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- 22.2.3 signed/approved in writing in accordance with Rule 22.1 within three months of the circulation date of the proposed resolution as referred to in Rule 22.2.2 (otherwise the proposed resolution will lapse); and
- 22.2.4 if the proposed resolution is signed/approved in writing in accordance with Rule 22.1, notified to all Members and Directors.

## **BOARD**

### **23. Composition of Board**

**23.1 Composition of Board:** The Board of the Society shall consist of a minimum of 7 Directors and a maximum of 10 Directors of which:

- 23.1.1 **General Directors:** 5 Directors shall be General Directors or persons who have been appointed to replace General Directors under Rule 26;
- 23.1.2 **Co-opted Directors:** Up to 2 additional Co-opted Directors who have been appointed by the Board for their skill and experience, under Rule 27; and
- 23.1.3 **Independent Directors:** Up to 2 Directors shall be Independent Directors appointed under Rule 24; and
- 23.1.4 **Employee Director:** 1 Director shall be an Employee Director or a person who has been appointed to replace an Employee Director under Rule 25.

**23.2 Member Representation on Board:** Each General Director, Co-opted Director and Employee Director must be, at the time of their election or appointment and while they hold office:

- 23.2.1 **Member:** a Member; or
- 23.2.2 **Member Representative:** an employee, officer or other representative of a Member that is a company, incorporated society, or other body corporate.

An Independent Director need not be a Member or Member representative.

**23.3 Continued Existence of Board:** If, for whatever reason, a vacancy occurs on the Board between Annual General Meetings of the Society meaning that the number of Directors becomes less than 7, the existing Directors will still constitute the Board and will be authorised to act provided that any applicable quorum requirements in Rule 32.2 are met.

### **24. Appointment of Independent Directors**

**24.1 Appointment:** The General Directors and Employee Director shall, by majority vote, appoint from time to time up to 2 Independent Directors to serve as directors on the Board for such a period, and on such terms, as the General Directors and Employee Director see fit.

**24.2 Qualifications:** The General Directors and Employee Director may only appoint a person as an Independent Director if they consider, in their sole discretion,

that the candidate has the appropriate skills and abilities to add value to the Board and to the Society.

**25. Nomination and Election of an Employee Director**

**25.1 Nomination:** No person may be elected as an Employee Director at an Annual General Meeting unless that person has been a Member, or is an employee, officer or other representative of a company, incorporated society or other body corporate that has been a Member, for not less than 12 months prior to the date of that Annual General Meeting and is nominated by a Member who is an industrial union of workers or a similar employee organisation from the construction industry as determined by the Board whose decision shall be final.

**25.2 Election:** All Members may vote on the candidates for Employee Director and the highest polling candidates equating with the number of positions available will be the new Employee Director commencing from the cessation of the Annual General Meeting.

**26. Nomination and Election of General Directors**

**26.1 Nomination:** No person may be elected as a General Director at an Annual General Meeting unless that person has been a Member, or is an employee, officer or other representative of a company, incorporated society or other body corporate that has been a Member, for not less than 12 months prior to the date of the Annual General Meeting, or is a co-opted Director retiring at that Annual General Meeting, and is nominated by a Member.

**26.2 Election:** All Members may vote on the candidates for General Director and the highest polling candidates equating with the number of positions available will be the new General Directors commencing from the cessation of the Annual General Meeting. Candidates for General Director will be voted on after candidates for Employee Director have been voted on.

**27. Co-Option of Directors**

**27.1 Co-option:** The Board shall have the power at any time, and from time to time, to appoint any person who is a Member or an employee, officer or other representative of a company, incorporated society or other body corporate Member and, in the reasonable opinion of the Board, is willing and able to make a significant contribution to the achievement of the objects of the Society, to be a Co-opted Director, to:

**27.1.1** fill a casual vacancy of a General Director or an Employee Director; or

**27.1.2** be an additional Director (a maximum of 2).

**27.2 Term of Office:** Any Co-opted Director so appointed shall hold office only until the end of the next Annual General Meeting and shall then be eligible for election as a General Director or an Employee Director as the case may be, subject to being nominated under Rule 25 or 26.

