



Constitution of
Water Safety New Zealand Incorporated



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CONSTITUTION OF WATER SAFETY NEW ZEALAND INCORPORATED

PART I – PURPOSE AND OBJECTIVES

1. NAME

The name of the society shall be **WATER SAFETY NEW ZEALAND INCORPORATED**, referred to as “Water Safety NZ” in this Constitution.

2. PURPOSE

To lead, promote, and enable water safety for the benefit of communities in Aotearoa New Zealand.

3. OBJECTIVES

3.1 Primary Objective

To provide leadership to the water safety sector.

3.2 Ancillary Objectives:

Without detracting or limiting from the Primary Objective to:

- (a) Be recognised as the leader for research, investigation, analysis and allocation of resources for the water safety sector;
- (b) Be the recognised leader in the effective advocacy for the water safety sector;
- (c) Be a leader in the co-ordination, communication and facilitation of quality water safety education and awareness;
- (d) Develop and maintain collaborative relationships within the water safety sector;
- (e) Be the leading water safety knowledge base;
- (f) Increase the effective pool of resources available for the water sector;
- (h) Raise funds and seek financial and other support to enhance the ability to deliver and promote water safety in New Zealand; and
- (i) To be involved in any other activities related to water safety.

PART II – MEMBERSHIP

4. MEMBERSHIP

- 4.1 Water Safety NZ is an association of Members of various categories combined to advance the Purpose and Objectives of Water Safety NZ.
- 4.2 The categories of Membership of Water Safety NZ are:
- (a) Core Members as described in clause 5; and
 - (b) General Members as described in clause 6.

5. CORE MEMBERS

- 5.1 Core Members are entities that have:
- (a) A core interest in water safety;
 - (b) A national scope;
 - (c) Significant size and influence in the water safety sector; and
 - (d) Proven performance in the promotion of water safety.
- 5.2 The following entities are Core Members as at the date of adoption of this Constitution:
- (a) Royal New Zealand Coastguard Incorporated;
 - (b) Surf Life Saving New Zealand Incorporated; and
 - (c) Swimming New Zealand Incorporated.
- 5.3 Any addition to the Core Members set out in clause 5.2 shall only be made by amendment of this Constitution pursuant to clause 23

6. GENERAL MEMBERS

- 6.1 General Membership: Any national or regional association, organisation or committee, including public entities whether incorporated or otherwise, that can demonstrate an active, defined and prominent water safety role in the New Zealand water safety sector is eligible to apply to become a General Member.
- 6.2 Any applicant for General Membership must confirm commitment to the Purpose and Objectives of Water Safety NZ as part of their application.
- 6.3 No organisation being an associate of any Member is eligible to apply for or become a General Member of Water Safety NZ in their own right unless they are in themselves a national body whether incorporated or not.

6.4 The Board has the exclusive power to determine and admit General Members.

7. MEMBERS RIGHTS & OBLIGATIONS

7.1 Members shall have all privileges, rights and obligations applicable to their category of membership as contained in this Constitution, and any Policies made by the Board pursuant to the Constitution. Both Core Members and General Members have voting rights at General Meetings of Water Safety NZ in accordance with this Constitution.

7.2 This Constitution constitutes an agreement between each of the Members and Water Safety NZ, to which the Members agree to be bound. Members agree to comply with and observe any determinations, resolutions or Policies which may be made or passed by the Board from time to time. Members of Water Safety NZ acknowledge and agree that this Constitution and any Policies made by the Board under this Constitution are necessary and reasonable for the promotion of the Purpose and Objectives of Water Safety NZ.

8. APPLICATION FOR MEMBERSHIP

8.1 To become a Member of Water Safety NZ, the applicant must submit to the Board a request for membership supported by sufficient detail to establish its credentials for the membership category it wishes to attain.

8.2 The addition of or removal of Core Members shall only be undertaken through an alteration to this Constitution pursuant to clause 23.

8.3 Successful applicants for General Membership shall become General Members from the date of acceptance by the Board.

8.4 There shall be no right of appeal to the Board or otherwise in respect of any application which the Board declines or approves.

9. RESIGNATION

9.1 Any Member wishing to resign from Water Safety NZ may do so upon giving written notice to the CEO of Water Safety NZ at the office of Water Safety NZ. Resignation shall be without prejudice to any matters outstanding between the resigning member and Water Safety NZ that existed or were in progress prior to the resignation being given and received.

10. FEES

10.1 Core Members and General Members shall pay such annual or other fees and levies as may be approved and prescribed from time to time by a resolution of a General Meeting, such resolution to be passed by a simple majority of those Members present and voting at the meeting.

10.2 Different fees may be fixed for different classes of membership provided.

11. REGISTER OF MEMBERS

- 11.1 Water Safety NZ, through its CEO or otherwise, shall keep and maintain a Register of Core Members, General Members and Delegates. The Members' Register shall contain the full name, address, other contact details and type of Membership of the Member, as well as similar details of Members' Delegates.
- 11.2 All Members and their Delegates shall provide written notice of any change to the details recorded in the Register pursuant to clause 11.1 to Water Safety NZ within twenty eight (28) days of such change occurring or becoming aware of such change.
- 11.3 Water Safety NZ and its Members shall, in collecting and using any personal information for the Register or otherwise, seek the consent of the individuals concerned wherever appropriate, and at all times comply with the provisions of the Privacy Act 1993 or any legislation passed in amendment or substitution for that.

