

**RULES OF THE NEW ZEALAND BAR  
ASSOCIATION | NGĀ AHORANGI MOTUHAKE O  
TE TURE INCORPORATED**



**New Zealand Bar Association**  
**Ngā Ahorangi Motuhake o te Ture**

---

**Table of Contents**

---

|     |                                  |    |
|-----|----------------------------------|----|
| 1.  | Name and Rules                   | 1  |
| 2.  | General Functions of Association | 1  |
| 3.  | Powers of Association            | 1  |
| 4.  | Membership                       | 3  |
| 5.  | Register of Members              | 5  |
| 6.  | Council                          | 6  |
| 7.  | Elections                        | 10 |
| 8.  | Financial reporting              | 14 |
| 9.  | Proceedings of Council           | 15 |
| 10. | Administration                   | 16 |
| 11. | Resignation                      | 16 |
| 12. | General Meetings                 | 17 |
| 13. | Dispute resolution               | 19 |
| 14. | Finances                         | 20 |
| 15. | Levies                           | 20 |
| 16. | Common Seal                      | 20 |
| 17. | Regulations or by laws           | 21 |
| 18. | Amending Rules                   | 21 |
| 19. | Notices                          | 22 |
| 20. | Member access to Information     | 22 |
| 21. | Contact person                   | 23 |
| 22. | Winding Up                       | 23 |
| 23. | Definitions and interpretation   | 24 |

Schedule 1: Dispute Resolution Rules

# Rules of the New Zealand Bar Association Incorporated

---

## 1. Name and Rules

### Name

- 1.1 The name of the Association is “The New Zealand Bar Association | Ngā Ahorangi Motuhake o te Ture Incorporated”.
- 1.2 This Constitution sets out the rules governing the Association. Nothing in this Constitution authorises the Association to do anything which contravenes or is inconsistent with the Act or any other legislation.

## 2. General Functions of Association

- 2.1 The general functions of the Association shall be:
  - (a) to promote and encourage a strong separate and independent bar;
  - (b) to promote the interests of barristers and the separate and independent bar, and the interests of the public in relation to legal representation and the operation of the judicial system generally;
  - (c) to preserve and maintain the independence and integrity of barristers;
  - (d) to preserve and maintain the independence and integrity of the judiciary;
  - (e) to promote and encourage a high standard of ethical conduct among barristers;
  - (f) to promote and encourage a high standard of legal representation and advocacy;
  - (g) to promote opportunities for the acquisition and dissemination of knowledge of the law, legal procedure, advocacy, and the conduct of litigation;
  - (h) to promote improved access to the Courts and to justice for all persons;
  - (i) to assist in and promote the reform of the law and legal procedure;
  - (j) to discourage and eliminate any form of discrimination among or against barristers of the separate and independent bar;
  - (k) to provide assistance and encouragement to barristers at the commencement of their practice at the separate and independent bar;
  - (l) to provide means for the amicable and expeditious settlement of differences between barristers, and between barristers and solicitors; and
  - (m) generally, to do anything that the Association considers will advance the above purposes,

but none of the stated primary purposes is any more or less important because of the order in which they are stated.

## 3. Powers of Association

### Powers

- 3.1 The powers of the Association shall be:
  - (a) to provide or arrange for the provision of services and facilities for barristers, including chambers, and educational and training services and facilities;

- (b) to publish, or arrange for the publication of, such material as the Association may consider of benefit to the public, or to barristers, in relation to the practice of the bar and the activities of the Association;
- (c) to appoint any barrister or solicitor to perform any work or services for the Association, or to appear before any court, tribunal, or other body in respect of any matter in which the Association is concerned or interested;
- (d) to make complaints against barristers or other persons for the breach of any rule or ethical requirement relating to the practice of the law and to refer such complaints to such bodies as may be appropriate;
- (e) to pay the whole or any part of the expenses incurred by members in attending meetings or relating to meetings of the Council of the Association or meetings of any committee of the Council or the Association;
- (f) to act in combination or association, or otherwise co-operate, with any person or body, whether incorporated or not, and whether in New Zealand or elsewhere, for the purpose of the exercise of any of the Association's functions or powers; and
- (g) to do all such other things as are reasonable, necessary or expedient for or conducive to the exercise or achievement of any of its functions or powers.

#### **Not for profit**

3.2 The Association does not have the purpose of making a profit for a Member and prohibits a distribution of property in any form to a Member.

