



CONSTITUTION COMMITTEE TERMS OF REFERENCE

Purpose

These are the terms of reference for Fencing New Zealand's Constitution Committee.

Background

The Incorporated Societies Act 2022 establishes new obligations for registered societies. Existing societies – those incorporated under the Incorporated Societies Act 1908 – who wish to remain incorporated need to reregister no later than 5 April 2026.

A key step in the reregistration process is reviewing and where necessary updating the Constitutions of Incorporated Societies to ensure they comply with the new requirements in the 2022 Act.¹

Committee Role

The Constitution Committee has been charged by the FeNZ Board with:

- **Providing advice that will support FeNZ, FeNZ Regions and affiliated fencing clubs update or establish constitutions that comply with the Incorporated Societies Act 2022 (the Act); and,**
- **Providing advice on other changes that could be made to modernise the constitutions and provide the basis for stronger governance arrangements to better serve the New Zealand fencing community.**

Towards these ends the Committee should:

- Develop an implementation plan that will result in key deliverables being produced in a manner that will support a timely reregistration process
- Take account of NZ Companies Office and Sport NZ guidance on meeting incorporation requirements;
- Prepare a discussion paper setting out the issues, options and recommended approach to updating National, Regional and Club constitutions as a basis for consultation with the New Zealand fencing community²;
- Prepare a submissions analysis document that considers and responds to fencing community feedback on the discussion paper's proposals, making changes to its preferred approach where appropriate;
- Provide a report for consideration by the FeNZ Board, and to the Regional Executive or Regional Management Committees in each region, that includes:
 - o A summary of feedback from the consultation process and the Constitution Committee's response to it;
 - o A summary of recommended changes to the national, regional and club constitutions;
 - o Draft national and regional constitutions incorporating the proposed changes that can be adopted at Annual or Special General meetings;

¹ Further information on the Incorporated Societies Act 2022 reregistration requirements and the implications of failing to reregister is outlined in Appendix A to these Terms of Reference.

² Including Commissions, National Officers, Regional Committees, affiliated fencing clubs and members.

- A generic club constitution template that complies with the Act’s requirements that can be tailored by individual clubs and adopted at an Annual or Special General Meeting; and,
- Recommendations on releasing the national, regional, and club constitutions and the next steps for progressing the passage of the proposed constitutions and meeting reregistration requirements.

The Fencing New Zealand Board - through the Secretary General - will be responsible for releasing the Constitution Committee’s report and advising regions, clubs and the general membership of proposed next steps for progressing the approval of updated constitutions and the broader re-registration process.

Scope

In-scope	Out-of-Scope
<i>Constitutional Amendments:</i> The Constitution Committee is responsible for recommending changes to National, regional and club constitutions either to meet Incorporated Society Act requirements or further improve the governance arrangements to better serve the New Zealand fencing community.	<i>Approval of Constitutions:</i> The Constitution Committee is not responsible for facilitating the approval of constitutions at AGMs or SGMs. This remains the responsibility of the National Board, the Regional Executive or Regional Management Committees and Club executives, or their designated officers, in accordance with the requirements in their current constitutions.
<i>Identifying Operational Policy & Process issues:</i> The Constitution Committee may identify and flag operational policies and processes that will need to be updated to align with the proposed constitutional amendments and/or ensure compliance with the Act (e.g. management of internal disputes in a way that’s consistent with natural justice, or reviewing the club affiliation policy)	<i>Developing Operational Policies & Procedures:</i> The Constitution Committee is not responsible for facilitating the amendment or development of operational policies and processes to comply with Constitutional amendments and/or the Act. This remains the responsibility of the National Board, the Regional Executive or Regional Management Committees and Club executives or their designated officers.
<i>Reregistration Links & Dependencies:</i> The Constitution Committee should be aware, and take account, of the links and dependencies between its review of the Constitutions and the broader reregistration requirements that need to be met by FeNZ nationally, its regional committees and clubs.	<i>Progressing Reregistration:</i> The Constitution Committee is not responsible for meeting the reregistration requirements for FeNZ, the regions or affiliated fencing clubs. This remains the responsibility of the National Board, the Regional Executive or Regional Management Committees, and Club executives or their designated officers.