12. REPRESENTATION OF MEMBERS AT GENERAL MEETINGS

12.1 Delegates

- (a) Each Member shall be entitled to appoint one Delegate to represent the Member at any General Meeting of Water Safety NZ. Any Delegate of any Member must hold a current active executive or board or committee position of the Member they represent (but cannot be a current member of the Board of Water Safety NZ). The appointment of Delegates is to be in writing and presented to the CEO at least twenty one (21) days before the General Meeting. Delegates may be changed during the year upon notice in writing to the CEO.
- (b) If any Delegate appointed in accordance with the preceding sub clause is unable to attend any General Meeting of Water Safety NZ, the Member shall have the right to appoint an alternate Delegate. Such alternate Delegate must hold a similar position as specified in the preceding sub clause and shall be able to attend such meeting as if he or she were originally appointed by the Member provided that the substitute Delegate may be required to produce to Water Safety NZ at the meeting written notice signed by the Member of his or her appointment as an alternate Delegate for that meeting.
- (c) Delegates of Members may vote on behalf of the Member they represent at any General Meeting of Water Safety NZ.

PART III – POWERS

13. POWERS

13.1 In pursuance of its Purpose and Objectives, Water Safety NZ has the power to:

- (a) determine, implement and enforce disciplinary and other regulatory procedures for its Members including suspension of membership and termination of membership;
- (b) be a member, affiliate to, and/or be associated in any other way with any organisation which has objectives which are similar in whole or in part with the Objectives of Water Safety NZ either in New Zealand or internationally;
- (c) establish a Board; and
- (d) do all or any other acts or things which further the objectives of Water Safety NZ.

PART IV – BOARD & OFFICERS

14. THE BOARD

14.1 There shall be a Board of Water Safety NZ to be known in this Constitution as “the Board”.

14.2 The role of the Board is to provide governance of Water Safety NZ to ensure that Water Safety NZ promotes, and to the extent possible, attains the Purpose and Objectives.

14.3 The Board shall at all times recognise and respect its governance role as being distinct from the management of Water Safety NZ and act in the interests of Water Safety NZ and, to the extent comparable with that primary duty, in the interests of the community. The governance procedures are to be specified in the Water Safety NZ Policies Manual.

14.4 The Board’s function and role is to:

- (a) develop and monitor the strategic direction of Water Safety NZ;
- (b) approve and review annual and monthly financial budgets, statements of performance and position;
- (c) develop, approve and amend, as required, Policies that protect Water Safety NZ against harm or potential harm;
- (d) monitor and review the general performance of Water Safety NZ;

- (e) appoint the CEO of Water Safety NZ, review his/her performance, fix and review his/her remuneration and terms of employment, and discipline/dismiss the CEO;
- (f) form and disband such committees as the Board considers necessary from time to time, and appoint, replace, remove and amend persons or terms of reference in respect of its committees;
- (g) take responsibility for making funding decisions and reporting those to its Members and external funders; and
- (h) do such other things as may appear to the Board necessary and desirable to carry out its function, and further the Purpose and Objectives of Water Safety NZ and, in particular, to exercise the powers set out in clause 14.11.

14.5 Board Membership

- (a) The Board shall comprise between six (6) to eight (8) persons as follows:
 - (i) one (1) person nominated from each Core Member and approved by the Appointment Panel in accordance with clause 15.9(a)(i);
 - (ii) two (2) persons nominated, approved by the Appointment Panel in accordance with clause 15.9(a)(ii) and elected by the General Members; and
 - (iii) not less than one (1) and no more than three (3) independent persons appointed by the Appointment Panel in accordance with clause 15.9(b);
- (b) No Employee or Contractor of Water Safety NZ or its Members shall be eligible to be a Board Member.
- (c) All Board Members shall hold office for a term of three years.
- (d) The Board Members elected by the General Members in clause 14.5(a)(ii) shall be elected by a majority of General Member Delegates entitled to vote at an Annual General Meeting.
- (e) At the expiration of their term, Board Members shall be eligible for reappointment provided that no Board Member can serve more than:
 - (i) six (6) years as a Board Member; or
 - (ii) if Chairperson of the Board, no more than nine (9) years provided they serve no more than six (6) years as Chair.
- (f) A Board Member may continue in office despite the expiry of his or her term until:
 - (i) the Board Member is reappointed; or