3.3 The Association must not operate for the purpose of, or with the effect of:

- (a) any Member deriving any personal financial gain from membership of the Association, other than as may be permitted by law (such as by payment of an honorarium or pursuant to any contract); or
- (b) returning all or part of any surplus generated by the Association's operations to Members, in money or in kind; or
- (c) conferring any kind of ownership in the Association's assets on Members,

but the Association would not operate for the pecuniary gain of Members in breach of the Act simply if the Association:

- (d) engages in trade,
- (e) reimburses a Member for reasonable expenses legitimately incurred on behalf of the Association or while pursuing the Association's purposes,
- (f) provides benefits to members of the public or of a class of the public and those persons include Members or their families,
- (g) provides educational scholarships or grants to Members or their families;
- (h) pays a Member a salary or wages or other payments for services to the Association on arm's length terms (terms reasonable in the circumstances if the parties were connected or related only by the transaction in question, each acting independently, and each acting in its own best interests; or are terms less favourable to the Member than those terms and the payment for services, or other transaction, does not include any share of a gain, profit, or surplus, percentage of

revenue, or other reward in connection with any gain, profit, surplus, or revenue of the Association); or

- (i) provides a Member with incidental benefits (for example, trophies, prizes, or discounts on products or services) in accordance with the purposes of the Association.

3.4 Rules 3.2 and 3.3 may not be altered, added to or revoked other than in accordance with Rule 18.6.

### **Interpretation**

3.5 In this Constitution, unless the context otherwise requires, the words and phrases in Rule 23.1 shall have the meanings defined in that Rule and shall otherwise be interpreted having regard to Rules 23.2.

## **4. Membership**

### **Membership**

4.1 The Association shall maintain the minimum number of Members required by the Act.

4.2 This Rule 4 sets out the classes of Association membership, the method by which Members are admitted or re-admitted to different classes of membership, and membership obligations and rights.

### **Full Member**

4.3 Every holder of a current practising certificate issued by the New Zealand Law Society which entitles him or her to practise as a barrister only may be a Full Member.

### **Associate Member**

4.4 The following persons may become an Associate Member upon request in writing:

- (a) any New Zealand Judicial Officer;
- (b) any person employed as a Judge's clerk and eligible to hold a practising certificate;
- (c) any person employed in the Crown Law Office, a member or employee of a law firm holding a Crown Solicitor Warrant, and any employee of the Public Defence Service who holds a practising certificate;
- (d) any person working as a legal academic who does not hold a practising certificate of any kind;
- (e) any person who is enrolled as a barrister and solicitor of the High Court of New Zealand, with the approval of the Council. The Council may grant or refuse its approval on such grounds as it in its sole discretion considers appropriate and may likewise at any time revoke its approval; and
- (f) any person having the right to practise law as a Barrister or in a manner similar to a Barrister in any other country with the approval of the Council. The Council may grant or refuse its approval on such grounds as it in its sole discretion considers appropriate and may likewise at any time revoke its approval.

### **Non-practising Member**

4.5 Any person who is enrolled as a barrister or solicitor who at retirement held:

- (a) a practising certificate which entitled him or her to practice as a Barrister (that is, not as a Barrister and Solicitor), which was issued by the New Zealand Law

Society but who has since retired from practice and who no longer holds a practising certificate, or

- (b) office entitling him or her to become a judicial member but who has since retired from such office and who does not hold a practising certificate,

may become a Non-practising Member upon request in writing.

### **Special levy arrangements**

- 4.6 Notwithstanding Rule 15.1, or any resolution passed pursuant to it, the Council may negotiate such levy arrangements as it considers appropriate for membership of groups of Associate Members and for any Non-practising Member, as the case may require.

### **Honorary Member**

- 4.7 The Council may by unanimous resolution appoint as an Honorary Member of the Association, without payment of a levy, any person as an expression of the esteem in which that person is held by members of the bar. Such an appointment may be made in recognition of a person's excellence of advocacy; a career of distinction; a notable forensic achievement or achievements; or outstanding contribution to any one or more of the objectives of the Association.

### **Council may request resignation of Member**

- 4.8 The Council may request the resignation of any Member, including any Associate Member or Non-practising Member or Honorary Member, or may suspend or expel any such Member who it considers has acted in a manner which is prejudicial to the functions and best interests of the separate and independent bar or the Association.
- 4.9 Any Member whose resignation has been requested or who has been suspended or expelled from the Association shall be entitled:
  - (a) to receive reasons in writing for the decision of the Council upon making a written request for such reasons; and
  - (b) to appeal in writing to the Association at a general meeting.
- 4.10 Subject to Rule 4.11, Associate Members, Non-practising Members and Honorary Members shall not be eligible to become or remain a member of the Council or to nominate or vote for the office of President-Elect or President (in the event of an election for that office being held pursuant to Rule 7.10) or for members of the Council or to vote at or requisition meetings of the Association or to receive notice of such meetings. Nor shall Non-practising Members, Associate Members and Honorary Members be regarded as part of a quorum at a General Meeting.
- 4.11 Only Associate Members are eligible to nominate and vote for an Associate Member as a member of Council.