**27.3 Notification:** The name of any Co-opted Director must be notified to Members by the Chief Executive within two months of the co-option.

**27.4 Rights of Co-opted Directors:** Directors appointed under Rule 27.1

**27.4.1** may be appointed for such term as the Board considers appropriate, provided that such appointment shall terminate at the next Annual General Meeting (unless the Director has resigned earlier); and

**27.4.2** shall count for a quorum of the Board and shall be entitled to all of the rights and privileges of other Directors.

**28. Chair Appointments**

**28.1 Chairperson:** The Board must elect one of the Directors to be the Chairperson of the Board for the ensuing year at the first Board meeting after every Annual General Meeting.

**28.2 Deputy Chairperson:** The Board must elect a Deputy Chairperson for the ensuing year from its members at the first Board meeting after every Annual General Meeting.

**28.3 Casual Chairperson:** In the absence of both the Chairperson and Deputy Chairperson from any meeting of the Board, a Chairperson for that meeting must be elected from the Directors present.

**29. General Provisions Applying to Nomination and Elections**

**29.1 Form of Nomination:** Nominations must be in the form prescribed by the Board from time to time.

**29.2 Number of Nominations:** Each Member may only make one nomination for the Employee Director positions and one nomination for General Director positions.

**29.3 Consent to Nomination:** Except for Directors retiring at an Annual General Meeting, for a nomination to be valid the nominee must have consented to their nomination in writing and a copy of their consent must have been provided to the Board with their nomination.

**29.4 Insufficient Nominations:** If insufficient nominations for a position are received then additional nominations from Members shall be called for such positions at the Annual General Meeting. Such nominees must be present at the Annual General Meeting and must give their consent in accordance with Rule 29.3.

**29.5 Nomination for One Position:** A candidate can only be nominated for election as either an Employee Director or a General Director.

**29.6 Exact Number of Nominations:** If the number of candidates nominated for any position equals the number of vacancies those nominated are deemed to be elected.

**29.7 Papers:** All ballot papers and other documents (whether on paper or in an electronic form) used for, or relevant to, an election shall be kept for a period of one month after the election whereupon they shall be destroyed by the Chief Executive if no notice of challenge to the election result has been received. If the election result is challenged within one month of the election, the Chief Executive shall retain the papers until authorised at a General Meeting to destroy them.

## 30. Rotation of Directors

### 30.1 Order of Retirement of Directors:

- 30.1.1** At each Annual General Meeting of the Society two General Directors must retire from office.
- 30.1.2** At each second Annual General Meeting of the Society the Employee Director must retire from office.
- 30.1.3** Unless two General Directors retire from office voluntarily at the relevant Annual General Meeting, the General Directors who must retire are those directors who have been longest in office since their last election.
- 30.1.4** If more than two General Directors have been in office for the same period since their last election then such General Directors shall agree among themselves which of them must retire, but if they are unable to agree the General Directors who must retire shall be chosen by lot.
- 30.1.5** A retiring Employee Director or General Director continues to hold office:
- (a) until they are re-elected; or
  - (b) if they are not standing for re-election, or are standing for re-election but are not re-elected, until the Annual General Meeting at which they retire (or any adjournment of that meeting) elects someone in their place.

**30.2 Annual Election:** There shall be an election at each Annual General Meeting for General Directors and, if applicable, an Employee Director to fill any vacancies in the Board for such positions.

**30.3 Validity of Acts:** The acts of a person as a Director are valid even though:

- 30.3.1** the person's appointment was defective; or
- 30.3.2** the person is not qualified for appointment.

