



# Physical Education New Zealand Te Ao Kori Aotearoa Inc. Constitution - Te Kaupapa Ture

*(Approved at the 16 June 2022 AGM)*

## **ARTICLE 1: Name**

- 1.1 The name of the organisation shall be "Physical Education New Zealand Te Ao Kori Aotearoa Incorporated", hereinafter called "PENZ".
- 1.2 PENZ's registered office shall be at such place as determined by the Board of PENZ.

## **ARTICLE 2: Objects**

- 2.1 The primary object for which PENZ is established is to support and promote quality physical education.
- 2.2 PENZ shall also have the following objectives insofar as they are ancillary or incidental to the charitable objective described at article 2.1:
  - a) To foster an informed and respected professional community.
  - b) To improve collaboration and communication between those who work within physical education.
  - c) To increase awareness of what constitutes quality physical education.
  - d) To facilitate and enable the development of physical education
  - e) To foster and facilitate the circulation and exchange of knowledge on physical education
  - f) To advocate for quality physical education

## **ARTICLE 3: Powers**

- 3.1 PENZ has the power to:
  - a) Make, alter, rescind, enforce by-laws, regulations, policies and procedures for the governance, management and operation of PENZ;
  - b) Approve, withdraw, suspend or terminate membership;
  - c) Purchase, lease, hire or otherwise acquire, hold, manage, maintain, insure, sell, or otherwise deal with property and other rights, privileges and licences;

- d) Control and raise money including borrow, invest, loan or advance monies and secure the payment of such money by way of mortgage or charge over all or part of any of its property and enter into guarantees;
- e) Sell, lease, mortgage, charge or otherwise dispose of any property of PENZ and grant such rights and privileges over such property as it considers appropriate;
- f) Determine, raise and receive money by subscriptions, donations, fees, levies, entry or usage charges, sponsorship, government funding, community funding or otherwise;
- g) Produce, develop, create, licence and otherwise exploit, use and protect the intellectual property of PENZ;
- h) Enter into, manage, and terminate contracts or other arrangements with employees, sponsors, Members and other persons and organisations;
- i) Assign functions to and/or enter into agreements with organisations aligned with assisting PENZ achieve its objectives
- j) Delegate powers of PENZ to any person, Board, committee or sub- committee;
- k) Do any other acts or things which are incidental or conducive to the attainment of the objects of PENZ.

#### **ARTICLE 4: Branches**

- 4.1 With approval of the Board, regional branches may be formed by members residing in a particular region and shall use the name Physical Education New Zealand followed by the name of the branch (for example, Physical Education New Zealand Christchurch Branch).
- 4.2 Each such regional Branch shall elect annually a Chair and a Secretary (who may be the same person) and other officers from among its members. The persons so elected shall constitute the Committee of the Branch, and shall arrange meetings, including an Annual General Meeting of the Branch, and otherwise conduct the business of the Branch.
- 4.3 Branches must adhere to the policies and practices of the PENZ Board.
- 4.4 The PENZ Board has the power to establish and disestablish branches and define their boundaries in any part of New Zealand.
- 4.5 Powers of Branches
 

A Branch may exercise the following powers, rights and discretions and shall be subject to the following duties:

  - a) It may take whatever steps it considers necessary to deal with matters affecting the Branch or the professional conduct of members within its district and may make any recommendations in relation thereto and refer them to the Board of PENZ.
  - b) It shall furnish each year, to the National Office, a copy of the Branch accounts and reports and other such information as the Board may deem of interest to it.
  - c) It has the power to make annual Branch Awards including Life Members of the Branch.
  - d) It may make, control and use books at any library established in the Branch.