### **Life Member**

- 4.12 The Association may, in accordance with Rule 4.13, appoint, any past or current Member (from any of the categories of membership provided for in Rules 4.3 to 4.7) as a Life Member, without payment of a levy. Such an appointment will only be made on rare occasions in appreciation for and in recognition of a person's work and service for, efforts on behalf of, and dedication to the Association.
- 4.13 A Life Member will be appointed by unanimous resolution of the Council.
- 4.14 The appointment of a Life Member will generally be announced at an Annual General Meeting or at other times if special circumstances require it.

#### 4.15 A Life Member:

- (a) shall not be eligible to become or remain a member of the Council or to nominate for the office of President-Elect or President (in the event of an election for that office being held pursuant to Rule 7.10) or for members of the Council or to requisition meetings of the Association;
- (b) shall be entitled to vote at any meeting of the Association and to receive notice of such meetings; and
- (c) will be regarded as part of a quorum at a General Meeting.

#### **Admission of Members**

- 4.16 Every individual admitted into membership as a Member or Associate Member after the adoption of this Constitution must expressly consent in writing to becoming a member of the Association in those categories of membership, shall complete and sign any application form (including consent to become a Member) provided by the Council and supply such other information as may be required by the Council.
- 4.17 Membership applications shall be considered by the Council which may interview an applicant, but this Rule 4.17 does not apply to Honorary Members or Life Members.
- 4.18 The Council shall have a discretion whether or not to admit a membership applicant (other than Honorary Members and Life Members), and shall advise the applicant of its decision (but shall not be required to provide reasons for that decision), and a successful applicant shall be requested to pay or arrange to pay the annual levy or such proportion of it as may be specified by the Council, with the applicant's membership being confirmed on receipt of payment or a payment arrangement, and the Member's written consent completed in accordance with Rule 4.16 shall be retained with the Association's membership records.
- 4.19 Until admitted to membership by the Council (or any person to whom the Council has delegated responsibility for decisions on membership applications under Rule 6.2), no-one is entitled to claim the benefits of Association membership.

#### **Re-admission of former Members**

- 4.20 Subject to Rule 4.18, any former Member may apply for re-admission in the manner prescribed in Rule 4.16, and may be re-admitted only by resolution of the Council.
- 4.21 If a former Member's membership was terminated pursuant to the processes under Rule 13.4, the applicant may be re-admitted only by resolution of a General Meeting on the recommendation of the Council.

### **5. Register of Members**

- 5.1 The name and the professional address and/or contact details of every Member shall be recorded by the Secretary, and these records shall constitute and be called the Register of Members. The details to be maintained by the Secretary shall include:
  - (a) the class of membership of each Member;
  - (b) the dates each Member became a Member;
  - (c) the Member's written consent to become a Member under Rule 4.13;
  - (d) whether or not the Member is financial in terms of Rule 15; and
  - (e) any information required by the Act.

- 5.2 The Register of Members at any meeting of the Association shall prima facie be deemed to be a correct and complete list of the Members. The Register of Members shall be amended and corrected by the Secretary as necessary.
- 5.3 A Member changing his or her name, professional address and/or contact details shall notify the Secretary of any such change, and if any Member fails to do so or provides incorrect information, that Member shall have no ground of complaint if as a result the Member fails to receive any notice from the Association.
- 5.4 For the purposes of this Constitution the professional address and/or contact details of a Member shall be the address and/or contact details at which they carry on practice or carries on most of his or her practice.

## **6. Council**

### **Governance of the Association**

- 6.1 The affairs of the Association shall be managed by, or under the direction or supervision of, a Council consisting of:
- (a) the President;
  - (b) the President-Elect (if any)
  - (c) the Past President (if any); and
  - (d) up to 12 members.

### **Delegation by the Council**

- 6.2 The Council may delegate any of its functions and powers (including the power to subdelegate) to the Management Committee, the Executive Director, the Secretary, and/or any Member or Members or any other person. The Council may continue to exercise any of the functions and powers delegated pursuant to this Rule 6.
- 6.3 The Council may at any time revoke or amend a delegation made pursuant to Rule 6.2.

