

## Supplementary Regulations

Generally, these are designed to help implement constitutional requirements or for matters which should be included somewhere but are not required to be in the constitution (as noted earlier, MBIE recommend this as best practice) e.g. requirements around the FIDE Laws of Chess.

The 1908 Act provided for both bylaws and regulations by way of an amendment in 1950, but the 2022 Act only refers to Bylaws, so regulations will need to be renamed as Bylaws to continue to have the same effect and enforceability. Bylaws must be consistent with the constitution and relevant legislation and have no effect to the extent that they are not.

Section 1 has definitions of NZ chessplayer and senior player (definition of junior player is in the Tournament Regulations). Council does not propose to change either of these other than any technical updates required for clarity, but senior player could be moved to the Tournament Regulations. Definition of NZ chessplayer was last updated by the 2022 AGM to “one who holds New Zealand citizenship or has resided in New Zealand for the past 12 months as the holder of a residence class visa as defined by the Immigration Act 2009 or successor legislation”, but could be written more precisely to be clear that residing in NZ in the past 12 months is a continuous requirement checked at each relevant event (and to include whether that’s at the start or end of the event) while allowing for some proportion to be spent outside NZ e.g. to play in the Zonal. Note that Australians are granted residence on arrival to NZ, so any wording should take that into account.

Question 59: Should the definition of senior player be moved to the Tournament Regulations?

Question 60: Should the definition of NZ chessplayer be changed? (if yes, suggestions encouraged)

­

Sections 2-7 relate to membership fees, forms and tournament levies and reporting, so will need to be rewritten depending on choices made around membership and various fees and levies (see the Revenue section below).

Section 8 relates to Rules of Play and require that games conducted, sponsored or recognised by NZCF (this would include games rated by FIDE and/or NZCF) should be played according to FIDE rules (including the Laws of Chess) unless varied by the tournament invitation or entry form. This also provides that the default time is 30 minutes unless otherwise stated. Default time could possibly be moved to the Tournament Regulations since those are a more obvious place for tournament-related rules like this one.

Question 61: Should default time be moved to Tournament Regulations?

Question 62: Should NZCF being a member of FIDE be added so leaving FIDE would have to be the subject of a vote at a general meeting?

## Revenue

Currently: Membership fees and tournament levies are provided for in the constitution (systems, not specific rates), while NZCF also charges levies on interschool events and FIDE-rated events, sells badges above cost price, and on-charges other fees when they come up e.g. bank fees for international transfers. Occasional grants, sponsorship and donations are also part of NZCF revenue. The Supplementary Regulations provide some rules and guidance on membership fees and tournament levies and reporting requirements related to those.

Legal requirements:

Not specifically required to be in the constitution except for matters reserved to an AGM (as AGM business must be stated in the constitution) – this could be met by including in Bylaws and requiring the relevant Bylaws to be amended by notice of motion as they currently are.

The constitution review is not intended to revisit fee and levy rates specifically, although a change in revenue structure may necessitate that. Depending on the feedback, modelling may be undertaken to inform rates of different fees for comparison – this would be on the basis of maintaining current revenue levels. Generally, there are some principles to consider:

1. Sustainable – revenue has to be sufficient to achieve NZCF’s purposes, legal compliance, and prudence
2. Affordable – revenue and individual fees/levies should not be so high that they discourage activity within the NZCF framework (mostly ratings/rated events and interschools)
3. Broadly applicable – to minimise avoidance, leakage and over-reliance on one levy/fee
4. Administratively simple – to keep it simple for volunteers and minimise errors
5. Conceptually simple – minimises misunderstandings and misinterpretations
6. Flexible – should be able to be adjusted where necessary

The current levies and fees largely meet these (with better wording, data/information collection, and IT systems to assist), but it is difficult to get the balance right between targeting activity via user-pays and general contribution by all members, and targeting other aspects like region (e.g. urban vs provincial) and availability of activity, as opinions vary on what the right balance is. The current fees/levies are all able to be passed through directly to players and members, although not all clubs or organisers do that in all cases.