## 31. Cessation of Directorship

**31.1 Cessation:** A Director ceases to hold office if the person:

- 31.1.1** resigns by giving one month's written notice (or such lesser period of notice accepted by the Board) to the Board;
- 31.1.2** dies;
- 31.1.3** is through illness or disability unable to fulfil the duties of a Director;
- 31.1.4** is adjudged bankrupt or is a person who is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under section 382, section 383, or section 385 of the Companies Act 1993;
- 31.1.5** is disqualified or prohibited from holding office or acting as an officer of an incorporated society under the Act, or as an officer of a charitable entity under the Charities Act (if the Society is registered under the Charities Act);

- 31.1.6 is required to leave office under Rule 27.2;
- 31.1.7 fails to attend three consecutive meetings of the Board without the prior permission of the Board;
- 31.1.8 is removed by resolution of the Board passed by a two-thirds majority of the members of the Board holding office at the time, provided the Director has been given the right to be heard on the question of their removal and has otherwise been treated in accordance with the rules of natural justice; or
- 31.1.9 being a Director other than an Independent Director, ceases to be a Member or an employee, officer or other representative of a company, incorporated society, or other body corporate Member.

## 32. Board Meetings

### 32.1 Notice of Meetings:

- 32.1.1 **Requirements for Notice:** Not less than 7 days' notice of a meeting of the Board must be sent to every member of the Board who is in New Zealand. The notice must include the date, time and place of the meeting and the matters to be discussed.
- 32.1.2 **Emergency Meetings:** Should exceptional circumstances dictate, an emergency meeting of the Board may be called that does not meet the requirements of 30.1.1. Any decisions made will be deemed valid provided there is a quorum present.
- 32.1.3 **Waiver of Irregularity:** An irregularity in the notice of a meeting is waived if a majority of members of the Board entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if a majority of members of the Board entitled to receive notice of the meeting agree to the waiver.

- 32.2 **Quorum:** A quorum for a meeting of the Board is a majority of the members of the Board holding office at the time of the meeting. No business may be transacted at a meeting of the members of the Board if a quorum is not present.

### 32.3 Types of Meetings and How They are Called

- 32.3.1 **Regular Meetings:** The Chairperson of the Board, or any person whom the Chairperson authorises to do so, may call a meeting of the Board at any time by giving notice of a meeting.
- 32.3.2 **Special Meetings:** If the Chairperson receives a requisition of a meeting from a majority of Directors, the Chairperson must call a meeting of the Board by giving notice of a meeting. The Chairperson may require the requisitioning members of the Board to give the Chairperson sufficient details to draft a notice of meeting.

- 32.4 **Method of Meeting:** A meeting of the Board may be held by a number of the members of the Board who constitute a quorum:

- 32.4.1 being assembled together at the place, date and time appointed for the meeting;

**32.4.2** being contemporaneously linked together by means of audio link, audiovisual link or other electronic communication by which all members of the Board participating can simultaneously hear each other throughout the meeting; or

**32.4.3** convening by a combination of both of the methods described in Rules 32.4.1 and 32.4.2.

References in these Rules to notification of the place of a Board meeting, attendance or presence at such a meeting, and other such matters shall be interpreted to accommodate arrangements for participating in such a meeting by means of audio link, audiovisual link or other electronic communication.

**32.5 Minutes:** Minutes of each Board meeting must be taken and distributed to all members of the Board within ten Working Days of the meeting. The minutes must then be amended as necessary and approved by the Chairperson of the meeting and stored in a secure and backed up location.

**32.6 Resolution in Writing:** A resolution in writing signed by all members of the Board for the time being entitled to receive notice of meetings of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in similar form each signed by one or more members of the Board. Any such document sent to or by a member of the Board by electronic or other means and approved in writing by that member of the Board is deemed to have been signed by such member of the Board.

### **33. Proxies for Directors**

Any Director may in writing delegate to any other Director (with that Director's consent) their power of voting at any specified meeting of the Board on any specified subject or subjects, by notifying the Chairperson or Deputy Chair in writing that such a delegation is made and the scope of and time limit for that proxy.

### **34. Voting by Directors**

**34.1 One Vote:** Each Director is entitled to one vote (in person or by proxy) on each matter to be decided at any meeting of the Board, unless the Director is prevented from voting on the relevant matter on account of any conflict of interest in relation to the matter under the Act. All matters shall be decided by a majority of votes (including any proxy votes) cast by Directors present, provided there is a quorum.

