

## 3.9 BOWLS NEW ZEALAND REGULATION NINE – JUDICIAL (AMENDED)

### 1. PURPOSE

1.1 The purposes of this Regulation are to:

- a. establish a consistent system for handling Disputes and Misconduct involving persons, Members or Officials of Bowls NZ that is fair and just, and delivered in a practical way;
- b. continue to enable Clubs and Centres to manage their own Disputes and Misconduct in the first instance; and
- c. give Members or Officials of Bowls NZ or members or Officials of a Club or Centre the ability to appeal decisions made by a Club or Centre to a regional judicial body regulated by Bowls NZ.

### 2. COMMENCEMENT DATE

2.1 This Regulation came into force on 12<sup>th</sup> September 2014 (“Commencement Date”) and was updated by the Board effective 20<sup>th</sup> February 2017. It shall continue in force until such time as it is revoked by the Bowls NZ Board.

### 3. STRUCTURE OF THESE RULES

3.1 These Rules are divided into three parts:

- a. **Part A** contains provisions which apply to matters brought before the Bowls NZ Judicial Committee;
- b. **Part B** contains provisions which apply to matters brought before a Regional Judicial Committee; and
- c. **Part C** contains general provisions which apply to all judicial matters.

### 4. INTERPRETATION

4.1 The words and phrases used in this Regulation shall have the same meaning as defined in the Constitution, unless otherwise specified.

4.2 In addition to clause 4.1, the following words and phrases used in this Regulation shall mean as follows:

“**CEO**” means the Chief Executive Officer of Bowls New Zealand Incorporated.

“**Club or Centre Decision**” means a decision of the board, management committee or other equivalent governing body or any sub-committee of a Club or Centre about a member or Official of a Club or Centre regarding a Dispute or Misconduct conducted by that Club or Centre.

“**Constitution**” means the Constitution of Bowls New Zealand Incorporated.

“**Dispute**” means a situation where a Member has a grievance or difference about the meaning or effect of any rule, provision, decision, policy, practice, right, privilege or direction determined by another Member, or a member of a Club or Centre. A Dispute shall **not** include any grievance or difference about the meaning or effect of any rule of the Bowls NZ Anti-Doping Regulations, any decision of the Bowls NZ Board, or a matter which involves an allegation of Misconduct.

“**Interested Party**” means a person added to a Proceeding under clause 20.3.

**“International Level”** means during, or in connection with, a Game(s) of Bowls held between New Zealand and another country or a region situated outside of New Zealand, or which involves individuals who are Appointed Personnel appointed by the Bowls NZ Board, Officers appointed or elected in accordance with the Constitution, and/or National Representatives, whether or not connected to a Game(s) of Bowls.

**“Judicial Committee”** means the Bowl NZ Judicial Committee(s) or any Regional Judicial Committee(s).

**“Judicial Member”** means a person who is a member of a Judicial Committee.

**“Match Fixing”** means conduct defined as prohibited conduct in the Bowls NZ Anti-Match Fixing Regulation including corruption, betting, misusing inside information and other offences.

**“Misconduct”** means, but shall not be restricted to, situations where a Member:

- a. breaches any provision of the Laws of the Sport;
- b. deliberately loses or attempts to lose a Game of Bowls or plays unfairly, unless it is Match Fixing in which case the Bowls NZ Anti-Match Fixing Regulation shall apply;
- c. alters a bowl after it has been stamped by a registered bowls tester without submitting it for retesting and restamping;
- d. at any event, function or activity of Bowls NZ, or of any Centre, or of any Club, or whilst on the property of Bowls NZ, any Centre or any Club, uses any profane, indecent or improper language;
- e. at any time or place engages in offensive or insulting behaviour towards Bowls NZ, any Centre, any Club or any member of any Centre or Club, or any person acting for or on behalf of Bowls NZ, a Centre or a Club;
- f. breaches:
  - (i) any provision of the Constitution, or the constitution of any Centre or Club;
  - (ii) any Regulation and other Bowls NZ regulations, (other than the Bowls NZ Anti-Doping Regulation or the Bowls NZ Anti-Match Fixing Regulation), or the regulations, by-laws or other rules (however described) of any Centre or Club;
  - (iii) any policies of Bowls NZ, a Centre or a Club;
  - (iv) any reasonable direction of Bowls NZ, a Centre or a Club (or person authorised on their behalf);
  - (v) any decision of a General Meeting, the Bowls NZ Board or a Judicial Committee or any decision of any equivalent bodies at any Centre or Club;
- g. acts in a manner which brought, or could bring, Bowls NZ, any Centre or any Club into disrepute;
- h. acts in a manner unbecoming of a Member, or a member of a Centre or Club or which is prejudicial to the Objects and/or the objects of a Centre and/or Club;
- i. fails or refuses, for a period of one calendar month to pay any fine or monetary penalty imposed by Bowls NZ, a Centre and/or a Club or any authority under the jurisdiction of Bowls NZ, a Centre or a Club; and/or
- j. aids or abets any of the conduct specified in (a) to (i) above.

**“National Event”** means a bowls event held by, or under the auspices of, or administered by Bowls NZ (and held at a Centre or Club venue as determined by Bowls NZ). National Events may be held on an open, invitation, or limited entry basis. A National Event shall be deemed to start at the commencement of the official opening, manager’s meeting or pre-event briefing immediately preceding the event (whichever is the earlier) and shall end at the conclusion of the official closing, prize giving or official Bowls NZ function for the event (whichever is the latter). *Events include: the New Zealand National Open Championships for Men and Women; the National final of the New Zealand Interclub Competition for Men and Women, Division 1 and Division 2; The National final of the New Zealand Inter-Centre Competition for Men and Women; The National final of the New Zealand Under 8's Inter-Centre Competition for Men and Women; the National final of the National Club Singles, Pairs, Triples and Fours for Men and Women; The National final of the National Mixed Pairs Competition; the Kittyhawk National Under 21 competition for Men and Women; The National under 18 Singles competition for Men and Women; The National Winter League competition.*

**“Proceeding”** means any proceeding brought under Parts A or B of this Regulation.

**“Region”** means each of the three geographical areas defined in the Constitution. For the avoidance of doubt the Regional Centres do not have any authority under this Regulation, particularly in relation to any Regional Judicial Committee.