### **The 12 members of the Council**

- 6.4 The 12 members of the Council (see Rule 6.1(d)) must include:
- (a) at least three members whose professional addresses are in Auckland;
  - (b) at least two members whose professional addresses are in the Waikato/Bay of Plenty area;
  - (c) at least three members whose professional addresses are in Wellington;
  - (d) at least two members whose professional addresses are in Canterbury;
  - (e) at least one member whose professional address is in the Otago/Southland area;
  - (f) at least two members who are not King's Counsel or Senior Counsel, and who have been in practice as Barristers only for more than 5 years;
  - (g) at least one member who is a barrister who has been in practice, whether as a barrister only or as a barrister and solicitor, for less than 7 years since the date of his or her admission;
  - (h) at least two members who are men and two members who are women.
  - (i) at least two members who, in the opinion of the Council, practise mainly at the criminal bar; and

- (j) one member who is an Associate Member.

### **Casual vacancies**

- 6.5 If any casual vacancy occurs in the office of the President, the President-Elect (if any) shall thereupon assume office as President until the next Annual General Meeting. If there is no President-Elect the Council may appoint a person, whether already a member of the Council or not, to fill the office of President. If the person so appointed is already a member of the Council, the further vacancy so created shall be filled under Rule 6.6. The period served by a President who takes office pursuant to this Rule 6.5 shall not be counted as a term as President for the purposes of Rule 7.8.
- 6.6 If any casual vacancy occurs in the office of member of the Council, the Council may:
- (a) appoint a Member to fill that vacancy; or
  - (b) hold an election to be conducted as nearly as the circumstances may allow in the manner set out in Rule 7 on a date to be fixed by the Council to fill that vacancy.

### **Vice-Presidents**

- 6.7 The Council may appoint up to 4 of its members to be Vice Presidents of the Association and the persons so appointed shall, along with any President-Elect, assist the President with his or her duties. In making those appointments as Vice President, the Council shall have regard to the desirability of having so far as practicable a Vice-President in Auckland, Wellington, the South Island and the provincial areas.

### **The Secretary**

- 6.8 The Council shall appoint a person, who may be a Member or not, to be the Secretary of the Association and the Council. The Secretary shall be appointed (and may be reappointed) at the first meeting of the Council after the Annual General Meeting.

### **The Treasurer**

- 6.9 The Council shall appoint one of its members to be the Treasurer of the Association. The Treasurer shall be appointed (and may be reappointed) at the first meeting of the Council following the Annual General Meeting.

### **Co-opted members**

- 6.10 The Council may co-opt up to 5 members to the Council without regard to the limitation contained in Rule 6.4 as to the maximum number of Council members who may be elected to the Council or to representative requirements contained in Rule 6.4 in any or all of the following events or circumstances:
- (a) where there is a special need for further Council members by virtue of work requirements or special expertise or special projects; or
  - (b) where it is considered by the Council to be in the interests of the Association.
- 6.11 In exercising the co-option power under Rule 6.10, the Council:
- (a) shall, if no member of the Council is of New Zealand Māori descent, seek to co-opt one member who is of New Zealand Māori descent; and
  - (b) will, in identifying and selecting members to co-opt to the Council, seek to achieve gender balance and more generally to reflect a diverse and inclusive bar.

**Executive Director**

- 6.12 The Council may appoint an Executive Director (who shall not be a member of the Council but who shall report to it) on a full or part-time basis and at such remuneration and on such terms as may be determined by the Council or by any sub-committee of the Council appointed for that purpose, whose position may or may not include the duties of Secretary as the Council determines.

**Council member's duties**

- 6.13 At all times each Council member:

- (a) shall act in good faith and in what they believe to be the best interests of the Association;
- (b) must exercise all powers for a proper purpose;
- (c) must not act, or agree to the Association acting, in a manner that contravenes the Act or this Constitution;
- (d) when exercising powers or performing duties as a Council member, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances taking into account, but without limitation:
  - (i) the nature of the Association;
  - (ii) the nature of the decision; and
  - (iii) the position of the Council member as an officer and the nature of the responsibilities undertaken by him or her;
- (e) must not agree to the activities of the Association being carried on in a manner likely to create a substantial risk of serious loss to the Association or to its creditors, or cause or allow its activities to be carried on in a manner likely to create a substantial risk of serious loss or the Association or to its creditors; and
- (f) must not agree to the Association incurring an obligation unless they believe at that time on reasonable grounds that it will be able to perform the obligation when it is required to do so.