**34.2 Chairperson Vote:** The Chairperson of a meeting has a second or casting vote as well as a deliberative vote.

**34.3 Method of Voting:** Voting may be by voice or show of hands (at the discretion of the Chairperson) but if it is desired by any Director present, voting shall be secret ballot or poll.

### **35. Board Function and Powers**

**35.1 General Function and Powers:** The Board's function is to govern and oversee the management of the operation and affairs of the Society in order to effect the Society's objects. The Board has all the powers necessary for that function and in particular has the following powers:

- 35.1.1** to exercise any and/or all of the powers of the Society other than those required to be exercised by the Members at a General Meeting;
- 35.1.2** to delegate any of its powers to such person or persons as the Board may determine from time to time;
- 35.1.3** to appoint sub-committees of the Board and committees of the Society, and to delegate any of the Board's powers to any such sub-committee of the Board or committee of the Society as the case may be. The membership, terms of reference and powers of any such sub-committee or committee shall be set out by the Board when the sub-committee or committee is established;
- 35.1.4** to authorise any Director or Directors, the Chief Executive, or any other person or persons to enter into any contract or execute any instrument in the name of and on behalf of the Society in a manner that complies with the Act. This authority may be general or confined to specific circumstances;
- 35.1.5** subject to any maximum annual amount of remuneration of Directors recommended by the Board and subsequently ratified by a majority of votes cast at an Annual General Meeting, to authorise the payment of remuneration or the provision of other benefits by the Society to a Director for services as a Director or in any other capacity and to enter into any contract to do so;
- 35.1.6** to make recommendations to be considered at a General Meeting of persons to be considered for membership of the Society as Life Members;
- 35.1.7** to send information to Members prior to a meeting of the Society at which Directors will be elected, specifying what skills and qualities the Board sees as being desirable in candidates for election as Directors; and
- 35.1.8** to do all such other things that are necessary to give effect to the objects of the Society.
- 35.2** **Purported Exercise of Power by Director:** The purported exercise by a Director of a power vested in the Board may be ratified or approved by the Board in the same manner in which the power may be exercised. The purported exercise of a power ratified under this Rule is deemed to be, and to always have been, a proper and valid exercise of that power.
- 35.3** **Interpretation of Rules:** If any difference of opinion arises as to the meaning of any Rule, it shall be determined by the Board or, if it occurs at a General Meeting, by the Chairperson of that meeting, and any such determination shall be conclusive and binding on Members unless revoked at the next Annual General Meeting or Special General Meeting (whichever is earlier) following the determination.
- 35.4** **Matters Not Provided For:** If any case should occur which, in the opinion of the Board, is not provided for in these Rules, it shall be determined by the Board in such manner as it deems expedient, and any such determination shall be conclusive and binding on Members unless revoked at the next Annual General Meeting or Special General Meeting (whichever is earlier) following the determination.

## 36. Regular Reviews and Accountability

- 36.1 Review of Board Performance:** From time to time, and at least every two years, the Board shall assess its own performance and set objectives to assist it to continually improve its performance.
- 36.2 Review of Governance Procedures:** The Board must ensure that from time to time, and at least every three years (or, if applicable, any other minimum period) as required under the Charities Act, the Society reviews its governance procedures as set out in these Rules or elsewhere. Each review must include consideration of whether the Society's governance procedures:
- 36.2.1** are fit for purpose;
  - 36.2.2** assist the Society to achieve its objects; and
  - 36.2.3** assist the Society to comply with the Act, the Charities Act and any other applicable legislation.
- 36.3 Board Accountability to Society:** The Board shall be accountable to the Society in General Meeting for the governance and day-to-day management of the Society.