**“Rules of the Sports Tribunal”** means the rules of the Sports Tribunal of New Zealand.

**“Sports Tribunal”** means the Sports Tribunal of New Zealand established under the Sport and Recreation New Zealand Act 2002 and continued under the Sports Anti-Doping Act 2006.

**“Transition Period”** means the period from the commencement of the Constitution (as amended) until 31 December 2014 or any other date agreed in writing with the Board.

**“Working Day”** means any day of the week other than Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, Labour Day, the Sovereign’s birthday, Waitangi Day, Christmas Day, Boxing Day, New Years’ Day and 2 January, provided that if Christmas Day, Boxing Day, New Years’ Day and/or 2 January:

- a. falls on a Saturday the day must be treated as falling on the following Monday; and,
- b. falls on a Sunday the day must be treated as falling on the following Tuesday.

## **PART A – BOWLS NZ JUDICIAL COMMITTEE**

### **5. JUDICIAL MEMBERS**

- 5.1 Bowls NZ shall appoint a pool of at least five people annually to be members of the Bowls NZ Judicial Committee when required by Bowls NZ. At least one of these people must have legal experience and the others should, if possible, have one or more of the following competencies:
  - a. a practising or retired barrister or solicitor of the High Court of New Zealand;
  - b. a retired judicial officer who has held office in a New Zealand court or statutory tribunal;
  - c. experience as a member of a disciplinary tribunal, preferably in relation to bowls; and/or
  - d. extensive knowledge of the Game of Bowls.
- 5.2 Members of the Bowls NZ Judicial Committee may also be appointed as members of the Bowls NZ Integrity Tribunal (under the Bowls NZ Anti-Match Fixing Regulation) or to any other hearing body appointed by Bowls NZ.

## 6. FUNCTIONS OF THE BOWLS NZ JUDICIAL COMMITTEE

- 6.1 The functions of the Bowls NZ Judicial Committee are to:
- a. do all things necessary to comply with and implement this Regulation;
  - b. hear and determine Disputes and Misconduct at National Events, unless already heard in accordance with any applicable event rules;
  - c. hear and determine Disputes and Misconduct at International Level, unless already heard in accordance with any applicable event rules;
  - d. hear and determine other Disputes and Misconduct involving Bowls NZ Members:
    - (i) that are not within the jurisdiction of a Club, Centre, the Bowls NZ Board and/or Regional Judicial Committee; or
    - (ii) where the parties agree in writing;
  - e. during the Transition Period, hear and determine any appeals made, in accordance with the constitution and/or regulations of a Club or Centre, to a body that no longer exists (e.g. a centre judicial committee);
  - f. hear and determine any jurisdictional issues regarding Disputes and Misconduct; and
  - g. generally take all steps necessary or desirable to achieve the purposes of this Regulation.
- 6.2 For avoidance of doubt, the Bowls NZ Judicial Committee does not have jurisdiction to hear and determine allegations of Match Fixing, which shall be dealt with in accordance with the Bowls NZ Anti-Match Fixing Regulation.

## 7. ADMINISTRATION OF THE BOWLS NZ JUDICIAL COMMITTEE

- 7.1 **Chair:** The Bowls NZ Board must appoint one of the Judicial Members as the regular Chair of the Bowls NZ Judicial Committee.
- 7.2 **Deputy Chair:** The Bowls NZ Board may appoint one or more of the Judicial Members as a Deputy Chair of the Bowls NZ Judicial Committee.
- 7.3 **Panels:** The Chair, or in his/her absence, a Deputy Chair, shall appoint a panel to hear and determine each matter to be dealt with by the Bowls NZ Judicial Committee. A panel will normally comprise three members (of which one must be the Chair, or in his/her absence the Deputy Chair, and one must have legal experience) but, at the discretion of the Chair, or a Deputy Chair, may comprise more or fewer than three members.

## 8. PROCEDURE OF THE BOWLS NZ JUDICIAL COMMITTEE

- 8.1 **Application:** An application under this Part A shall be commenced by a person alleging the Dispute or Misconduct (under clause 6.1b, clause 6.1c or clause 6.1d) or jurisdictional issue (under clause **Error! Reference source not found.**) filing the prescribed form (Form 1). The person alleging the Dispute, Misconduct or jurisdictional issue will also, when filing Form 1, pay the filing fee of \$100.00. Any appeal under clause 6.1e shall be commenced in accordance with clause 13 (Grounds of Appeal to a Regional Judicial Committee) and clause 14 (Process for Regional Judicial Committee Appeals) but that all references to the Regional Judicial Committee shall mean the Bowls NZ Judicial Committee.
- 8.2 **Pre-Hearing Conference:** As soon as practicable after the filing of the application, the Bowls NZ Judicial Committee will (if necessary) convene a pre-hearing conference (usually by telephone) at which all necessary directions will be given to bring the matter to a prompt hearing. Those directions will include:
- a. directions as to the statements of position to be filed by the parties and the sequence and timing of such statements;

- b. the filing of statements of issues and the relief or directions sought;
- c. the manner in which evidence (if any) and documents are to be brought before the Bowls NZ Judicial Committee;
- d. the date and place of any hearing; and
- e. such other directions as may be necessary to bring the matter to an expeditious hearing.

8.3 **Determination:** The Bowls NZ Judicial Committee will determine any Proceeding before it, either with or without a hearing, but in accordance with the principles of natural justice. It will issue its decision as soon as reasonably practicable and may in its discretion award costs to one or more parties and/or impose any of the orders set out in clause 20.15 (Orders).