- 4.6 Branches shall arrange all local matters, including the financial administration of their own Branch, but strictly in accordance with PENZ policies and procedures and shall have no claim upon the main funds of PENZ without the specific consent of an AGM of PENZ.
- 4.7 Each Branch is responsible for furnishing an Annual Report and Financial Report to the National Office at the end of each financial year. If any Branch fails to furnish an Annual Report and Financial Report for two (2) successive years, the AGM may, at its discretion, take the necessary proceedings to wind up the Branch affairs.
- 4.8 No Branch of PENZ shall join, become affiliated with, or offer contracts for service to, any organisation without first having received the consent in writing of the Board of PENZ.
- 4.9 Meetings
- a) The President of PENZ may attend meetings of such Branch committees and take part in its deliberations.
  - b) The notice requirements and procedure for Branch Annual General Meeting are the same as for Annual General Meetings of PENZ, unless the Board determines otherwise.
  - c) The Board may call General Meetings of Branch members upon giving to the Branch Secretary reasonable notice of its desire to call such a meeting. If the Secretary fails to call such a General Meeting within twenty-one (21) days of any such notice, then the Chief Executive may, by giving notice to all members of the Branch, call such a meeting.
  - d) A majority of the members personally present at a Branch General Meeting convened for the purpose, may resolve that the Branch shall be dissolved as from a date named in the resolution and upon such resolution being confirmed at a subsequent General Meeting called for the purpose not later than thirty (30) days after the date of passing the resolution, the Branch shall be deemed to be dissolved. Upon dissolution the assets of the Branch shall be deemed to be, and shall be, the property of PENZ.
  - e) Should the Board consider that a Branch has been guilty of conduct inconsistent with the aims and objectives of PENZ, or that a Branch has been inactive for at least twelve months, the Board may call upon that Branch to show why it should not be dissolved, and its assets appropriated to the general funds of PENZ. Should no reply to the Board's letter calling upon a Branch to show no just cause why it should not be dissolved be received within thirty (30) days of its dispatch, the Board shall have power to dissolve such Branch forthwith.

#### **ARTICLE 5: Membership**

5.1 PENZ shall consist of the following classes of members:

5.1.1 Ordinary Members

5.1.2 Corporate Members

5.1.3 Honorary Members

5.1.4 Life Members

5.1.5 Reciprocal Members

## **Members**

### 5.1.1 Ordinary Members

Individuals wishing to become Members of PENZ shall contact the National Office, and application for membership will be made on the prescribed form. Individuals shall be admitted to membership when their application has been ratified by the Board and upon payment of the prescribed fees. Individual membership will carry one vote per individual in the affairs of PENZ.

### 5.1.2 Corporate Members

The Board may admit commercial and industrial organisations, educational bodies, local and regional bodies and other community organisations to Corporate membership of PENZ upon payment of the prescribed fees. Corporate membership will carry one vote per corporate group in the affairs of PENZ.

### 5.1.3 Honorary Members

Upon recommendation of the Board and approval at an Annual General Meeting (AGM), PENZ may confer the status of Honorary Member upon an individual or corporate body. Honorary Members shall be an Honorary Member for a period of one year but may be renewed annually at an AGM. Honorary Members shall be entitled to attend all PENZ and/or Branch meetings and shall have speaking rights only.

### 5.1.4 Life Members

The award of Life Member may be conferred by PENZ on Members who have given long and distinguished service in the cause of physical education. The honour is to be given sparingly. In general, it is given only when the service rendered has been nationwide and outstanding in nature. Pre-requisites for the award are to have been a Member for not fewer than twenty-five (25) years (with the exception that an overseas professional physical educator, now a New Zealand resident, who has been a Member of PENZ for not fewer than fifteen (15) years and who meets the prescribed criteria, may be considered for a Life Membership Award). Life Membership will carry one vote in the affairs of PENZ.

### 5.1.5 Reciprocal Members

The Board may admit to any class of membership any of the members of any other physical education organisation, established in any country in the world. Reciprocal Members shall be entitled to attend all PENZ and/or Branch Meetings and shall have speaking rights only.

The terms of any class of membership may be altered by the Members at an AGM.

"Financial Members" are those Members which are either Ordinary Members or Corporate Members.

## **ARTICLE 6: Register of Members**

6.1 A national Register of Members shall be kept by National Office.

## **ARTICLE 7: Cessation of Membership**

- 7.1 A Member (of whatever class) of PENZ shall cease to be a Member on the happening of any one of the following events:
- 7.2 The death of the Member.
- 7.3 Resignation from PENZ by the Member.
- 7.4 The expulsion of the Member by the Board, or by PENZ, at an AGM, acting in pursuance of the powers contained herein, or in pursuance of any by-laws created in pursuance of the powers herein contained.

## **ARTICLE 8: Suspension of Membership**

- 8.1 Any Member who does not pay the prescribed subscription within one month of the date of posting to the Member the second notice of subscription monies owing, shall be automatically suspended and have his/her name removed from the register and other publication mailing lists, until outstanding subscription monies are paid.

## **ARTICLE 9: Resignation of Members**

- 9.1 A Member, upon resignation, must notify the Chief Executive of PENZ in writing, and pay all outstanding subscription monies.

## **ARTICLE 10: Subscriptions**

- 10.1 The subscription for each class of membership shall be fixed at an AGM of PENZ and may be altered at any subsequent AGM.