## 37. Planning and Reporting

- 37.1 Strategic Plan:** The Board will establish a strategic plan from time to time.
- 37.2 Business Plan and Budget:** Prior to the commencement of each Financial Year the Board shall approve a business plan and budget for that year. Any variations to the business plan and budget shall be approved by the Board.
- 37.3 Chief Executive Report to Board:** At each Board meeting the Chief Executive shall table to the Board reports on the achievement of business plan objectives and on revenue and expenditure against budget.
- 37.4 Chief Executive Report to Annual General Meeting:** The Chief Executive shall furnish to the Annual General Meeting a report on the achievement of business plan objectives and the audited financial statements for that year.
- 37.5 Board Report to Annual General Meeting:** The Chairperson shall furnish to the Annual General Meeting, in consultation with the other Directors, a report on the performance of the Society for that year.

## 38. Chief Executive and Contact Person(s)

- 38.1 Chief Executive:** The Chief Executive shall be appointed by, may be removed by, and shall be directly responsible to, the Board for the effective and efficient functioning of the Society's administration in accordance with the goals, policies, objectives and directions of the Society. The Board may delegate such powers to the Chief Executive as it sees fit.
- 38.2 Contact Person(s):** In accordance with the Act, the Board must also appoint the Chief Executive and/or another individual or individuals (subject to a maximum of three appointees) to act as the contact person or contact persons for the Society for the purposes of the Act, and may remove and replace any such appointee at any time.

**38.3 Eligibility of Appointees:** Any appointee under Rule 38.1 or 38.2 must not be disqualified from holding the relevant position under the Act and shall cease to hold the relevant position if they become so disqualified.

**39. Indemnification of Directors and Employees**

Subject to any applicable prohibitions and restrictions under the Act:

**39.1 Indemnity:** Each Director and employee of the Society shall at all times be indemnified out of the funds of the Society from and against all claims, actions, losses and expenses of any nature that such Director or employee incurs in respect of any act or omission done or permitted by them in relation to the duties of their office except when such act or omission is brought about by their willful neglect or default.

**39.2 Fault of Others:** No Director or employee of the Society shall be liable for the acts or omissions of any other Director or employee for any loss, damage or expense, or to the Society through any insufficiency or deficiency of title to any property acquired by order of the Board on behalf of the Society or for the insufficiency or deficiency for any security in which monies of the Society shall be placed or for any loss arising from the bankruptcy, insolvency or tortious loss of any person or entity with whom any monies of the Society shall be lodged or from any loss occasioned by an error of judgment or oversight on the part of the Director or employee or for any other loss or damage which may happen in the execution of their office unless the same shall happen by or through willful default.

**39.3 Insurance:** The Society shall, with the approval of the Board, insure any Director or employee from and against all claims, actions, losses and expenses of any nature that the Director or employee incurs in respect of any act or omission done or permitted by the Director or employee in relation to the duties of their office except when such act or omission is brought about by their willful neglect or default.

The Society's indemnification and insurance of any officer of the Society under and in accordance with this Rule 39 is permitted to extend to any liability (other than criminal liability) for a failure to comply with any duty as an officer (whether imposed under the Act or otherwise) and costs incurred by the officer for any claim or proceeding relating to that liability.

**FINANCE**

**40. Financial Year**

The financial year of the Society for financial reporting purposes shall be the 12 month period ending on the balance date adopted by the Board from time to time, provided that in the event of a change of balance date financial reporting shall be required for a transitional period of more or less than 12 months ending on the new balance date (to ensure that the Society's financial reporting is comprehensive).

**41. Control and Management of Finances**

**41.1 Board Governance/Oversight:** In accordance with the Board's general function, the Board shall govern and oversee the control and management of the Society's finances.

**41.2 Management of Funds:** The Chief Executive shall have charge and custody and be responsible for all funds in the Society's name in banks, trust companies

or other securities as may be selected by the Board and shall render a statement of the finances to the Board at regular meetings and in general shall perform such other duties as the Board may establish, from time to time.

**41.3 Payments:** All payments shall be authorised consistent with the Board's Financial Delegations Policy and the specific delegations authorised by the Board from time to time.

**41.4 Other Person:** The Board shall have the power from time to time to appoint any other officer or employee to carry out the financial duties and responsibilities of the Chief Executive pursuant to this Rule.