## 9. APPEALS

- 9.1 A decision of the Bowls NZ Judicial Committee shall be final and binding and shall not be questioned in any Court of law otherwise than in accordance with clause 9.2.
- 9.2 A party to a decision of the Bowls NZ Judicial Committee under clauses 6.1b and 6.1c may appeal such decision to the Sports Tribunal in accordance with the Rules of the Sports Tribunal, provided the rules of the particular event do not require otherwise. There is no right of appeal from a decision of the Bowls NZ Judicial Committee under clauses 6.1d, 6.1e and 6.1f.

## PART B – REGIONAL JUDICIAL COMMITTEES

### 10. JUDICIAL MEMBERS

- 10.1 There shall be three Regional Judicial Committees, one for each Region.
- 10.2 For each Regional Judicial Committee the Bowls NZ Board shall appoint a pool of at least four people who shall be from the Region of the particular Regional Judicial Committee and who may be members of the Regional Judicial Committee(s) when required by Bowls NZ. At least one of these people must have legal experience and the others should, if possible, have one or more of the following competencies:
  - a. a practising or retired barrister or solicitor of the High Court of New Zealand;
  - b. a retired judicial officer who has held office in a New Zealand court or statutory tribunal;
  - c. experience as a member of a disciplinary tribunal, preferably in relation to bowls; and/or
  - d. extensive knowledge of the Game of Bowls.

### 11. FUNCTIONS OF THE REGIONAL JUDICIAL COMMITTEES

- 11.1 The functions of the Regional Judicial Committees are to:
  - a. do all things necessary to comply with and implement this Regulation;
  - b. hear and determine appeals against a Club or Centre Decision, provided that:
    - (i) the constitution, rules, or regulations of the Club or Centre provide for an appeal to a Judicial Committee; and
    - (ii) the appellant has first exhausted all avenues of appeal available under the constitution of the Club or Centre, as the case may be; and
  - c. generally take all steps necessary or desirable to achieve the purposes of this Regulation.

## 12. ADMINISTRATION OF THE REGIONAL JUDICIAL COMMITTEES

- 12.1 **Panels:** The Bowls NZ Board shall appoint each Regional Judicial Committee, from the pool of people set out in clause 10.2, to hear and determine each matter to be dealt with by Regional Judicial Committees. A Regional Judicial Committee will normally comprise three members (of which one must have legal experience) of the same Region, but at the discretion of the Bowls NZ Board, may comprise more or fewer than three members and/or members of a different Region (particularly if the Bowls NZ Board considers there may be an issue of bias and/or conflicts of interest).
- 12.2 **Chair:** As soon as practicable after the Bowls NZ Board has appointed any Regional Judicial Committee, a Chair and Deputy Chair of that Regional Judicial Committee shall be appointed by that Regional Judicial Committee from amongst its number.

## 13. GROUNDS OF APPEAL TO A REGIONAL JUDICIAL COMMITTEE

- 13.1 The grounds for an appeal to a Regional Judicial Committee shall be those set out in the constitution, rules, or regulations of the applicable Club or Centre. In the absence of any such grounds, the grounds shall only be one or more of the following grounds:
- a. natural justice was denied;
  - b. the decision-maker or decision-making body acted outside of its powers and/or jurisdiction (i.e. acted ultra vires);
  - c. substantial new evidence became available after the decision, which is being appealed, was made; and/or
  - d. in the case of a decision relating to Misconduct, the penalty was either excessive or inappropriate.

## 14. PROCESS FOR REGIONAL JUDICIAL COMMITTEE APPEALS

- 14.1 **Notice of Appeal:** A person wishing to appeal a Club or Centre Decision (“the Appellant”) shall complete and file with Bowls NZ, a notice of appeal (Form 2) and pay an appeal fee of \$100.00 as determined by the Bowls NZ Board. Such notice of appeal shall be filed with the Registrar within the time limit set out in the applicable constitution, rules or regulations of the Club or Centre. In the absence of such time limits, within 28 Working Days of the Appellant being notified of the decision against which the appeal is made. A copy of the notice of appeal must also be served on the Club or Centre that made the decision appealed against (as the case may be) (“Respondent”) and the Appellant must provide the Registrar with confirmation of service.
- 14.2 **Appeal Brief:** Within 10 Working Days of filing the notice of appeal, the Appellant must file and serve on the Respondent, an appeal brief in the prescribed form (Form 3).
- 14.3 **Statement of Defence:** Within 14 Working Days of receiving the appeal brief, the Respondent shall file with the Registrar and serve on the Appellant, a statement of defence in the prescribed form (Form 4). If the Respondent fails to file such statement of defence within the prescribed time, or such extended time as given by the applicable Regional Judicial Committee, the Regional Judicial Committee may proceed with the appeal and issue its decision.
- 14.4 **Appeal Hearing:** Subject to the rules of natural justice, a hearing will be held as soon as practicable after the parties have filed the appropriate documents as provided for in this Regulation. The Regional Judicial Committee shall determine the procedure of the hearing. In appropriate cases and by agreement of the parties and the Regional Judicial Committee, the appeal may be determined by the Regional Judicial Committee by reference only to the documents filed, without hearing from the parties or others in person.
- 14.5 **Evidence:** A Regional Judicial Committee has discretion to admit new evidence and may re hear the matter de novo on which the appeal is based. Unless directed otherwise, the parties will be required to place before the Regional Judicial Committee, the transcript (if available) of the hearing at which the decision appealed from was made, copies of any witness statements produced to that hearing, and all other relevant documents which were before the body which made the decision appealed from.

14.6 **Onus:** The onus of proof shall be upon the Appellant.