- (ii) the Board Member's successor is appointed; or
 - (iii) the Appointment Panel provides notice in writing to the Board Member and to the Board that the Board Member is not to be replaced and no successor is to be appointed at that time.
- (g) The Board members shall elect one of their members to be Chairperson of the Board following their appointment at the Annual General Meeting, which appointment shall be until the next Annual General Meeting. If the Chairperson is unable to carry out his/her duties due to absence, illness, death or for any other reason there is a vacancy, the Board may appoint or elect another of their members to be Chairperson.
- (h) Nominations for General Member Board positions may be made by any General Member in the prescribed form and must be received together with a CV by the CEO at the registered office of Water Safety NZ at least sixty (60) days before the Annual General Meeting.
- (i) Nominations for Core Member Board positions may be made by Core Members in the prescribed form and must be received together with a CV by the CEO at the registered office of Water Safety NZ at least sixty (60) days before the Annual General Meeting.
- (j) The CEO shall forward all nominations for Board positions to the Appointment Panel upon receipt.
- (k) The Appointment Panel shall then review the nominations and report to the CEO prior to forty-five (45) days prior to the Annual General Meeting to;
 - (i) ratify or otherwise the Core Member nominees; and
 - (ii) ratify or otherwise the General Member Board nominees.
- (l) In the event the Appointment Panel refuse to ratify:
 - (i) any Core Member Board nominee; or
 - (ii) any General Member Board nominee where there are less than two ratified General Member Board nominees remaining

then notice of such refusal (together with reasons for such refusal) shall be given immediately to the nominating Member who shall then have 7 days to submit a replacement nominee.
- (m) The Appointment Panel shall ratify or otherwise any replacement nominee submitted under clause 14.5(l) within 7 days of receipt of the replacement nominee.

- (n) In the event the replacement Core Member Board nominee is refused by the Appointment Panel in clause 14.5(m) then the Appointment Panel and the Core Member shall meet as soon as it practically possible to discuss the refused and potential candidates with a view to the Appointment Panel approving a mutually agreeable nominee.
- (o) In the event the replacement General Member Board nominee is refused by the Appointment Panel in clause 14.5(m) then the Board position shall remain vacant until the next Annual General Meeting.

14.6 Board Members shall:

- (a) act only in the interest and further the Purpose and Objectives of Water Safety NZ;
- (b) attend Board meetings and meetings of Water Safety NZ; and
- (c) undertake such reasonable responsibilities for the Board and/or Water Safety NZ as required from time to time.

14.7 Board Members may hold office as Board Members and also hold office in a Member organisation during their tenure as Board Members except that at all times when acting as a Board Member their duty to Water Safety NZ takes precedence over any other role and subject in all things to compliance with Water Safety NZ's conflict of interest protocols, specified in clause 28.

14.8 All Board Members have the right to attend, speak and vote at all Board meetings subject only to the conflict of interest provisions specified in clause 28.

14.9 Vacancies on the Board

- (a) Subject to clause 14.9(b), any vacancy on the Board of a Board Member other than one nominated by a Core Member, which occurs during the Board Member's term of office, may be filled by the Board following the Board obtaining the approval of the Appointment Panel to the proposed replacement. A Core Member shall nominate any replacement Board Member.
- (b) The term of office for a person appointed as a Board Member to fill a vacancy under the preceding clause shall expire at the conclusion of the Annual General Meeting following their appointment. Thereafter, the vacancy shall be determined in accordance with this Constitution.

14.10 Board Members shall receive such honoraria as may be set by resolution of Members at a General Meeting.

14.11 Board Powers

The Board shall have the power to:

- (a) purchase, lease, hire or otherwise acquire and hold real and personal property rights and privileges;
- (b) control and raise money, including to borrow, invest or advance monies and to secure the payment of such by way of mortgage or charge over all or part of any of its real and personal property;
- (c) sell, lease, mortgage, charge or otherwise dispose of any property of Water Safety NZ, and to grant such rights and privileges of such property as it considers appropriate;
- (d) determine, raise and receive money by subscriptions, fees, levies, donations, government funding or otherwise;
- (e) determine, Policies and procedures for the governance, management and operations of Water Safety NZ;
- (f) employ, determine the terms and conditions of employment, for the CEO of the organisation (by whatever name such person may be titled);
- (g) employ, determine and terminate staff, and engage the services of personnel and organisations to work for and with Water Safety NZ;
- (h) engage, determine and terminate the services of personnel and organisations to advise Water Safety NZ;
- (i) contract, engage or otherwise make arrangements with any person or organisation to fulfil the Objects of Water Safety NZ;
- (j) establish purchase or otherwise acquire all or any part of the property, assets and liabilities of any one or more companies, institutions, incorporated societies or organisations whose activities or objects are similar to those of Water Safety NZ, or where such purchase or acquisition will further the Purpose and Objectives of Water Safety NZ;
- (k) delegate, in writing, any of its powers in clause 14.11 generally or on specific terms to any Employee or committee or person/persons;
- (l) at its sole discretion, have the power to admit applicants as General Members; and
- (m) at its sole discretion, appoint, refer to and administer the Judicial Committee.