Committee Membership & Support

The Constitution Committee will be convened and chaired by the FeNZ Secretary General and include a representative from each of the 4 FeNZ regions. The Committee may also call for and appoint up to two members that can provide a club perspective.

The Committee – through the Secretary General - may also seek legal advice on the issues it is considering and to support the drafting of revised constitutions where necessary.

MEETING INCORPORATED SOCIETY ACT 2022 REREGISTRATION REQUIREMENTS

The Incorporated Societies Act 2022 establishes new obligations for registered societies. Existing societies – those incorporated under the Incorporated Societies Act 1908 – who wish to remain incorporated need to reregister no later than 5 April 2026.

The NZ Companies Office website contains guidance on how to get ready for reregistration: <https://is-register.companiesoffice.govt.nz/help-centre/reregistering/> The guidance outlines the following steps:

- Firstly, confirming (at a general meeting) that members wish to proceed with reregistration;
- Assuming a society wishes to proceed with reregistration, reviewing operational process to ensure they comply with the 2022 Act. The society must have processes:
 - o To manage internal disputes in a way that's consistent with natural justice
 - o That ensure new members give their consent to being a member
 - o For recording all details required in a register of members
 - o For getting and storing the written consent for each new officer to act as an officer
 - o For disclosing and recording conflicts of interest
 - o For preparing financial statements to the appropriate standards.
- Reviewing the society's financial year balance date with a view to ensuring that within 6 months of that date it can:
 - o prepare its annual financial statement
 - o Hold its AGM
 - o File an annual return with the Companies Office along with its financial statements.
- Reviewing the society's constitution and ensuring it complies with the 2022 Act. The Companies Office advises that we may need to add new rules or change some existing ones, for instance, we might need:
 - o To add rules that are compulsory under the 2022 Act, such as –
 - The need to have a contact person and no more than 3
 - The need to include how each contact person is elected or appointed
 - How members and officers give their consent
 - Dispute resolution clauses
 - Whether and how written resolutions may be passed instead of holding general meetings
 - o Choose to remove the rule requiring it to have a common seal
 - o Change rules as appropriate to reflect that the 2022 Act places most responsibilities on the whole committee, rather than the individual roles, such as the secretary or treasurer.

Section 26 of the Act outlines what the Constitution must contain:

<https://www.legislation.govt.nz/act/public/2022/0012/latest/LMS100892.html>

Consequences of Not Reregistering:

If FeNZ, the FeNZ Regions, or Affiliated Clubs who are incorporated as separate legal entities - do not reregister by 5 April 2026 they will no longer be an incorporated society. The NZ Companies Office advises that this will have the following implications:

- It removes the right to make decisions on behalf of the society concerned, such as deciding what happens to any assets it owns (The Registrar could direct how to distribute them instead)
- It takes away the separate legal identity the society previously had. This means members could be held personally liable for debts or obligations (such as leases) owed by the society. Similarly, the society could not sign any new contracts in its name
- The name used by the society will no longer have any protection – another group could incorporate using the same name.



Fencing New Zealand

(New Zealand Fencing Incorporated)

CONSTITUTION REVIEW & INCORPORATED SOCIETY REREGISTRATION

Key Milestones	Target Dates
Board approves ToR & key milestones	6 Oct
Committee completes discussion paper and on-line survey form	1 Dec
Committee issues call for submissions to FeNZ Commissions, regions, clubs and members	8 Dec
Submissions close	2 Feb 2025
Committee completes submissions analysis & response	16 Mar
Committee updates FeNZ Board	6 Apr
Committee completes Exposure draft of final Committee report (including draft Constitutions)	8 June
National Board & Regional Committees review exposure draft report	6 July
FeNZ Board receives final Committee report & agrees next steps	3 Aug
FeNZ Board publishes draft National, Regional and Club constitutions and advice to clubs	17 Aug
Notice for National SGM published	17 Aug
Notice of Regional SGMs published	24 Aug
Notice of Club SGMs published	14 Sept
National SGM held to approve FeNZ constitution	28 Sept
Regional SGMs held to approve regional constitutions	26 Oct
Clubs SGMs held to approve club constitutions	30 Nov
FeNZ Board, Regional Committees and Clubs complete changes to operational policies and processes to ensure compliance with 2022 Act	22 Feb 2026
FeNZ, Regional Committees and Clubs complete reregistration with NZ Companies Office	22 March

As at 1 October 2024