14.7 **Decision:** The decision of a Regional Judicial Committee shall be consistent with the applicable constitution, rules or regulations of the Club or Centre, if the latter are applicable. Unless such constitution, rules or regulations expressly or implicitly provide otherwise, a Regional Judicial Committee may make any decision that the Club or Centre appealed from was capable of making on the original application or may, if it considers it necessary, refer the matter back to that Club or Centre for further consideration, with such directions (if any) which the Regional Judicial Committee determines to give. If the appeal is allowed, the Regional Judicial Committee, in addition to making any decision in this clause 14.7, may make such orders it considers appropriate to give effect to its decision, including imposing any of the orders set out in clause 20.15 (Orders).

14.8 **Recommendation to Bowls NZ:** A Regional Judicial Committee, whether or not it allows or dismisses an appeal, may recommend to Bowls NZ that changes be made to any applicable rule, policy or procedure of the relevant Club or Centre.

## 15. NO FURTHER RIGHT OF APPEAL

15.1 There shall be no right of appeal from a decision of a Regional Judicial Committee. All such decisions shall be final and binding and shall not be questioned in any Court of law except where Bowls NZ and the parties expressly agree to do so in writing.

## PART C - GENERAL

## 16. OTHER RIGHTS

16.1 Nothing in this Regulation:

- a. Waives or limits the right of the Bowls NZ Board under Rule 16 (Resignation, Suspension and Termination of Membership) of the Constitution.
- b. Waives or limits any rights that Bowls NZ has under any agreements it has with Members, players, Officials and other personnel appointed by Bowls NZ (such as the agreements it enters into with members of Bowls NZ teams).
- c. Waives or varies any entitlements at law or under any employment agreement or contract for Bowls NZ to investigate, suspend and/or terminate an employee's employment or contractor's role where an issue involves a Bowls NZ employee or contractor.
- d. Waives or limits the rights of Clubs and Centres to determine their own judicial processes provided such processes comply with and are not inconsistent with the Constitution and/or this Regulation.

## 17. REGISTRIES & REGISTRAR

17.1 **Registry:** The registry (office) of the Judicial Committees described in this Regulation shall be at the location specified below, or at such other place(s) as determined by the CEO.

<b>Bowls NZ</b>	PO Box 62 502, Greenlane, Auckland 1546
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17.2 **Registrar:** There shall be a Registrar who is available to assist all Judicial Committees described in this Regulation. The Registrar shall be the CEO or other employee of Bowls NZ as determined by the CEO. The functions of the Registrar include:

- a. Providing information regarding procedure to any person seeking to bring Proceedings under this Regulation.
- b. Coordinating the management of all Proceedings before the Judicial Committees.
- c. Undertaking such other functions as may be determined by the Bowls NZ Board.

## 18. JUDICIAL MEMBERS

18.1 **Ineligibility:** No person who holds any of the following positions may be a member of a Judicial Committee governed by this Regulation, unless otherwise agreed by the Bowls NZ Board:

- a. Bowls NZ Board Member;
- b. Centre Board Member;
- c. Club Board Member;
- d. employee of Bowls NZ, a Centre or a Club; and/or
- e. person who has an interest in a matter being heard by a Judicial Committee.

18.2 **Term of Office:** Except as provided in clause 18.3 (Termination of Position), a Judicial Member shall hold office for the term specified by the Bowls NZ Board, which may not exceed five years. A Judicial Member may hold that office concurrently with any other bowls office, subject to clause 18.1 (Ineligibility), and may be reappointed for successive terms of office by the Bowls NZ Board.

18.3 **Termination of Position:**

- a. A Judicial Member may, at any time, resign his or her office by giving notice in writing to the CEO.
- b. A Judicial Member is taken to have vacated his or her office if he or she dies, is adjudged bankrupt under the Insolvency Act 2006, or is convicted of any offence punishable by a term of imprisonment of two or more years (whether or not a term of imprisonment is imposed) unless he or she has obtained a pardon.
- c. A Judicial Member may, at any time, be removed from office by the Bowls NZ Board for inability to perform the duties of office, neglect of duty, or misconduct proved to the satisfaction of the Bowls NZ Board.
- d. The powers of the applicable Judicial Committee are not affected by any vacancy in its membership.

18.4 **Expenses and Remuneration:** Bowls NZ may:

- a. pay for, or reimburse Judicial Members for, reasonable travelling and other expenses incurred in the course of performance of duties as a Judicial Member, provided that where remuneration occurs, the expenses have been approved in advance by the Bowls NZ Board; and
- b. in its discretion remunerate a Judicial Member for services provided.

18.5 **No Personal Liability:** No Judicial Member will be personally liable for any act done or omitted to be done by a Judicial Committee or any Judicial Member in good faith in pursuance or intended pursuance of the functions, duties, powers, or authorities as specified in this Regulation.

## 19. SERVICE

19.1 Every document which is filed with a Judicial Committee shall also be served on all other parties in the Proceeding (including Interested Parties) at the address for service notified by that party in its documents in the Proceedings. If an Interested Party has not notified such an address, service shall be at the last known address of that party.

19.2 Documents to be filed with the Judicial Committee, or served on another party, shall be sent by post, courier, email, facsimile or delivered in person.



- 19.3 Where a document is served on a party or person under this Regulation, the document shall be deemed to have been served as follows:
- a. If delivered in person between the hours of 9.00am and 5.00pm, then on that day, and if such delivery is outside of these hours, then on the next Working Day.
  - b. If posted, then on the earlier of:
    - (i) the fifth Working Day after the day on which it was posted; or
    - (ii) the day on which it was received.
  - c. If transmitted by facsimile number or by email, then on the day on which it was transmitted, unless such transmission commenced after 5.00pm, in which case it shall be the next Working Day.