14.12 Meetings of the Board

- (a) The Board shall meet at such places and times, and in such manner, as it shall be determined.
- (b) The Chairperson of the Board shall chair Board meetings, or in his/her absence, the Chairperson shall be any other Board Member as determined by the Board.
- (c) A resolution in writing, signed or assented to by any form of visible electronic communication by all the Board Members shall be as valid and effectual as if it had been passed at a meeting of Board Members. Any such resolution may consist of several documents in like form each signed or assented to by one or more Board Members.
- (d) A meeting of the Board may be held where one or more of the Board Members is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Board Members in accordance with the procedures agreed by the Board; and
 - (iii) if a failure in communications prevents clause 14.12(i) from being satisfied and such failure results in quorum not being met, the meeting shall be suspended until clause 14.12(i) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption of the meeting, the meeting shall be deemed to have terminated or adjourned.
- (e) A Board Member who is absent from two consecutive Board Meetings, without prior approval of the Board or without reasonable explanation, shall be deemed to have resigned from the Board.

14.13 Voting at Board Meetings

- (a) Each Board Member shall have one vote at Board Meetings. Except where otherwise required in this Constitution, all decisions and resolutions of the Board shall be determined by a simple majority of Board Members.
- (b) Voting may be verbal, by show of hands, or secret ballot (if requested by any Board Member).
- (c) Where the Board votes and the vote is evenly split, the Chairperson shall have a deliberative and casting vote.

14.14 Quorum for Board Meetings

- (a) There shall be one half or more of Board Members present at a Board meeting to constitute a quorum.

14.15 Removal of General Member Board Member

- (a) The Members in a Special General Meeting called for this purpose may, by resolution passed by a simple majority, remove any General Member appointed Board Member before the expiration of their term of office.
- (b) Any vacancy shall be filled in accordance with clause 14.9.
- (c) Upon the CEO receiving a request for a Special General Meeting for the purposes of removing a General Member appointed Board Member, he or she shall send a notice to the Board Member concerned, in addition to the Board and the Members.
- (d) Following notification under the preceding clause and before voting on the resolution to remove a General Member appointed Board Member, the Board Member affected by the proposed resolution shall be given the opportunity prior to and at the Special General Meeting to make submissions in writing and/or verbally to the Board, and to the Members about the proposed resolution.

14.16 Removal of Core Member Board Member

- (a) A Core Member Board Member may be removed by the Core Member that nominated the Core Member Board Member at any time before expiration of their term of office.
- (b) Any vacancy shall be filled in accordance with clause 14.5(a)(i).

14.17 Removal of Independent Board Member

- (a) A Board Member appointed pursuant to clause 14.5(a)(iii) may be removed by the Appointment Panel. The Appointment Panel shall be convened for the purpose of considering and determining whether the removal of an independent Board Member should occur if the Members in a General Meeting pass a resolution requesting that it do so.
- (b) Any vacancy shall be filled in accordance with clause 14.5(a)(iii).

15. APPOINTMENT PANEL

- 15.1 Subject to the transitional provisions in clause 31, the Appointment Panel shall be established by no later than ninety (90) days prior to the Annual General Meeting in each year, or at such other time as directed by the Board when required (for example, when a Board vacancy arises) .
- 15.2 The Appointment Panel shall consist of four (4) persons being:
- (a) The Chairperson of the Board (subject to clause 15.3 below);
 - (b) One person appointed by Sport and Recreation New Zealand (“SportNZ”);
 - (c) One person appointed by the Core Members; and
 - (d) One person appointed by the General Members.
- 15.3 If the Chairperson of the Board is being considered for appointment then his or her position on the Appointment Panel shall be held by such other Member of the Board as nominated by the Board.
- 15.4 The Core Members shall appoint their representative under clause 15.2(c) by consensus, but failing that, by majority vote in a process approved by the Board.
- 15.5 The representative of the General Members under clause 15.2 (d) shall be elected at the immediately preceding Annual General Meeting or in a process approved by the Board.
- 15.6 Subject to the transitional provisions in clause 31.4(b), the Chair of the Appointment Panel shall be elected by the Appointment Panel.
- 15.7 Other than the Chairperson of the Board, no other Appointment Panel members shall be members of the Board of Water Safety NZ unless such Board Member is retiring from his or her position as Board Member prior to the commencement of the term of the new Board Members being considered by the Appointment Panel.
- 15.8 The Board shall prepare a skill and competency matrix for evaluation of prospective Board Members (such matrix to be reviewed and updated by the Board each financial year) and provide the matrix (and any updated matrix) to the Appointment Panel.
- 15.9 The functions of the Appointment Panel are:
- (a) to review all nominees for Board membership against the matrix prepared by the Board in accordance with clause 15.8 to:

- (i) determine whether Core Member nominees meet the required skills and competencies; and
 - (ii) determine whether General Member nominees shall be eligible to be put forward for election at the Annual General Meeting; and
- (b) to appoint Independent Board members.

15.10 If a nominee under clause 15.9(a)(i) is not suitable, the Appointment Panel shall advise the Core Member accordingly and the Core Member shall submit a further nominee for consideration by the Appointment Panel pursuant to clause 14.5(l).