## **42. Accounting Records and Financial Reporting**

The Board must ensure that:

**42.1 Accounting Records:** the Society keeps at all times accounting records that correctly record the transactions of the Society, enable the Society to produce accounts that comply with the Act, the Charities Act and/or any other applicable legislation, and enable the accounts to be readily and properly audited, and the Board has and maintains an appropriate system of control of the Society's accounting records; and

**42.2 Accounts:** accounts for each financial year are prepared, completed, audited and filed within 6 months after the balance date for the relevant financial year and in accordance with all applicable requirements under the Act, the Charities Act and/or any other applicable legislation.

## **43. Auditor**

The accounts of the Society must be audited by an appropriately qualified auditor appointed at the Annual General Meeting. The auditor must not hold any other office in the Society. If an appointed Auditor is unable to act, the Board shall appoint an auditor in the interim to be approved at the next Annual General Meeting.

## **MISCELLANEOUS**

### **44. Common Seal**

If the Society chooses to have a common seal, the common seal of the Society will be kept in the custody of the Chief Executive and shall be affixed to any document or writing only by resolution of the Board, by two Directors or one Director and the Chief Executive.

### **45. Alteration of Rules**

**45.1 Vote:** No Rule of the Society may be rescinded or altered nor a new Rule added, and these Rules may not be replaced by revised set of Rules incorporating any such rescission, alteration or addition, except by a majority of three-quarters of the votes cast at a General Meeting in favour of a motion rescinding or altering a Rule or adding a new Rule, or replacing these Rules with revised set of Rules, as applicable.

**45.2 Notice:** Notice of any proposed rescission, alteration or addition of any Rule, or any proposed replacement of these Rules with a revised set of Rules, must be given in writing to the Members at least two months before the General Meeting at which it is to be considered.

**45.3 Changes That may not be Made:** No alteration or amendment to the Rules shall be made, and no purported alteration or amendment shall be valid or effective, if the alteration or amendment in any way detracts from the continued establishment and maintenance of the Society exclusively for charitable purposes under New Zealand law and not for private profit.

**45.4 Registration:** Any alteration, amendment, rescission or replacement of these Rules or any of these Rules shall forthwith be registered with the Registrar of Incorporated Societies, and filed with and/or notified to any other relevant authority.

#### **46. Winding Up and Distribution of Assets**

Subject to any additional or overriding requirements under the Act:

**46.1 Resolution to Wind Up:** The Society may be wound up (by way of a formal liquidation process or any other permissible process for winding up the Society's affairs and dissolving the Society and removing it from the register under the Act) if a resolution to do so, and to authorise the Board or any other person to take the steps required to do so, has been passed by a special majority of three-quarters of the votes cast at the relevant General Meeting convened to consider the proposal of which at least 40 Working Days' notice has been given in writing to each Member and the resolution is confirmed at a subsequent General Meeting called for that purpose and held not earlier than 20 Working Days after the date on which the resolution to be confirmed was passed.

**46.2 Distribution of Assets:** Upon winding up (by way of a formal liquidation process or any other permissible process for winding up the Society's affairs and dissolving the Society and removing it from the register under the Act) any surplus property or assets remaining after the satisfaction of all the Society's debts, liabilities and obligations shall be given or transferred to another person or persons as is resolved at the General Meeting approving the winding up or a subsequent General Meeting, provided that such property or assets shall not be paid or distributed among Members but must be given or transferred to another appropriate charitable not-for-profit entity or entities within New Zealand whose objects are equivalent to, or otherwise similar to or aligned with, the Society's objects.

#### **47. No Inappropriate Financial or Pecuniary Gain**

No benefit or advantage, whether or not convertible into money or income of any kind shall be afforded to, or received, gained, achieved or derived by any persons where that person is able in any way (whether directly or indirectly) to determine, or in any material way to influence in any way the determination of, the nature or the amount of that benefit or advantage or that income or the circumstances in which it is or is to be so received, gained, achieved, afforded or derived. For the avoidance of doubt, this Rule does not preclude the Society from paying or providing consideration to a person for the supply of goods and services by the person to the Society, provided that the consideration does not exceed fair market value (that is, an arm's length consideration) for the relevant supply.