## 20. PROCEDURE

- 20.1 **Procedure:** Except as provided for in the Constitution or this Regulation, the Judicial Committees may determine their own practices and procedures for performing the functions specified in this Regulation, and may prescribe or approve forms for the purposes of any Proceeding.
- 20.2 **Preliminary Matters:** Preliminary matters may be heard and determined by a Judicial Committee as it thinks fit.
- 20.3 **Interested Party:** A Judicial Committee may, either on its own motion or on the application of a person whom the Judicial Committee determines has sufficient interest in the matter, add a further person or persons as parties to a Proceeding, or allow a person or persons to make submissions or provide evidence in any Proceeding. If this occurs, that person(s) will be bound by these Regulations as if that person(s) was a party to the Proceeding.
- 20.4 **Power to Inquire and Direct:** Judicial Committees shall have the power to inquire into the subject-matter of any Proceeding in accordance with this Regulation. For the purposes of any inquiry, the Judicial Committee, or any person authorised in writing by it may:
- a. inspect and examine any papers, documents, records or items;
  - b. require any party or person bound by this Regulation, and request any other person, to produce for examination any papers, documents, records or things in that person's possession or under that person's control and to allow copies of or extracts from any such papers, documents or records to be made;
  - c. require any party or person bound by this Regulation, and request any other person, to furnish, in a form approved by or acceptable to it, any information or particulars that may be required by it, and any copies of or extracts from any such papers, documents or records;
  - d. in respect of any Proceeding, hear evidence either of its own motion or upon application by any party, whether or not such evidence is new to the dispute; and
  - e. make such inferences and draw such conclusions as it considers appropriate from the failure by any person or party to comply with any requirement made by a Judicial Committee under this clause 20.4.
- 20.5 **Proof of Facts:** Facts related to any Proceeding may be established by any reliable means, including admissions.
- 20.6 **Natural Justice:** A Judicial Committee shall, in all matters, observe the principles of natural justice.

## 20.7 Time Rules:

- a. Where this Regulation fixes a day within a time period for doing any act or taking any step in a Proceeding, then such act or step shall be taken by 5.00pm (New Zealand time) on that day, unless determined otherwise by the Judicial Committee before or after the time stipulated.
- b. The Chair or a Deputy Chair, in the discretion of that person, may extend or, in urgent situations, abridge, the time period for doing any act or taking any Proceeding or any step in the Proceeding, on such terms (if any) as that person thinks just. This discretion may be exercised even if the application for an extension is made after the expiration of the time appointed or fixed.
- c. The power to extend or abridge time limits shall not allow the Chair or Deputy Chair to alter a time period specified in the constitution or rules of a Club or Centre, unless there is a provision in the constitution or rules permitting the Judicial Committee to grant such amendment or unless the parties agree to such an extension or abridgment.

20.8 **Filing Fees:** The Bowls NZ Board have set a filing fee of \$100.00 for Proceedings, and a Judicial Committee may, in its discretion, waive all or part of any fee if it considers it appropriate to do so.

20.9 **Evidence in Proceedings:** Judicial Committee(s) may:

- a. Receive as evidence any statement, document, information, or matter that may, in its opinion, assist it to deal effectively with the matters before it, whether or not the same would be admissible in a court of law.
- b. Permit a person appearing as a witness before it to give evidence by tendering a written statement.

20.10 **Representation:** The parties, including any Interested Party, may be represented or assisted in the Proceeding by a person of their choice. The name, address, email address, telephone and facsimile numbers of the person representing a party shall be communicated to the Registrar in advance of any hearing in which the representative is to act for the party.

20.11 **Minors:** A person who has not attained the age of 18 years, (referred to in this Regulation as a "Minor") may be a party to, and shall be bound by a Proceeding before a Judicial Committee as if the Minor were a person of full age and capacity. Where a Minor is a party to any Proceeding, the Judicial Committee may, if the Minor agrees and it considers it would be in the interests of the Minor to do so, at any time appoint a person to represent the Minor. The Minor shall be responsible for any costs incurred as a result of such representation.

20.12 **Privacy:** A Proceeding brought under this Regulation shall usually be private and confidential, but the applicable Judicial Committee shall have an absolute discretion to hold a hearing in public if it considers there are exceptional circumstances which warrant it doing so, or, if the parties so agree. Unless a Judicial Committee directs otherwise, a decision in such a Proceeding will be published.

20.13 **Applicable Law:** All Proceedings shall be determined according to the laws of New Zealand.

20.14 **Decisions:**

- a. A decision of a Judicial Committee in any Proceeding shall be made by majority decision of the Judicial Members hearing the Proceeding.
- b. In the event there is no majority decision of the Judicial Members hearing the Proceeding, the Chairperson shall decide the matter.
- c. A Judicial Committee may, in its discretion, give an oral decision, but shall also issue a written decision with reasons as soon as expedient.
- d. A Judicial Committee may also make non-binding recommendations to Bowls NZ, a Centre, a Club, or any other party of any Proceeding.

- e. Any decision of a Judicial Committee made under this Regulation shall be enforceable, by any party to the Proceeding in which the order is made, in the courts of New Zealand under the law of contract.

20.15 **Orders:** A Judicial Committee may make such orders as it considers appropriate to give effect to its decision, including imposing any of the following sanctions:

- a. a reprimand or warning;
- b. suspension or termination from such activities of the Club, Centre, and/or Bowls NZ including events, competitions, tournaments, meetings, and functions, on such terms and for such period as it thinks fit;
- c. suspension or termination of the person's membership of a Club, Centre and/or Bowls NZ;
- d. fines, imposed in such manner and in such amount as the Judicial Committee thinks fit;
- e. such other penalty as the Judicial Committee considers commensurate with the offence; and/or
- f. such combination of any of the above penalties as the Judicial Committee thinks fit.

20.16 **Costs:** A Judicial Committee may order any party to a Proceeding to pay to any other party and/or to the applicable Judicial Committee such costs and expenses (including filing fees) as the Judicial Committee thinks fit. Unless the Judicial Committee directs otherwise, any costs awarded shall be paid within 21 Working Days of the Judicial Committee's decision as to costs. The party in whose favour the costs have been ordered, or Bowls NZ (as the case may be) may enforce payment of the costs as a contractual debt in the District Court.