15.11 If a nominee under clause 15.9(a)(i) is suitable, the nominee shall be appointed to the Board and put on the agenda for the Annual General Meeting for ratification.

15.12 The Board (in consultation with Members) shall establish a policy regarding the functions and operations of the Appointment Panel, which shall include:

- (a) The term that each Appointment Panel member shall be entitled to hold a position on the Appointment Panel;
- (b) The competencies required for Appointment Panel members;
- (c) The manner in which Appointment Panel decisions shall be made; and
- (d) Any other matter relevant to the operation of the Appointment Panel.

16. CHIEF EXECUTIVE OFFICER

There shall be a CEO of Water Safety NZ, appointed by the Board.

PART V – GENERAL MEETINGS

17. GENERAL MEETINGS

17.1 A quorum for General Meetings shall be not less than two thirds of the Core Members and not less than one half of the General Members.

17.2 The Members shall meet by way of a General Meeting at least once annually which shall be at the Annual General Meeting. They may also meet at any other time in a Special General Meeting called under this Constitution. All references to a General Meeting in this Constitution include an Annual General Meeting or a Special General Meeting.

17.3 The Chairperson of a General Meeting shall be the Chairperson of the Board or, in the absence of the Chairperson, Delegates can nominate and appoint a Chairperson from persons present and entitled to vote at the meeting.

17.4 For the purposes of speaking and voting at General Meetings, Members do so through their Delegates in accordance with this Constitution.

17.5 Board Members are expected to attend General Meetings and are entitled to speak but have no right to vote.

17.6 The Members through their Delegates in a General Meeting shall act in accordance with the Purposes and Objectives. Except as otherwise specifically provided for in this Constitution, the Members in a General Meeting shall have power to:

- (a) alter this Constitution;
- (b) elect Board Members as applicable;
- (c) remove General Member Board Members in accordance with clause 14.15;
- (d) consider and vote on items notified on the meeting agenda; and
- (e) vote (pursuant to clause 17.15) on whether a General Meeting should proceed despite any irregularity, error or omission or failure to comply with clause 17.7, and/or clause 17.8, 17.9, 17.10, 17.11.

17.7 Annual General Meeting

- (a) The Annual General Meeting of Water Safety NZ shall be held no later than four months from the end of each financial year and at such place as the Board may determine from time to time.
- (b) All General Meetings other than the Annual General Meeting shall be Special General Meetings.

17.8 Notice of Annual General Meeting

- (a) Not less than ninety (90) days' written notice shall be given by the CEO to the Board and Members of:
 - (i) the date and place for the Annual General Meeting; and
 - (ii) the closing date(s) for nominations of elections and items of business to be submitted.
- (b) Members shall display, publish or otherwise distribute the notice of meeting to ensure that as many of their individual members as is possible are made aware of the Annual General Meeting.

17.9 Nominations and agenda items

- (a) Not less than twenty eight (28) days before the date set for the Annual General Meeting, agenda items (including any proposed alterations to this Constitution) and approved Board nominations must be received in writing by the CEO from Members and the Board.

17.10 Agenda and business to be discussed at an Annual General Meeting

- (a) The business to be discussed at the Annual General Meetings includes:
 - (i) minutes of the previous Annual General Meeting;
 - (ii) receiving the Annual Report of Water Safety NZ;
 - (iii) ratifying Core Member Board and independent Board nominees; and
 - (iv) electing General Member Board Members (where appropriate).
- (b) An agenda containing the business to be discussed at an Annual General Meeting shall be forwarded to the Board and Members no later than fourteen (14) days before the date of the meeting.

17.11 Special General Meetings

- (a) A Special General Meeting may be convened at any time on written requisition to the CEO signed by not less than one third of General Members, two Core Members or the majority of the Board. A Special General Meeting must be held within twenty eight (28) days of notice being received. Twenty one (21) days' written notice of such Special General Meeting shall be given by the CEO to Members, and such notice shall specify the general nature of any business to be transacted.

17.12 No meeting shall be invalidated solely by virtue of the fact that any Member or Delegate has not received the requisite formal notice.

17.13 The persons entitled to be present at General Meetings of Water Safety NZ are:

- (a) Delegates of Members;
- (b) Members of the Board.

17.14 Voting at the General Meetings

- (a) The only persons who shall be entitled to a vote on any matter of business at a General Meeting shall be Delegates of Core Members and Delegates of General Members entitled to vote at such meeting or meetings in accordance with the provisions in this Constitution.

- (b) Unless specified otherwise in this Constitution or unless otherwise required by law, all decisions at a General Meeting shall be determined by a simple majority of Members.
- (c) All voting on any question or matter of business (including any written notices of motion, remits, recommendations and motions before the meeting) at a meeting shall be done by voice vote or a show of hands provided that any voting Delegates may demand a written secret ballot which shall be immediately taken in a manner determined by the Chairperson. In the case of any equality of votes, the Chairperson of the meeting shall have a casting vote and shall (if a Delegate) also have a deliberative vote. Except where otherwise specifically provided, where there is a requirement for a particular proportion of votes, the proportion shall be calculated on the basis of the number of valid votes recorded and not on the number of Delegates present or eligible to vote.
- (d) All elections shall be carried out by written secret ballot. All voting papers shall be collected and counted by two (2) scrutineers to be appointed by the meeting who shall report the result of the election to the Chairperson.
- (e) If a Delegate is unable to appoint an alternate Delegate in accordance with clause 12.1(b), then the Delegate shall be entitled to vote by written proxy in favour of another Member's Delegate that is present at the meeting, but no other proxy voting shall be permitted.