## **ARTICLE 11: PENZ Board**

### ***Role of the Board***

- 11.1 The responsibility for the governance and management of PENZ shall be vested in the Board which may exercise all the powers of PENZ and do all things which are not expressly required to be undertaken by PENZ at a General or Special Meeting.
- 11.2 The Board may appoint a Chief Executive to manage the organisation.
- 11.3 The Board may delegate powers and functions to the Chief Executive or other persons.

### ***Membership of the Board***

11.4 Members of the Board shall be:

- a) Six persons elected by the AGM under Article 11.5a, including one Māori representative (Elected Board Members);
- b) In addition, the Elected Board Members may co-opt as many Members as required as per Article 11.11 and may Co-opt up to three Non-Members to bring further skills to the Board (Co-opted Board Members).

### ***Election / Appointment of the Board***

11.5 Members of the Board shall be elected or appointed as follows:

- a) The Elected Board Members shall be elected by a majority of Members, entitled to vote at an AGM, following nomination of a Member by at least two Financial Members of PENZ;
- b) Nominations for Elected Board Members shall be in the form approved by the Board. Elections should take place prior to the AGM, with results published at the AGM.
- c) Co-opted Board Members may be appointed at any time by the Board.

### ***President***

11.6 The Board is led by a President.

11.7 The President is appointed by a majority of Elected Board Members, from within their ranks when the vacancy arises.

11.8 The President's term is from appointment to the Board Members Term of Office expiry as per Article 11.9.

### ***Term of Office of Board Members***

11.9 Subject to Article 11.9 the term of office for all Elected Board Members shall be three years, expiring on the conclusion of the third AGM following the Member's appointment. The election of Elected Board Members shall be rotated so that two Board Members are elected in each year to ensure continuity of some Elected Board Members on the Board.

11.10 The term of office for co-opted Board Members shall be the period from their appointment until the conclusion of the first AGM following such appointment. A co-opted Board Member may be reappointed by the Board for further terms of office.

### ***Vacancies on the Board***

11.11 In the event that there is a vacancy on the Board, the remaining Board Members may appoint a person of their choice to fill the vacancy or the Board may leave the vacancy unfilled until the next AGM.

11.12 The term of office for a person appointed as a Board Member to fill a vacancy under Article 11.5c shall expire at the conclusion of the AGM following their appointment. Thereafter the vacancy shall be determined in accordance with this Constitution.

### ***Removal of Board Member***

11.13 A Special General Meeting (SGM) may be called for the purpose of considering the expulsion of a Board Member.

11.14 The Members attending a SGM called for this purpose may, by a vote approved by 75% of those Members attending the SGM and entitled to vote (by Special Resolution), remove any Board Member before the expiration of their term of office.

11.15 Where the removed Board Member in Article 11.13 was a co-opted Board Member, the Board may appoint another person in their place to hold office until the expiration of the term of the Board Member which he or she is replacing. Where that removed Board Member was an Elected Board Member the vacancy shall be filled in accordance with Article 11.11.

11.16 Upon receiving a request from a Member for a SGM for the purpose of removing a Board Member, notice of the request will be sent to the Board Member concerned in addition to the Members.

11.17 Following notification under Article 11.14 and before voting on the resolution to remove a Board Member, the Board Member who is the subject of the proposed resolution shall be given the opportunity prior to and at the SGM to make submissions in writing and/or verbally to the Board and the Members about the proposed resolution.

### ***Board Meetings and Duties of the Board***

11.18 The role of the President is to chair meetings of the Board and to represent the Board. In the event of the unavailability of the President for any reason, then the Board may elect another Board Member to undertake the President's role during the period of unavailability.

11.19 The duty of each Board Member is to pursue the objects of PENZ and to exercise the powers of PENZ for fulfilment of the objects and in so doing a Board Member must:

- a) Regularly attend Board meetings and AGM and SGM of PENZ;
- b) Provide good governance for PENZ;
- c) Regularly monitor and review the performance of PENZ;
- d) Act in the best interests of PENZ at all times;
- e) Formulate such by-laws, regulations, policies and procedures as are appropriate for PENZ;
- f) Do such other things within these rules as the Board agrees to promote the objects of PENZ.

11.20 Board meetings may be called at any time by the President, upon providing reasonable written notice, but generally the Board shall meet at regular intervals agreed by the Board.