20.17 **General:** Where any matter is not otherwise provided for in this Regulation, the applicable Judicial Committee shall have jurisdiction to make such orders or give such directions as it considers to be consistent with the just, speedy, and inexpensive determination of the Proceeding.

20.18 **Mediation:**

- a. Any Judicial Committee may, if requested by the parties, or on its own volition, order that the substantive issue in a Proceeding, or any sub-issue, be mediated, either before a Judicial Member, or a suitably qualified independent mediator. If a Judicial Member is the mediator, that person may not sit on the panel which hears the substantive matter, unless all parties otherwise agree.
- b. A Judicial Committee may order that the parties, or any one of them, meet the cost of an independent mediator if the mediation proceeds with an independent mediator.

20.19 **Correction of Accidental Slip or Omission:** If any decision of a Judicial Committee contains a clerical mistake or an error arising from any accidental slip or omission, the decision may be corrected by the Judicial Committee.

20.20 **Rehearing:** A Judicial Committee may order a rehearing if, in its opinion, there has been a miscarriage of justice that justifies a rehearing.

20.21 **Stay of Execution:** Pending the determination of an appeal before it, a Judicial Committee, may grant a stay of execution of the decision which is being appealed.

## 21. MEDIA

21.1 The Registrar shall not allow media to be present at any hearing unless the applicable Judicial Committee decides, following receipt of an application from a party to that hearing, that representatives of the media should be permitted to attend. Any party requesting that media be permitted to attend a hearing must demonstrate there is sufficient public interest and justification to allow the media to attend. A Judicial Committee may make conditions upon media attendance at a hearing as it considers appropriate.

## 22. TRANSITION

- 22.1 Each Club and Centre shall, as soon as reasonably practicable, and by no later than 31 December 2014, or any other date agreed in writing with the Bowls NZ Board, adopt a new, or amend its existing, constitution to ensure it is consistent with the minimum judicial requirements as set out in **Schedule 1** (Minimum Judicial Requirements for Club Constitutions) and **Schedule 2** (Minimum Judicial Requirements for Centre Constitutions). If any Club or Centre fails to comply with this clause by 31 December 2014, or any other date agreed in writing with the Bowls NZ Board, unless otherwise determined by the Bowls NZ Board, its membership of Bowls NZ may be suspended or terminated by the Bowls NZ Board in accordance with the Constitution. During the Transition Period until a new or amended constitution is adopted, in compliance with this clause, and registered by the Registrar of Incorporated Societies, each Club and Centre shall adhere with the rules of their existing constitution.

## Schedule 1

### Minimum Judicial Requirements for Club Constitutions

The following minimum requirements must be satisfactorily included in the constitutions of each Club:

1. **Jurisdiction of the Club Board:** The constitutions of each Club must state that, subject to the jurisdiction of the Bowls NZ Judicial Committee, the Club Board (including any sub-committee of the Club) has jurisdiction to hear and determine Disputes and Misconduct at Club Level.
2. **Composition of Club Judicial Committee:** The constitution for each Club must provide for the establishment of a judicial committee to assist the Club Board to hear and determine Disputes and Misconduct at Club Level. Such judicial committee must comprise not less than three persons appointed by the Club Board. Each member of the club judicial committee shall not be an employee of the Club or a person who has an interest in the matter before the club judicial committee. At least one of the members must have legal experience, and the others should, if possible, have one or more of the following competencies:
  - a. a person with significant experience in disciplinary tribunals, preferably in relation to bowls; and/or
  - b. a person with extensive knowledge of the Game of Bowls.
3. **Jurisdiction of the Bowls NZ Judicial Committee:** Each Club constitution must acknowledge the role and jurisdiction of the Bowls NZ Judicial Committee as specified in Rule 24 of the Bowls NZ Constitution.
4. **Procedure:** The constitutions of each Club must specify that the Club Board (or other committee) shall act in accordance with the principles of natural justice.
5. **Appeals:** The appeal rights in each Club constitution must be consistent with the appeal rights in the Bowls NZ Constitution and this Regulation so that:
  - a. where there is a Dispute or Misconduct at Club Level which is determined by the Club Board (or committee on its behalf), any party affected by that decision may only appeal such decision to a Regional Judicial Committee in accordance with the Bowls NZ Regulations; and
  - b. where there is a Dispute or Misconduct which is determined by the Bowls NZ Judicial Committee, any party affected by that decision may only appeal such decision to the Sports Tribunal in accordance with the Rules of the Sports Tribunal provided such an appeal is permitted by the rules of the particular event.
  - c. there is no right of appeal from a decision of the Bowls NZ Judicial Committee under Rules 24.4c,d and e of the Bowls NZ Constitution; and
  - d. there is only one right of appeal from a decision of the Bowls NZ Judicial Committee under Rules 24.1 and b of the Bowls NZ Constitution to the Sports Tribunal.
6. **Definitions:** Each Club constitution must include the following definition of “*Club Level*” “*means, subject to the jurisdiction of the Bowls NZ Judicial Committee, during or in connection with, a Game(s) of Bowls held by the Club, or which involves Members whether or not connected to a Game(s) of Bowls.*” In addition, each Club constitution must also include the following definitions “*Bowls NZ Judicial Committee*”, “*Dispute*”, “*International Level*”, “*Misconduct*”, “*National Event*” and “*Regional Judicial Committee*” as specified in Rule 2 of the Bowls NZ Constitution.