#### **48. Transition to Revised Rules**

**48.1 Effect Upon Registration:** These Rules come into effect upon registration under the Act following their approval in accordance with the Society's previous rules, and these Rules repeal and replace those previous rules.

**48.2 Transitional Matters:** In relation to the transition to these Rules at the time they come into effect, unless the context requires otherwise:

- 48.2.1** all General Members and Life Members under the Society's previous rules continue to be General Members and Life Members under these Rules, as if they had attained their membership under these Rules;
- 48.2.2** the members of the Board under the Society's previous rules continue as Board members under these Rules, as if they had been elected or appointed under these Rules at the time that they were elected or appointed under the previous rules;
- 48.2.3** any Chief Executive, auditor or other appointee appointed under the Society's previous rules will continue in the relevant role under these Rules, as if they had been appointed under these Rules at the time that they were appointed under the previous rules; and
- 48.2.4** all other things done, including all contractual and other arrangements entered into, all decisions and appointments made, any bylaws, regulations, guidelines and other policies adopted, and any proceedings commenced under the Society's previous rules remain valid and effective and, if applicable, may be continued and completed under these Rules.

**Schedule:**

**General Disputes/Complaints Procedures**

**1. PURPOSE AND SCOPE**

**1.1** Subject to any other applicable provision of these Rules, any Dispute arising in respect of the Society shall be resolved, and any Complaint arising in respect of the Society and any aspect of its operations and affairs shall be handled, in accordance with the procedures set out in this Schedule, with the intention of ensuring that such Dispute resolution and Complaints procedures are fair to all parties and consistent with the rules of natural justice.

**1.2** The application of this Schedule is limited to the following types of **Dispute** and **Complaint** arising in respect of the Society and any aspect of its operations and affairs:

**(i) Dispute** means a disagreement or conflict that:

**a.** arises between:

**i.** two (2) or more Members; or

**ii.** one (1) or more Members and the Society or the Board; or

**iii.** one (1) or more Members and one (1) or more Officers; or

**iv.** two (2) or more Officers; or

**v.** one (1) or more Officers and the Society or the Board; or

**vi.** one (1) or more Members or Officers and the Society or the Board; and

**b.** relates to an allegation that:

**i.** a Member or an Officer has engaged in misconduct;

**ii.** a Member or an Officer has breached, or is likely to breach, any duty under these Rules or under the Act;

**iii.** the Society or the Board has breached, or is likely to breach, any duty under these Rules or under the Act the Act; or

**iv.** a Member's rights or interests as a Member have been damaged or Members' rights or interests generally have been damaged.

**(ii) Complaint** means the commencement, by a Member or Officer or by the Society or the Board, of the procedure for resolving a Dispute in accordance with these Rules and this Schedule.

- 1.3 For the purposes of this Schedule:
- (i) **Officer** means an “officer” of the Society for the purposes of the Act, including any Director, the Chief Executive, and any other relevant person; and
  - (ii) references to a **Member** are references to a Member acting in their capacity as such, not in any other capacity, and references to an Officer are references to an Officer acting in their capacity as such, not in any other capacity.

## 2. DECISION MAKER

- 2.1 The decision maker in relation to a Complaint shall be the Board or a Complaints sub-committee established by the Board, unless the Board determines otherwise or the Complaint involves an allegation against the majority of the Board or Complaints sub-committee (as applicable) in which case the Complaint shall be referred to another decision maker in accordance with clause 7.
- 2.2 The Board, Complaints sub-committee or any other person may not act as a decision maker in relation to a Complaint if two (2) or more members of the Board (or of a Complaints sub-committee, if applicable) consider that there are reasonable grounds to believe that the proposed decision maker may not be impartial or able to consider the matter without a predetermined view.