Current fees/levies:

* Membership fee – fixed rate per member of each member club per year (currently $15)
* Tournament levy – fixed rate per player in an open NZCF-rated tournament (currently $7).
* FIDE rating fee – fixed rate per player in a FIDE-rated tournament (currently $2.50 – not charged if FIDE do not charge e.g. rapid, blitz). Cumulative with tournament levy.
* Interschool levy – fixed rate per team in an official NZCF interschool event (currently $15).

Players must be a member of a member club if they play in 2 or more NZCF-rated tournaments in a calendar year. Current flaws with these are the exemptions are not well-defined, which can be fixed by better wording, and NZCF systems and data/information collection allow for identification of players in 2 tournaments who are not members of clubs (~200 players), but not contact details making it difficult to engage in enforcement action. Another flaw is that there are some duplicate members i.e. for players who are members of more than one club, each club pays the levy. This has been approx. 35 players each year for the past 3 years, so is not a major issue currently, but with an ever-increasing player-base and multiple clubs in Auckland, may see this issue grow rapidly.

Current rates are single fixed rates, but could be varied more to take into account different circumstances e.g. different tournament levy rates for rapid and standard tournaments or different membership fees based on age, activity and/or service levels (Athletics NZ and the English Chess Federation membership fee structure both do this).

Potential alternative/additional fees/levies:

* Registration – fixed rate per player per year who plays in NZCF-rated games (previous NZCF system – was $10/adult and $5/junior when introduced in 1996, finished at $20/player when it was replaced by the current membership fee in 2019, although the last increase was 2011)
* Rating fees e.g. per game – The Australian Chess Federation[[7]](#footnote-8) charge these with separate, cumulative fees for ACF- and FIDE-rated games
* Affiliation – fixed rate for non-members to have some status without joining e.g. non-club organizers
* Fixed membership fee – NZCF previously charged this at $40 per affiliate and $30 per associate member per year.
* Administration fees – fixed rate for things like entering players into international tournaments.

Registration ran from AGM (January) 1996 to AGM (January) 2019, and in that time, number of registered players and officials were generally 450-500. The final registration list as at 31 December 2018 had 457 names on it. It was replaced as it was administratively burdensome, particularly for NZCF and clubs running a lot of rated events. An IT system could run this with significantly less administrative burden, or individual membership would provide a similar option.

Targeting rated tournaments is one of the easiest methods for collection as organizers/clubs have to send tournament information for the tournament to be rated. The main difference between tournament levies and rating fees are that rating fees apply to all rated games including internal club tournaments but would be lower.

Membership fees could either be a fixed fee per year (administratively simple) or a more variable structure based on activity (e.g. numbers of rated tournaments, games and/or players) or other factors.

Administration fees would likely be a fixed rate per person or per transaction.

Question 63: Should any of the current fees/levies be removed?

Question 64: Are there any other fees/levies that should be charged? (suggestions encouraged)

Question 65: Should any of the current fees/levies be changed? (suggestions encouraged)

Question 66: Should there be a minimum or maximum annual total for any fee/levy? (if yes, suggestions encouraged)

Question 67: Is there anything else that should be considered?

Question 68: Are there any other changes to any Bylaws/regulations generally that should be considered?

## Appendix A – Assessment of Current Constitution Against Legal Requirements

This table is a quick guide to updates that will be needed. Some requirements are lacking or are new requirements to be added. “Technical” means the current constitution has a clause for this requirement but some (usually major) level of rewriting will be needed.