## Schedule 2

### Minimum Judicial Requirements for Centre Constitutions

The following minimum requirements must be satisfactorily included in the constitutions of each Centre:

1. **Jurisdiction of the Centre Board:** The constitutions of each Centre must state that, subject to the jurisdiction of the Bowls NZ Judicial Committee, the Centre Board (including any sub-committee of the Centre) has jurisdiction to hear and determine Disputes and Misconduct at Centre Level.
2. **Composition of Centre Judicial Committee:** The constitution for each Centre must provide for the establishment of a judicial committee to assist the Centre Board to hear and determine Disputes and Misconduct at Centre Level. Such judicial committee must comprise not less than three persons appointed by the Centre Board. Each member of the centre judicial committee shall not be an employee of the Centre or a person who has an interest in the matter before the centre judicial committee. At least one of the members must have legal experience, and the others should, if possible, have one or more of the following competencies:
  - a. a person with significant experience in disciplinary tribunals, preferably in relation to bowls; and/or
  - b. a person with extensive knowledge of the Game of Bowls.
3. **Jurisdiction of the Bowls NZ Judicial Committee:** Each Centre constitution must acknowledge the role and jurisdiction of the Bowls NZ Judicial Committee as specified in Rule 24 of the Bowls NZ Constitution.
4. **Procedure:** The constitutions of each Centre must specify that the Centre Board (or other committee) shall act in accordance with the principles of natural justice.
5. **Appeals:** The appeal rights in each Centre constitution must be consistent with the appeal rights in the Bowls NZ Constitution and this Regulation so that:
  - a. where there is a Dispute or Misconduct at Centre Level which is determined by the Centre Board (or committee on its behalf), any party affected by that decision may only appeal such decision to a Regional Judicial Committee in accordance with the Bowls NZ Regulations; and
  - b. where there is a Dispute or Misconduct which is determined by the Bowls NZ Judicial Committee, any party affected by that decision may only appeal such decision to the Sports Tribunal in accordance with the Rules of the Sports Tribunal provided such an appeal is permitted by the rules of the particular event.
  - c. there is no right of appeal from a decision of the Bowls NZ Judicial Committee under Rules 24.4c,d and e of the Bowls NZ Constitution; and
  - d. there is only one right of appeal from a decision of the Bowls NZ Judicial Committee under Rules 24.1 and b of the Bowls NZ Constitution to the Sports Tribunal.
6. **Definitions:** Each Centre constitution must include the following definition of “*Centre Level*” “*means during or in connection with, a Game(s) of Bowls held by the Centre which is not part of a National Event, or which involves Members whether or not connected to a Game(s) of Bowls, other than at a National Event or at Club Level or International Level*” In addition, each Centre constitution must also include the following definitions “*Bowls NZ Judicial Committee*”, “*Dispute*”, “*International Level*”, “*Misconduct*”, “*National Event*” and “*Regional Judicial Committee*” as specified in Rule 2 of the Bowls NZ Constitution.

## Appendices of Forms

Reference	Explanation
Form 1	Application for Proceedings to be Heard by Bowls NZ Judicial Committee
Form 2	Notice of Appeal Against a Club or Centre Decision
Form 3	Appeal Brief
Form 4	Statement of Defence to Appeal Against a Club or Centre Decision

**APPLICATION FOR PROCEEDINGS  
TO BE HEARD BY THE BOWLS NZ JUDICIAL COMMITTEE**

**1. Details of Applicant**

Name	TITLE	FIRST NAME	SURNAME
Postal Address	STREET		SUBURB
	CITY	POSTCODE	

Contact Person for this Application

Name	TITLE	FIRST NAME	SURNAME
Position			
Telephone	WORK	MOBILE	
	WORK		
Facsimile	WORK		
Email			

**2. Details of Representative** (if applicable)

Please insert the details of your legal representative or other person, if any, who will be representing you in these Proceedings.

Name of Representative	TITLE	FIRST NAME	SURNAME
Firm/Company			
Postal Address	STREET		SUBURB
	CITY	POSTCODE	



**3. Alleged Dispute, Misconduct or Jurisdictional Issue**

(a) Give details of the alleged Dispute or Misconduct or jurisdictional issue.

[Redacted area for part (a)]

(b) Give details of the National Event, International event or other place at which the alleged Dispute, Misconduct occurred.

[Redacted area for part (b)]

(c) Summarise the evidence which will be produced in support of the alleged Dispute, Misconduct or jurisdictional issue (the summary will not prevent further evidence being brought in accordance with any direction given by the Bowls NZ Judicial Committee).

[Redacted area for part (c)]

**4. Result Sought**

Please supply the outcome sought in accordance with the applicable rules/policies.

[Redacted area for part 4]

## 5. Authority

Name	TITLE	FIRST NAME	SURNAME
Signed			
Position			
Date			

### Filing and Service Instructions

1. This application should be signed and filed with the Registrar at the address given below.
2. The application should be accompanied by the prescribed filing fee of \$100.00 together with a copy of the applicable rules or policies which give the Applicant the basis for bringing the allegations.
3. Where possible, a summary of the evidence to be brought in support of the allegations and a copy of documents evidencing the allegation should be attached.
4. The Applicant is to serve (by email, post, courier, facsimile or personally) a copy of this application and attachments on the Respondent as soon as practical after the original has been filed with the Registrar and provide confirmation of this to the Registrar.

The Registrar  
Bowls NZ  
PO Box 62502  
Greenlane  
Auckland

Phone: 09 579 5853  
Fax: 09 579 6935  
Email: [info@bowlsnz.co.nz](mailto:info@bowlsnz.co.nz)

**NOTICE OF APPEAL  
AGAINST A CLUB OR CENTRE DECISION**

**1. Details of the Person/Organisation Appealing** (“the Appellant”)

Name		
Postal Address	STREET	SUBURB
	CITY	POSTCODE

Contact Person (if Organisation)

Name	TITLE	FIRST NAME	SURNAME
Position			
Telephone	WORK	MOBILE	
Facsimile	WORK		
Email			

**2. Details of Respondent** (Club or Centre)

Name		
Postal Address	STREET	SUBURB
	CITY	POSTCODE

Contact Person

Name	TITLE	FIRST NAME	SURNAME
Position			
Telephone	WORK	MOBILE	
Facsimile	WORK		
Email			

### 3. Details of Representative (if applicable)

Please insert the details of the legal representative or other person, if any, who will be representing the Appellant in these Proceedings.

