

RESPONSE TO "QUESTIONS FOR THE NISA BOARD" FACEBOOK POST (23 July 2017)

Compliance with the Code for Sports Governance

Throughout the process of drafting the proposed 2017 Articles of Association for NISA, there has been regular liaison with UK Sport in an effort to ensure that all the proposals are compliant with the Code for Sports Governance.

Powers of Members under Company Law

The proposed Articles cannot and do not override or supersede the powers that the members of NISA have under company law.

Key among these powers are that NISA's Articles can only ever be changed by a 75% vote of the Voting Members of NISA and that the proposed Articles provide for a majority of the NISA Board to be elected by the Voting Members.

Coaching

As part of the corporate governance and operational management upgrade agreed with UK Sport, the NISA Board of Directors undertook to move away from the structure of Portfolio Directors and Portfolio Sub Groups.

It was agreed to put in place an enhanced professional staff structure to manage the full range of NISA's activities, and an appropriate set of technical advisory committees which will collaborate with the staff and report to the Board.

The proposed Article 8 therefore provides for:

- technical advisory committees to be established, covering each discipline in the sport of ice skating;
- all technical advisory committee members to be elected or appointed, as the case may be, on the basis of their skills and experience;
- a majority of members on each technical advisory committee to be elected by the NISA Voting Members; and
- all technical advisory committee members to be limited (in compliance with good practice under the Code for Sports Governance) to a maximum of 2 x 4 years terms of office.

Coaching is a key area of technical expertise that is needed by all the ice skating disciplines. It always has been, and remains, the NISA Board's intention for coaching to be included as one of the technical advisory committees. Article 8.2 in the proposed revised NISA Articles has been written widely enough to allow for this. The NISA Board intends to provide further information to NISA's membership, on the composition and functions of the proposed technical advisory committees, before the 12 August 2017 AGM.

Termination of Membership

The proposed Article 30.2 cannot operate in isolation from Articles 30.5 and 30.6, which set out due process, including reference to disciplinary procedures, before membership can terminate.

Also, the recently updated NISA Board Code of Conduct makes the point that, under the 2006 Companies Act, the Board has a duty to act fairly between members of the company; so any decision to terminate membership would need to be taken on the basis of proper consideration of the circumstances, and not on the basis of likes or dislikes.

Rules and Regulations on Disciplinary Procedures

In order to meet the requirements of the Code for Sports Governance, it is important that the ultimate decision-taking authority to make Rules and Regulations for NISA is directly in the hands of the Board of Directors. Article 18 therefore gives the NISA Board the powers to make:

- Regulations - which relate mainly to the way in which NISA operates as a company and a membership association; and
- Rules - which relate mainly to the way in which NISA governs and manages the sport of ice skating.

Please note that, if the Special Resolution is passed at the 2017 AGM to adopt these proposed revised NISA Articles of Association, then the existing 21 September 2013 NISA General Rules will remain in force unless and until the NISA Board resolves to make any amendments.

The NISA Audit Committee has instigated a review of NISA's disciplinary and complaints policies, rules and procedures, with the intention of bringing them into line with current good practice in the sports sector and to ensure that they meet current legal and regulatory requirements. The Audit Committee will make appropriate recommendations to the NISA Board in due course.

The Code for Sports Governance requires the Board to have an engagement strategy, under which the Board provides information to NISA's members and stakeholders and takes feedback from them, in order to ensure that the NISA Board takes into account the views of NISA's members and other stakeholders, in formulating Regulations and Rules which affect them.

This engagement strategy with NISA members will therefore include, over the next few months, considerations of the appropriate revisions to the disciplinary and complaints policies, rules and procedures.

Business at General Meetings

There do not appear to be any provisions in NISA's existing 2013 Articles or General Rules for members to propose business or resolutions to a NISA AGM.

The proposed 2017 Articles, however, make specific allowance at Article 31.4.2 for proposals for business or resolutions relevant to the purposes of a general meeting to be put forward by a minimum of ten Voting Members, providing that such requested business is, in the opinion of the Board, consistent with the provisions of the Articles and does not contravene any relevant legislation.

With regard to the example given in the question, a resolution to remove a director for due cause, before his or her term of office expires, would be a legitimate resolution under relevant legislation, namely company law, and - if proposed either (under Article 31.4.2) by ten Voting Members at a scheduled AGM or (under Articles 32.2.6 or 32.3.1) by 5% of the Voting Members who have specially requested a general meeting - the Board would necessarily have to place that resolution on the agenda.

By way of clarification, Article 45.4.1 only means that a resolution, to remove a director before his or her term of office expires, cannot be passed by a written resolution outside a general meeting.

Accounting Information

Article 47.1 in the proposed 2017 NISA Articles cannot and does not restrict members' statutory rights.

The existing 2013 Articles provides an additional right of inspection, on payment of a fee, only for Full Annual Members and only of NISA's Financial Procedures Manual.

Under the Code for Sports Governance, NISA will be required to publish a greater amount of information on its income and expenditure in NISA's Annual Report & Accounts than in the past.

Under the transparency requirements of the Code, NISA will also be progressively publishing a much wider range of its policies and procedures, than those just relating to financial matters, on its website; so that this information will be available to all members.

Method of Appointing Directors and Other Officeholders

It is a requirement of the Code for Sports Governance that all directors are elected or appointed on the basis of their skills and experience. Reflecting NISA's existing practice, the proposed Articles provide for an extensive range of elected and appointed positions across the proposed board and technical advisory committees. In accordance with the Code, provision has therefore been included in the proposed Article 20 for the appropriate role of a Nominations Committee in the process.

The methods set out in Article 20 require that Nominated Directors are elected by the Voting Members of NISA (and consequently it is the Voting Members who make the final decision on who is elected) and that other Directors are appointed by the Board through an open recruitment process which (as expected by the Code) necessarily includes public advertisement of such positions.

The Code allows for holders of senior positions in the relevant International Federation (which, in the case of NISA, is the ISU) to stand for a third term of office, and this has therefore been included within the proposed Article 20.2. There is, however, nothing automatic about such a third term. Any Nominated Director in such a position would still be subject to election, or not, by the Voting Members of NISA; and any Co-Opted Director in such a position would still be subject to a formal appointment decision by the Board.

Potential Additional Classes of Voting Membership of NISA

The proposed Article 27 allows the NISA Board powers to establish additional classes of voting and/or non-voting NISA membership.

As has already been explained during the Information Meetings for NISA members held in May and June 2017 in Sheffield, Edinburgh and London, the NISA Board plans to consider in the coming year what additional class(es) of voting membership may be needed in order to extend the franchise more widely across NISA's current total membership.

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