|  |  |  |
| --- | --- | --- |
| **Legal Requirement** | **Current Clause** | **Changes Required To Comply** |
| Name of the society | 2.1 | None |
| The purposes of the society | 2.2 | Technical |
| How a person becomes a member of the society, including a requirement that a person must consent to be a member | 2.3, 4.1, 4.4 | Need to add consent; Technical |
| How a person ceases to be a member of the society | 4.2, 4.3 | Technical |
| Arrangements for keeping the society’s register of members up to date | 4.5 | Technical |
| The composition, roles, functions, powers, and procedures of the committee of the society, including: | 3 |  |
| The number of members that must or may be on the committee | 3.2 | None |
| The election or appointment of officers | 3.7.4, 3.2.4 | Voting procedure required |
| The terms of office of the officers | 3.2.5 (imperfect)  | Term required |
| The functions and powers of the committee | 3.3 | Technical |
| Grounds for removal from office of officers | 3.2.5 | At a minimum, automatic grounds required e.g. death, bankruptcy |
| How the chairperson (if any) will be elected or appointed and whether that person will have a casting vote if there is an equality of votes | 3.4.1, 3.2.7 | None |
| The quorum and procedure for committee meetings, including voting procedures | 3.2.6, voting procedures not stated | Need to add voting procedures |
| How the contact person or persons will be elected or appointed | New requirement | Need to add |
| How the society will control and manage its finances | 3.4.3 | Technical |
| The method by which the constitution may be amended | 2.5.1, 2.5.5, 3.7.3 | None |
| Procedures for resolving disputes, including providing for how a complaint may be made | Supplementary Regs for some complaints | Need to add this, also need to meet FIDE and Olympic requirements |
| Arrangements and requirements for general meetings, including: | 3.7 |  |
| The intervals between annual general meetings (AGMs) | 3.7.1 | None |
| The information that must be presented at general meetings | 3.7.2 | Need to add disclosures of Interests and actions taken |
| When minutes are required to be kept | Implied by 3.7.2(a) | Need to add |
| The manner of calling general meetings | 3.7.5 | Technical updates |
| Whether and, if so, how written resolutions may be passed in lieu of a general meeting | New requirement | Need to add |
| The time within which, and manner in which, notices of general meetings and notices of motion must be notified | 3.7.5, 3.7.3 | Technical |
| The quorum and procedure for general meetings, including voting procedures (for example, whether votes may be cast by post or by electronic means), procedures for proxies (if any), and whether the quorum takes into account members present by proxy or casting postal votes or votes by electronic means | 3.7.6, 3.7.7, 3.7.8 | Need to add proxies, postal votes, electronic voting (whether to allow will depend on feedback).Need to add voting in elections if these continue to be held at AGMs. |
| The arrangements and requirements for special general meetings  | 3.8 | Suggest mimicking AGMs to the extent possible |
| The nomination of a not-for-profit entity, or a class or description of not-for-profit entities, to which any surplus assets of the society should be distributed on a liquidation of the society or on, or to enable, the removal of the society from the register. | 2.4 | Technical |
| Only act to advance charitable purposes  | Not stated | Need to add |
| Distribution of surplus assets after liquidation must be to another organisation with charitable purposes | 2.4.2 | Technical |
| Must have a rule preventing amendments that would allow the organisation to operate for private profit or purposes other than charitable purposes | 2.5.5 | Technical |

On behalf of the NZCF Reregistration Subcommittee and NZCF Council, thank you for your time.

Questions and space for answers have been provided as prompts, but any feedback is helpful. If there is not enough space for your feedback on a particular question, additional documents (preferably in Word format) are welcome.

Feedback should be sent to Craig Hall at craig.hall@newzealandchess.co.nz by 23:59, 28/02/2025.

Name of person submitting feedback:

Email:

Club (if applicable):

This is an official member club submission (please tick if this is the case): □

Please do not publish this submission (please tick if this is the case): □

1. <https://www.legislation.govt.nz/act/public/2022/0012/latest/LMS155492.html> [↑](#footnote-ref-2)
2. <https://www.legislation.govt.nz/act/public/2022/0012/latest/LMS100892.html> [↑](#footnote-ref-3)
3. https://www.charities.govt.nz/ready-to-register/need-to-know-to-register/charitable-purpose/ [↑](#footnote-ref-4)
4. https://www.legislation.govt.nz/act/public/2022/0012/latest/LMS100875.html [↑](#footnote-ref-5)
5. <https://handbook.fide.com/chapter/EthicsAndDisciplinaryCode2022> [↑](#footnote-ref-6)
6. <https://www.legislation.govt.nz/act/public/2022/0012/latest/LMS101242.html> [↑](#footnote-ref-7)
7. <https://auschess.org.au/rating-fees/> [↑](#footnote-ref-8)