Name of Representative	TITLE	FIRST NAME	SURNAME
Firm/Company			
Postal Address	STREET	SUBURB	
	CITY	POSTCODE	

### 4. Interested Parties (if applicable)

Are there any other persons or organisations who, or which, may be directly affected by, or who have a sufficiently close interest in, the outcome of these Proceedings? If so please insert their contact details. Continue on separate page if necessary.

Name	TITLE	FIRST NAME	SURNAME
Firm/Company/Club/Centre			
Postal Address	STREET	SUBURB	
	CITY	POSTCODE	
Telephone	WORK	MOBILE	
Facsimile	WORK		
Email			

Reason person(s) / organisation(s) may be affected or have a sufficiently close interest in outcome:


**5. Jurisdiction**

Specify the basis on which the Appellant has a right of appeal (i.e. give details of the constitution, rules, or regulations of the Club or Centre which gives a right of appeal to the Regional Judicial Committee).

[Redacted area for section 5]

**6. Steps Taken**

Specify the steps taken by the Appellant to date, in terms of any other avenues of appeal already taken under the constitution, rules or regulations of the Club or the Centre, as the case may be.

[Redacted area for section 6]

**7. Decision being Appealed**

Please provide details of the decision which you are appealing against, including which committee or person with the Respondent made the decision, the date it was made, and the nature of the decision (e.g. selection, misconduct).

Please also attach a copy of the decision being appealed.

[Redacted area for section 7]

## 8. Grounds of Appeal

Specify the grounds upon which the appeal is brought. These grounds must either be as set out in the relevant constitution, rules or regulations of the Club or Centre appealed from or if there are no such grounds in such documents, then they must be in accordance with the grounds of appeal as set out in the Bowls NZ Regulation Nine – Judicial. Your submissions on these grounds of appeal are to be included in your appeal brief (**Form 3**).

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## 9. Outcome Sought

Please specify the outcome or relief you are seeking from the appeal.

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Signed

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Date

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## Filing and Service Instructions

1. This application should be signed and filed with the Registrar at the address given below.
2. The application should be accompanied by the prescribed filing fee of \$100.00 together with a copy of the applicable constitution, rules or policies which give the Appellant the basis for bringing the allegations.
4. The Appellant is to serve (by email, post, courier, facsimile or personally) a copy of this application and attachments on the Respondent as soon as practical after the original has been filed with the Registrar and provide confirmation of this to the Registrar.

The Registrar  
Bowls NZ  
PO Box 62502  
Greenlane  
Auckland

Phone: 09 579 5853  
Fax: 09 579 6935  
Email: [info@bowlsnz.co.nz](mailto:info@bowlsnz.co.nz)

## APPEAL BRIEF

### 1. Parties

Name of Appellant

TITLE	FIRST NAME	SURNAME
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Name of Respondent

TITLE	FIRST NAME	SURNAME
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### 2. Appeal

As the Appellant I/we wish to appeal the decision of the Respondent.

Dated

DAY	MONTH	YEAR
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Upon the grounds set out in my/our Notice of Appeal.

The facts supporting those grounds of appeal are as follows:

Please set out your version of events leading up to the decision of the Respondent and surrounding the decision itself. You must also attach to this application, copies of any statement of evidence from your witnesses and any exhibits which you intend to rely upon in this appeal. Continue on separate pages if necessary.


### 3. Grounds of Appeal

By referring to the grounds of appeal specified in your Notice of Appeal, please make submissions on why and how you consider the decision of the Respondent was wrong or incorrect.




#### 4. Outcome

Please specify the outcome or relief you are seeking from the appeal.

[Redacted area for Outcome]

#### 5. Signature of Appellant

An Appellant's representative may sign on behalf of the Appellant and, in so doing, undertakes s/he has the authority to do so.

Signed

[Redacted signature line]

Position

[Redacted position line]

Date

[Redacted date line]

#### Filing and Service Instructions

1. This Appeal Brief should be signed and filed with the Registrar at the address given below within ten working days of the filing of the Notice of Appeal (Form 2).
2. The Appeal Brief should be accompanied by copies of all documents upon which the Appellant relies and which have not already been filed and served, including (where relevant) the briefs of evidence and other material considered at the hearing where the decision appealed from was made.
4. The Appellant is to serve (by email, post, courier, facsimile or personally) a copy of this Appeal Brief and attachments on the Respondent within ten Working Days of the filing of the Notice of Appeal with the Registrar and provide confirmation of this to the Registrar.

The Registrar  
Bowls NZ  
PO Box 62502  
Greenlane  
Auckland

Phone: 09 579 5853  
Fax: 09 579 6935  
Email: info@bowlsnz.co.nz

**STATEMENT OF DEFENCE TO APPEAL  
AGAINST A CLUB OR CENTRE DECISION**

**1. Parties**

Name of Appellant	TITLE	FIRST NAME	SURNAME
Name of Respondent	TITLE	FIRST NAME	SURNAME

**2. Response to Appeal**

In response to the Appeal, the Respondent says that:

- (a) it does /does not (strike out as applicable) consider the Regional Judicial Committee has jurisdiction to hear and determine this appeal, and if it does not, see its reasons specified below;
- (b) its response to each of the grounds of appeal stated in the Notice of Appeal and Appeal Brief are set out below.

**3. Jurisdiction of Regional Judicial Committee**

The Respondent does not accept that the Regional Judicial Committee has jurisdiction to hear and determine this appeal for the following reasons:

(complete this section only if you object to the Regional Judicial Committee jurisdiction)

[This section contains 15 horizontal grey bars for providing reasons for objecting to the jurisdiction of the Regional Judicial Committee.]

#### 4. Response to the Notice of Appeal

Please set out in detail your response to the facts contained in the Notice of Appeal and Appeal Brief. Please note that if you have objected to the Regional Judicial Committee's jurisdiction you will still need to complete this section. This will not be taken as acceptance of such jurisdiction. Continue on separate pages if necessary.

In response to the Appellant, the Respondent says that:



