

Bowls New Zealand
12 Hugo Johnston Drive
Penrose, Auckland 1061

PO Box 62502
Greenlane, Auckland 1546

T. (09) 5795853
W. bowlsnewzealand.co.nz



15 April 2020

GUIDANCE ON ANNUAL GENERAL MEETINGS DURING LOCKDOWN

Dear All

Many of New Zealand's bowling clubs are scheduled to hold their AGM in the coming two or three months.

While the lockdown restrictions presently in force remain, many clubs have been asking us what their options are in relation to their AGM. Following are a series of questions and answers on this subject that have been prepared by Sport New Zealand in conjunction with Simpson Grierson and we hope that they will provide some useful advice to clubs.

1. Can our club hold an AGM during the lockdown period?

Subject to taking advantage of the Government proposals noted under question 3 (below), clubs need to look at the details of their constitution/rules to determine what is permitted in terms of holding an AGM under lockdown circumstances.

Constitutions/rules often expressly provide for board/committee meetings to be held by telephone or electronic means, but do not necessarily do so for AGMs – especially for clubs that have a lot of individual members and/or have members who might only be reasonably expected (when the constitution/rules were drafted) to be able to attend AGMs in person.

Your constitution/rules might expressly permit an AGM to be held by telephone or electronic means, and if this is not expressly excluded then it might be possible to interpret your constitution/rules as permitting an AGM to be held by such means.

If all members would be able to attend an AGM held by such means, and especially if all members do in fact attend, an AGM held by such means – and also if the AGM uses video conferencing technology that is as close as possible to holding a physical AGM - then in practice the proceedings at the AGM would be less likely to be susceptible to challenge.

If, however, your constitution/rules do not permit an AGM to be held by telephone or electronic means or there is uncertainty about this, it may be preferable to defer your AGM, discussed under question 2 (below), or you may need to take advantage of Government proposals noted under question 3 (below).

2. If not, can the club defer its AGM?

If a club cannot hold, or does not want to hold, an AGM by telephone or electronic means, then it may be possible for clubs to defer their AGMs with a view to the lockdown having been lifted by that time. Again, clubs need to look at the details of their constitution/rules to determine what is permitted in terms of the timing of their AGMs, which will often need to be held by a specified date, or within a specified timeframe (e.g., 3, 4 or 6 months) after their balance date.

3. Will any of the Government's COVID-19 proposals help?

Yes - Government proposals announced on 3 April 2020 should help clubs that cannot comply with AGM requirements under their constitutions/rules, as well as statutory deadlines (e.g., annual return filing requirements) faced by clubs.

The proposals deal with both holding electronic meetings, even if your constitution/rules do not permit this, and temporarily relieving organisations from compliance with obligations, such as AGM timing requirements, under their constitutions/rules. In relation to holding electronic meetings, even if the proposals do permit an AGM to be held by such means, your club would still need to consider whether this would be appropriate for your membership, e.g. if any members could not reasonably be expected to be able to participate in such an AGM, it may not be appropriate.

Full details are not yet available, but the following is a summary of the relevant parts of the Government proposals from the Companies Office website (last updated on 6 April 2020):

Extending statutory deadlines

Registrars will have temporary exemption powers to:

- relax the statutory deadlines in some corporate governance legislation (e.g. for holding AGMs, and filing annual returns for example) for companies, limited partnerships, incorporated societies, charitable trusts and other entities;
- relax deadlines for Registrars under various Acts to carry out certain functions, such as processing applications to reserve company names.

Non-compliance with entity constitutions

Temporary relief for entities (including incorporated societies, charitable trusts, unincorporated associations and other entities) that are unable to comply with obligations in their constitutions or rules because of the impacts of COVID-19 are absolved from doing so until such a time when it is reasonably able to perform it. In addition, these entities can use electronic communications (including electronic meetings) even if their constitutions or rules do not allow them to.

Should you require any additional advice or information on this topic, please do not hesitate to contact the writer or Club Communication Manager Martin MacKenzie (details below):

- Email: martin@bowlsnewzealand.co.nz Phone: 021 966 016

With kind regards



Chris Lander - General Manager – Clubs and Community

- Email: chris@bowlsnewzealand.co.nz Phone: 021 109 5965