17.15 Irregularity, error or omission: Any irregularity, error or omission in notices, agendas and relevant papers for General Meetings, or the omission to give notice within the required timeframe, or the omission to give notice to Members to whom notice is required to be received and any other error in the organisation of a General Meeting shall not invalidate the General Meeting nor prevent the General Meeting from considering the business of the meeting provided that:

- (a) the Chairperson in his or her discretion determines that it is still appropriate for the meeting to proceed despite the irregularity, error or omission; and
- (b) a motion to proceed is put to the meeting and a majority of votes cast is obtained in favour of the motion to proceed.

PART VI – FINANCIAL MATTERS

18. FINANCIAL YEAR

18.1 The financial year of Water Safety NZ shall commence on 1 July and end on 30 June in the next year, and may be altered from time to time by the Board.

19. ANNUAL REPORT

19.1 The Board shall prepare an annual report for presentation to the Annual General Meeting, which contains:

- (a) the audited annual financial statements as required under the Act; and
- (b) an annual report of the year's activities,

(Collectively known as "the Annual Report").

19.2 The annual financial statement shall be audited by an auditor who shall be a practising chartered accountant.

19.3 The auditor shall be appointed by the Board at the Board Meeting immediately following the Annual General Meeting.

20. APPLICATION OF INCOME

20.1 The income and property of Water Safety NZ shall be applied solely towards the promotion of the Purpose and Objectives of Water Safety NZ.

20.2 Except as provided in this Constitution:

- (a) no portion of the income or property of Water Safety NZ shall be paid or transferred, directly or indirectly by way of dividend, bonus, benefit or otherwise to any Member, Board Member, officer or Employee; and
- (b) no remuneration or other benefit in money or money's worth shall be paid or given by Water Safety NZ to any Member, Board Member, officer or Employee.

20.3 Nothing in clause 20.2 shall prevent payment in good faith of or to any Member or Employee of a Member (but excluding any Board Member) for:

- (a) Any services actually rendered to Water Safety NZ, whether as an employee or otherwise;
- (b) Goods supplied to Water Safety NZ in the ordinary and usual course of operation;
- (c) Interest on money borrowed from a Member;

- (d) Fair market rent for premises let by any Member to Water Safety NZ; or
- (e) Reimbursement of any actual and reasonable out-of-pocket expenses incurred by a Member, Board Member or officer on behalf of Water Safety NZ for any other reason and authorised by Board policy,

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

20.4 Nothing in clause 20.2 shall prevent payment to any Board Member for:

- (a) Any honoraria set in accordance with clause 14.10; and
- (b) Reimbursement of any actual and reasonable out-of-pocket expenses incurred by the Board Member on behalf of Water Safety NZ and authorised by Board policy

For the avoidance of doubt, no Board Member shall be entitled to receive any other payment.

20.5 No involvement in decision

- (a) For the avoidance of doubt, no Member may take part in deliberations or the decision over any transaction with Water Safety NZ where that Member or any person associated with that Member may obtain income, benefit or advantage from that transaction.

21. COMMON SEAL

21.1 Water Safety NZ shall continue to have a common seal.

21.2 The common seal shall be kept in the custody of the CEO or such other person as appointed by the Board. The common seal should only be used as directed by the Board, and if affixed to documents, this shall, only occur in the presence of and accompanied by the signature of the Chairperson and a Board Member or, in the event that the Chairperson is unavailable, then by the remaining Board Member and another Board Member.

PART VII – SUSPENSION AND TERMINATION OF MEMBERS

22. SUSPENSION AND TERMINATION

22.1 The Board may, after due and proper inquiry, immediately either:

- (a) suspend a Member from membership for any period not exceeding twelve (12) months that has acted in a way that is prejudicial or to the interests of Water Safety NZ; or/and

- (b) terminate a Member from membership that has acted in a way that is prejudicial or to the interests of Water Safety NZ

22.2 The Board may, after due and proper inquiry, immediately suspend from membership any Member or Affiliate Member if the levy or subscription payable by that Member or Affiliate Member for any financial year is unpaid three (3) months after the date fixed for payment, or if that Member or Affiliate Member has failed to meet a valid requirement of the Association within the time prescribed for satisfaction of that requirement, such suspension to remain in effect until the levy is paid or the requirement is met provided however, before reaching any final determination, the Board shall first

- (a) provide the Member with its provisional conclusions as to the complaint and any outcome, in writing, with reasons; and
- (b) provide the Member with an opportunity to comment upon; and
- (c) consider any such feedback.

PART VIII – MISCELLANEOUS

23. ALTERATION TO THE CONSTITUTION

23.1 Subject to clause 23.2 this Constitution may only be amended, added to or repealed by resolution of a two-thirds majority vote of those entitled to vote at a General Meeting.

23.2 Notice of an intention to alter this Constitution must be received by a Member, a Board Member or the CEO no later than twenty eight (28) days prior to the General Meeting at which the alterations are to be considered.

23.3 No alteration may be made to this Constitution which adversely affects the charitable status of Water Safety NZ, nor which interferes with its charitable purpose or object, nor which affects its ability to register with the Department of Internal Affairs – Charities Services or any successor organisation. No alteration to clauses 2, 3, 23, or this clause 25 shall have effect unless approved by the Inland Revenue Department and the Department of Internal Affairs – Charities Services or such other body regulating charities in New Zealand for the time being. This clause shall not be removed and shall be included in any Constitution replacing this Constitution.

24. POLICIES

24.1 The Board may determine, revoke and amend such Policies as it considers necessary or desirable. Such Policies must be consistent with the Purpose and Objectives of this Constitution and any directives given by General Meeting.

- 24.2 All Policies must be notified to Members in writing or electronically as approved by the Board and upon notification, shall be binding on the Members.
- 24.3 Water Safety NZ Policies which, prior to the adoption of this Constitution, were in force shall (unless otherwise revoked) be deemed to continue in force as Policies until revoked or otherwise altered by the Board, provided that, to the extent of any inconsistency between Water Safety NZ's existing Policies and this Constitution, this Constitution shall prevail.

25. LIQUIDATION

- 25.1 Water Safety NZ may voluntarily be put into liquidation if:
- (a) a two-thirds majority vote of those present and entitled to vote at a General Meeting passes a resolution appointing a liquidator; and
 - (b) such resolution is confirmed in a subsequent Special General Meeting, called for that purpose, and held not earlier than thirty (30) days after the date on which the resolution was passed.
- 25.2 Upon appointment of a liquidator, the relevant provisions of the Act shall apply to the liquidation of Water Safety NZ.
- 25.3 Any surplus assets after payment of all costs, debts and liabilities shall, subject to any trust effecting the same, be disposed of by distributing, giving or transferring them to some body or bodies in New Zealand having Purpose and Objectives similar to the object of Water Safety NZ.
- 25.4 The body or bodies referred to in the preceding clause must prohibit the distribution of its or their income and property among its or their members to at least the same or greater an extent as is imposed under this Constitution. The body or bodies shall not be carried on for profit and shall have an approved tax exemption/charitable registration.
- 25.5 The body or bodies in clauses 25 and 26.1 shall be determined by the Members in a General Meeting at or before the time of liquidation. If the Members are unable to decide, the body or bodies shall be determined by the liquidator.

26. WINDING UP

- 26.1 In the event of the winding up of Water Safety NZ (which shall be carried out in accordance with all legislative requirements) a meeting of Water Safety NZ shall be called for the purpose of disposing of the property of Water Safety NZ which may be donated as directed by such meeting to any charitable association or society in New Zealand having objects not opposed to those of Water Safety NZ. No part of the funds of Water Safety NZ shall be used or shall be available to be used for the private pecuniary profit of any Member.

27. INDEMNITY

- 27.1 Water Safety NZ shall indemnify its Board Members, former Board Members, officers, former officers, Employees and former Employees and agents against all damages and costs (including legal costs) for which any such Board Member, former Board Member, officer, former officer, Employee and former Employee and agent may be or become liable to any third party as a result of any act or omission, except wilful misconduct:
- (a) in the case of a Board Member, former Board Member, officer, former officer, performed or made whilst acting on behalf of and with the authority, express or implied, of the Board; and
 - (b) in the case of an Employee or former Employee or agent performed or made in the course of and within the scope of their employment or agency by Water Safety NZ.
- 27.2 The Board may effect contracts of insurance in relation to this indemnity to the extent lawfully permitted.

28. CONFLICTS OF INTEREST

- 28.1 The Board shall maintain an interests register and a policy in relation to Board Members' interest or perceived interest in any transaction entered into or to be entered into by Water Safety NZ. Subject to any such policy, the members of the Board are entitled to act and exercise all their powers despite that they or some or any one of them:
- (a) are or may become associated with any other person, trust, unincorporated body or corporation with which Water Safety NZ deals in any way or in which Water Safety NZ has an interest of any kind; or
 - (b) has an interest or duty in any particular matter that may conflict with their duty to Water Safety NZ

provided such association or interest is declared by that Board Member and noted in the interests register.

29. INTERPRETATION AND MATTERS NOT PROVIDED FOR

- 29.1 If a dispute arises out of the interpretation of this Constitution or the Policies, or any matter arises which is not provided for in this Constitution or the Policies, then such dispute or matter shall be referred in writing to the Board whose decision shall be final and binding.
- 29.2 Any dispute or matter which the Board considers in its discretion is not a complaint or disciplinary matter may be referred by the Board for resolution by the following process:
- (a) by the parties acting in good faith to seek an agreement;
 - (b) failing agreement in (a), by a party or the parties appointing an independent third person to mediate between them; or

- (c) failing agreement at such mediation, by arbitration under the Arbitration Act 1996, by giving written notice of such arbitration by a party to the other party and (if not a party) the Board. Such arbitration shall be heard and determined by a single arbitrator to be appointed by the President of the New Zealand Law Society. The procedure for the arbitration shall be determined by the arbitrator. The decision of the arbitrator shall be final and binding.

30. DATE OF COMMENCEMENT OF THE CONSTITUTION

- 30.1 The Constitution (as amended) shall take effect immediately upon registration with the Registrar of Incorporated Societies.

31. TRANSITIONAL PROVISIONS

- 31.1 These Rules are to be read subject to the Transitional Provisions. The Transitional Provisions take precedence where there is any inconsistency between these provisions and the rest of this Constitution.

31.2 Membership

- (a) All Members, other than the Core Members in clause 5.2, that were Full Members or Associate Members (as defined by the preceding constitution) immediately prior to adoption of this Constitution shall be deemed to be General Members.

31.3 Transitional Chair

- (a) Upon the adoption of this Constitution SportNZ shall be entitled to appoint an independent Board Member who shall be deemed to take one of the three positions provided for in clause 14.5(a)(iii). This appointment shall be for a period no longer than 18 months from the date this Constitution is adopted.

31.4 Transitional Board

- (a) Upon adoption of this Constitution an interim board shall be appointed using the appointment provisions of the immediately preceding constitution except that those appointments shall be limited as to time until a Board is constituted pursuant to clause 15.
- (b) The Appointment Panel shall be convened immediately upon adoption of this constitution with the initial members of the Appointment Panel being:
 - (i) the transitional chair appointed in clause 31.3;
 - (ii) a person appointed by SportNZ who shall also be the initial chair the Appointment Panel for his or her tenure on the Appointment Panel;

- (iii) a person appointed by the Core Members (and if they are unable to appoint a person upon adoption of this Constitution, by notice to the CEO within 7 days of the date this Constitution is adopted); and
 - (iv) a person elected at the Annual General Meeting at which this Constitution is adopted pursuant to a short form procedure determined by the immediately preceding board in its total discretion.
- (c) A Board appointed in accordance with this Constitution (that shall incorporate the transitional Chair referred to in clause 31.3) shall be appointed as soon as possible following adoption of this Constitution.
 - (d) Core Member nominees and General Member nominees shall be submitted to the Appointment Panel within one month of the date this constitution is adopted.
 - (e) The initial terms of the three Core Member nominees shall be one, two and three years respectively and the allocation of term shall be made by the Appointment Panel.
 - (f) The initial terms of the two General Member nominees shall be two and three years respectively and the allocation of term shall be made by the Appointment Panel.
 - (g) The initial terms of any independent Board appointments shall be two and three year's respectively.
 - (h) To achieve the appointments above, the appointments in these transitional provisions may be made at a Special General Meeting which shall in any event be held no later than 28 February 2014.

32. DEFINITIONS

The words and phrases used in this Constitution shall mean as follows:

“Act” means the Incorporated Societies Act 1908 and its amendments.

“Annual Report” means the report described in clause 19.

“Annual General Meeting” means the General Meeting held annually as described in clause 17.7.

“Appointment Panel” means the panel appointed pursuant to clause 15.

“Board” means the Board as defined in clause 14.

“Board Members” means the Board Members elected and appointed in clause 14.5.

“CEO” means the Chief Executive Officer of Water Safety NZ for the time being appointed in clause 16.

“Clause” means a clause of this Constitution.

“Contractor” means an individual or body corporate/partnership/society or association that contracts to provide services to Water Safety NZ or members of Water Safety NZ but does not include any employee of any such contractor.

“Delegate” or **“Delegates”** means a person elected to be a representative at a General Meeting in clause 12.

“Employee” means an individual who has an employment agreement with Water Safety NZ or one of its Members.

“Elected Board Member” means a person elected as a Board Member in clause 14.5.

“General Meeting” means the Annual General Meeting or a Special General Meeting of Water Safety NZ.

“Intellectual Property” means all rights or goodwill in copyright, business names, names, trade marks (or signs), logos, designs, patents or service marks relating to Water Safety NZ or any event, activity or programme of or conducted, promoted or administered by Water Safety NZ.

“Member or Members” means the Members of Water Safety NZ as described in clause 4, 5 and 6.

“Membership Fee” means any fee or fees payable to Water Safety NZ in clause 10.

“Objectives” means the objectives of Water Safety NZ described in clause 3.

“Policies” means Policies determined by the Board pursuant to clause 24.

“Purpose” means the purpose of Water Safety NZ described in clause 2.

“Register” means the register of Members specified in clause 11 and includes the register of Delegates.

“Sport NZ” means Sport and Recreation New Zealand or any successor organisation.

“Water Safety NZ” means Water Safety New Zealand Incorporated.