11.21 Except to the extent specified in this Constitution the Board shall regulate its own procedure.

- 11.22 The quorum for a Board meeting shall be two thirds of the Elected Board Members. No business can be transacted unless the quorum is present.
- 11.23 Each Board Member shall have one vote. In the event of a deadlock, the President shall have an additional casting vote. Voting shall be by voices or upon request of any Board Member by a show of hands or by a ballot. Proxy and postal voting is not permitted. A resolution of the Board is passed if a majority of the votes cast on it are in favour of it.
- 11.24 A resolution in writing signed or consented to by e-mail, facsimile or other forms of visible or other electronic communication by a majority of the Board shall be valid as if it had been passed at a meeting of the Board. Any such resolution may consist of several documents in the same form each signed by one or more of the Board.
- 11.25 Any Board Member may participate in any meeting of the Board and vote on any proposed resolution at a meeting of the Board without being physically present. This may only occur at meetings by telephone, through video conferencing, facilities or by other means of electronic communication provided that prior notice of the meeting is given to all Board Members and all persons participating in the meeting are able to hear each other effectively and simultaneously. Participation by a Board Member in this manner at a meeting shall constitute the presence of that Board Member at that meeting.
- 11.26 The Board may, by majority vote, reimburse its Board Members for their actual and reasonable expenses incurred in the conduct of PENZ's business. Prior to doing so the Board must establish a policy to be applied to any question of reimbursement.
- 11.27 If any situation arises which, in the opinion of the Board, is not provided for in the Constitution, regulations, by-laws or policies of PENZ, the matter will be determined by the Board.

## **ARTICLE 12: Officers**

- 12.1 The only Officer of PENZ (apart from Board Members) shall be the Patron who shall be elected at the AGM according to the election rules in Article 11.5 and shall hold the position for a term of 1 year.
- 12.2 The Patron of PENZ may or may not be a current member of PENZ.

## **ARTICLE 13: Election Rules**

- 13.1 Nominations for the Officers of PENZ shall be tabled at the AGM of PENZ having met all requirements of the Standing Orders in the By-laws. Any two Financial Members of PENZ may nominate any member, or for the position of Patron, any person, provided that the nominee is either present at the AGM and accepts nomination, or has indicated in writing his or her willingness to accept nomination.
- 13.2 Members unable to attend the AGM may make nominations in writing provided that these are received by National Office prior to the commencement of the AGM (Article 13.1 will apply).



- 13.3 In the event of there being only one (1) nomination received for the position of Patron, the President of the meeting shall declare the person so nominated elected.
- 13.4 In the event of there being more than one (1) nomination for any position, a ballot shall be held.
- 13.5 Where a ballot is required the President shall appoint two scrutineers, who shall not be nominees or nominators of the candidate, to count the votes, and the President of the meeting shall declare the results of the ballot forthwith.
- 13.6 a) In the event of any dispute arising as to a nomination, elections or the declaration of a ballot, the AGM shall refer the dispute for decision by the Registrar of Incorporated Societies and their decision shall be final.
- b) In the event of a dispute the previous office bearer shall remain in office until the determination of the dispute.

#### **ARTICLE 14: Meetings**

- 14.1 PENZ must hold an AGM once every year at such time, date (electronically and/or a physical location) as the Board determines but not more than 15 months after the last AGM.
- 14.2 The Board must give at least 30 days' notice in writing to members of AGMs. The notice can be given by such methods as the Board may determine.
- 14.3 Full minutes shall be kept of all AGMs and made available upon request by Members.
- 14.4 Any irregularity, error or omission in notices, agendas and relevant papers of AGMs or the omission to give notice within the required time frame or the omission to give notice to all members and any other error in the organisation of the meeting shall not invalidate the meeting nor prevent the meeting from considering the business of the meeting provided that:
- a) The President 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 two thirds of votes cast is obtained in favour of the motion to proceed.

#### ***Purpose of AGM***

- 14.5 The AGM shall be called for the following purposes:
- a) To receive from the Board a report and a statement of financial position and statement of financial performance for the proceeding year;
- b) To elect Board Members and the Patron of PENZ for the ensuing year;
- c) To decide on any motion which has been properly submitted to the Board for consideration at the AGM.

#### ***Special General Meetings***

- 14.6 The Board must call a SGM upon a written request from:
- a) The Board itself; or
- b) Such Members as are entitled to exercise one third or more of the voting rights of PENZ; or

- c) A Member or former Member who, in the absence of other available procedures, is seeking a review of a decision of the Board in relation to withdrawal, termination or suspension of such member or former member.
- 14.7 The written request for an SGM must state the purpose for which the SGM is requested.
- 14.8 The SGM must only deal with the business for which the SGM is requested.
- 14.9 The notice requirements for the SGM are the same as for AGMs unless the Board in its discretion determines that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members.