## 3. MAKING A COMPLAINT

- 3.1 A Member or an Officer may make a Complaint by giving to the Board (or a Complaints sub-committee established by the Board, if applicable) a notice in writing that:
- (i) states that the Member or Officer is starting a procedure for resolving a Dispute in accordance with these Rules and this Schedule;
  - (ii) sets out the allegation to which the Dispute relates and whom the allegation is against; and
  - (iii) sets out any other information reasonably required by the Society or the Board.
- 3.2 The Society or the Board, in each case acting through an Officer or other person authorised or appointed by the Board, may make a Complaint involving an allegation against a Member or an Officer by giving to the Member or Officer a notice in writing that:
- (i) states that the Society or the Board is starting a procedure for resolving a Dispute in accordance with these Rules and this Schedule; and
  - (ii) sets out the allegation to which the Dispute relates.
- 3.3 The information given under clauses 3.1 and 3.2 must be enough to ensure that the person or persons against whom any allegation is made will be fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

#### 4. **COMPLAINANT'S RIGHT TO BE HEARD**

- 4.1 A Member or an Officer who makes a Complaint has a right to be heard before the Complaint is resolved or any outcome is determined.
- 4.2 If the Society or the Board makes a Complaint, the Society or the Board has a right to be heard before the Complaint is resolved or any outcome is determined, and an Officer or other person authorised or appointed by the Board may exercise that right on behalf of the Society or Board.
- 4.3 Without limiting the manner in which a Member or an Officer, or the Society or the Board, may be given the right to be heard, they must be taken to have been given the right if:
- (i) they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
  - (ii) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - (iii) an oral hearing (if any) is held before the decision maker; and
  - (iv) the Member's or Officer's, or the Society's or the Board's, written statement or submissions (if any) are considered by the decision maker.

#### 5. **RESPONDENT'S RIGHT TO BE HEARD**

- 5.1 This clause 5 applies if a Complaint involves an allegation that a Member, an Officer, or the Society or the Board (referred to in this clause as the **Respondent**):
- (i) has engaged in misconduct; or
  - (ii) has breached, or is likely to breach, any duty under these Rules or under the Act; or
  - (iii) has damaged the rights or interests of a Member or the rights or interests of Members generally.
- 5.2 The Respondent has a right to be heard before the Complaint is resolved or any outcome is determined. If the Respondent is the Society or the Board, an Officer or other person authorised or appointed by the Board may exercise that right on behalf of the Society or the Board.
- 5.3 Without limiting the manner in which the Respondent may be given a right to be heard, the Respondent must be taken to have been given the right if:
- (i) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and
  - (ii) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
  - (iii) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and

- (iv) an oral hearing (if any) is held before the decision maker; and
- (v) the Respondent's written statement or submissions (if any) are considered by the decision maker.

## **6. INVESTIGATING AND DETERMINING DISPUTES**

**6.1** The Board must, as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure that the relevant Dispute is investigated and determined, and the Board must ensure that all known Disputes and related Complaints are dealt with in a fair, efficient, and effective manner.

**6.2** Despite clause 6.1, the Board may decide not to proceed further with a Complaint and relevant Dispute if the Board, acting honestly, in good faith and not for any improper purpose, determines that:

- (i) the Complaint is trivial;
- (ii) the Complaint does not disclose or involve any allegation of the following kind:
  - a. that a Member or an Officer has engaged in material misconduct;
  - b. that a Member, an Officer, or the Society or the Board has materially breached, or is likely to materially breach, any duty under these Rules or under the Act; or
  - c. that a Member's rights or interests or Members' rights or interests generally have been materially damaged;
- (iii) the Complaint is without foundation or there is no apparent evidence to support it;
- (iv) the person making the Complaint has an insignificant interest in the matter;
- (v) the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under these Rules and this Schedule or any other appropriate process; or
- (vi) there has been an undue delay in making the Complaint.

## **7. REFERRAL OF COMPLAINTS**

The Board may, if it considers necessary or appropriate in order to assist in dealing with a Complaint and/or to determine a Complaint, refer a Complaint to:

- 7.1** a sub-committee or an external person to investigate and report on the matter; or
- 7.2** a sub-committee, an arbitral tribunal, or an external person to investigate and make a decision on the matter; or
- 7.3** any type of consensual dispute resolution process (including mediation, facilitation, or a tikanga-based practice), provided that all parties to the Complaint consent to such referral.