#### **Quorum**

- 14.10 A quorum for an AGM or SGM shall consist of at least 50% of the Board Members and at least three times that number of Members entitled to vote.
- 14.11 If a quorum is not obtained within half an hour of the intended commencement time of the AGM or SGM, then the AGM or SGM shall be adjourned to such other day, time and place as determined by the Board and if no quorum is obtained at the stage of such further AGM or SGM, then the members present at that further AGM or SGM are deemed to constitute a valid quorum.

#### **Control of General Meetings and Voting**

- 14.12 The President of PENZ shall preside at an AGM or SGM. If the President is unavailable, then the members present shall elect a person present to be the chairperson of the AGM or SGM.
- 14.13 Unless otherwise required by these rules:
- a) An Ordinary Resolution shall be sufficient to pass a resolution (approved by more than 50% of those Members attending the meeting and entitled to vote);
  - b) Voting shall generally be conducted by voices or by show of hands, or by electronic vote (at or before the meeting), as determined by the President (or chairperson) of the meeting unless a secret ballot is called for and approved by Ordinary Resolution;
  - c) Elections of Board Members and the Patron at an AGM must be undertaken by secret ballot except where:
    - i. There are the same number of nominations as positions available; or
    - ii. There are insufficient nominations for officers and after calling for further nominations at the AGM there are still insufficient or the same number of nominations for positions available, then those persons who have been nominated shall be declared elected.
  - d) Proxy votes and postal votes are not permitted;
  - e) In the event of inequality of votes, the President (or chairperson) shall have an additional or casting vote;
  - f) In the event that a secret ballot is called, two scrutineers must be appointed at the AGM to count the votes.

## **ARTICLE 15: Finances**

- 15.1 Unless otherwise determined by the Board the financial year of PENZ shall end on the 31 day of December each year.
- 15.2 Statements of financial position and financial performance shall be independently tested in a form as required by the relevant statutory agency each year and those accounts shall be submitted to the AGM. The auditors, or independent assessors, shall be appointed at each AGM.
- 15.3 The Board is responsible for the receipt and banking of all monies received by PENZ. All funds of PENZ shall be paid to a bank account in the name of PENZ and the bank account must be operated in accordance with the policy determined by the Board.
- 15.4 The Board must ensure correct accounting records are kept. The accounting records of PENZ must be kept at the office of PENZ or at such place as the Board may determine and must be open to inspection by members at such reasonable times agreed by the Board.

## **ARTICLE 16: Common Seal**

- 16.1 The common seal of PENZ shall be kept in the control of the Board any may be affixed to any document only by resolution of the Board and in the presence of and with the accompanying signatures of the President and another Board Member.

## **ARTICLE 17: Amendments to the Constitution**

- 17.1 This Constitution may only be altered, added to, or rescinded by a Special Resolution passed at an AGM.
- 17.2 No alteration, addition to, or revision of the Constitution shall be approved if it prejudices:
  - a) the charitable purpose described in this Constitution;
  - b) PENZ's eligibility to claim the tax exemptions available to charitable entities; or
  - c) PENZ's ability to remain registered under the Charities Act 2005. This Article 17.2 must not be removed from this Constitution and must be included in any alteration, addition to, or revision of this Constitution.

## **ARTICLE 18: Prohibition on Personal Benefits**

- 18.1 PENZ shall only use its property to further charitable purposes recognised by law. No property of PENZ is to be applied for the private pecuniary profit or benefit of any Member or Board member.
- 18.2 PENZ may remunerate any Board Member, agent, contractor or employee of PENZ (whether or not that person is a Member) in return for services actually rendered to the Society provided that:

- a) No Member or person associated with a Member may participate in or materially influence
  - i. the nature or amount of any benefit or advantage, or
  - ii. the circumstances in which any benefit or advantage is, or is to be, so gained.
- b) Any such income paid or benefit or advantage conferred on a Member must be reasonable and relative to that which would be received in an arm's length transaction (being the open market value).

#### **ARTICLE 19: Winding Up**

- 19.1 PENZ may at any time be wound up by special resolution of 75% of the Financial Members thereof at a SGM of PENZ, and confirmed by a majority of Financial Members at a further SGM convened for the purpose and held not earlier than ninety (90) days after the date of which such resolution was passed at the first SGM convened for the purpose of winding up PENZ. Notice of the passing of such resolution shall be given to the Registrar of Incorporated Societies.
- 19.2 In the event of such winding up, the property of PENZ shall, subject to payment of its debts and liabilities, and the costs and expenses of the winding up, be disposed of to any entity registered under the Charities Act 2005 as the Members present at the meeting shall determine.

#### **ARTICLE 20: Indemnity**

- 20.1 PENZ shall indemnify every member of the Board, officers and employees of PENZ in respect of all liability arising from the proper performance of their functions connected with PENZ.