**Conflicts of interest**

- 6.14 No Member or any person associated with a Member, shall participate in or materially influence any decision made by the Association, in respect of the payment to or on behalf of that Member or associated person of any income, benefit, or advantage whatsoever. Any such income shall be reasonable and relative to that which would be paid in an arm's length transaction (being an open market value).
- 6.15 A member of the Council and/or member of any sub-committee who is Interested in respect of any matter being considered by the Council or any sub-committee, must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified):
- (a) to the Council and or sub-committee; and
  - (b) in an Interests Register kept by the Council.

- 6.16 Disclosure must be made as soon as practicable after the Council member and/or member of the sub-committee becomes aware that they are interested in the matter.
- 6.17 A Council member and/or member of a sub-committee who is Interested regarding a matter:
- (a) must not vote or take part in the decision of the Council and/or sub-committee relating to the matter; and
  - (b) must not sign any document relating to the entry into a transaction or the initiation of the matter; but
  - (c) may take part in any discussion of the Council and/or sub-committee relating to the matter and be present at the time of the decision of the Council and/or sub-committee (unless the Council and/or sub-committee decides otherwise).
- 6.18 However, a Council member and/or member of a sub-committee who is prevented from voting on a matter may still be counted for the purpose of determining whether there is a quorum at any meeting at which the matter is considered.
- 6.19 Where 50% or more of Council members are prevented from voting on a matter because they are Interested in that matter, a Special General Meeting must be called to consider and determine the matter, unless all non-interested Council members agree otherwise, and where 50% or more of the members of a sub-committee are prevented from voting on a matter because they are interested in that matter, the Council shall consider and determine the matter.

### **Management Committee**

- 6.20 The Council may appoint a Management Committee comprising the following persons:
- (a) the President;
  - (b) the President-Elect (if any);
  - (c) the Treasurer;
  - (d) a Vice President;
  - (e) the Executive Director; and
  - (f) such other members as the Council shall decide (if any).
- 6.21 There shall be a minimum of four Management Committee members.
- 6.22 The Management Committee has all the functions and powers the Council, from time to time, delegates to the Management Committee.
- 6.23 All members of the Management Committee except for the Executive Director are entitled to one (1) vote. In the case of a tied vote, the President, or in the absence of the President, the person occupying the chair has a casting vote.
- 6.24 The quorum necessary for the transaction of business by the Management Committee shall be 3.
- 6.25 The Management Committee may regulate its meetings as it thinks fit and may meet by telephone, video or like conference as it thinks fit.
- 6.26 The President or chair, in the absence of the President, may in his or her discretion refer any matter before the Management Committee to the Council.

- 6.27 At each Council meeting the Management Committee will provide the Council with a report outlining significant issues dealt with by the Management Committee in the preceding period.
- 6.28 The Management Committee must comply with all directions given to it by the Council.

## **7. Elections**

### **Nominations**

- 7.1 Nominations for the election to the office of President-Elect (or President in the event of an election for that office being held pursuant to Rule 7.10) and all elections to the office of member of the Council must be in writing signed by two Members with the consent of the nominee endorsed, and must be left with the Secretary at least 20 working days before the date on which the Annual General Meeting is to be held. An election for the office of President-Elect shall be held only at the Annual General Meeting next after the President takes office.
- 7.2 Nominations for the office of member of the Council shall not specify any particular category or categories of Members as referred to in Rule 6.4.
- 7.3 Without derogating from its general powers under Rule 9.13, the Council shall decide which, if any, candidates practise mainly at the criminal bar for the purposes of Rule 6.4(i) following the closing of nominations and in advance of the closing of the ballot if a ballot is required.
- 7.4 Notice of the date on which nominations close shall be embodied in or accompany the notice of the Annual General Meeting.
- 7.5 At any annual election a Member may be a candidate for election to the office of President-Elect (or President in the event of an election for that office being held pursuant to Rule 7.10) as well as to the office of member of the Council.

### **President-Elect**

- 7.6 The result of the election to the office of President-Elect (or President in the event of an election for that office being held pursuant to Rule 7.10) shall be declared first. The person who is elected President-Elect (or President) shall no longer be eligible for election as a member of the Council.
- 7.7 The person elected as President-Elect shall, without further election, take office as President on 1 October in the year following his or her election as President-Elect, and hold office as President for a term of two years from that date.
- 7.8 The person who holds office as President shall be eligible to stand as President-Elect, provided however that they shall not be so eligible if that would result in that person being President for more than two consecutive terms.

### **President's term of office**

- 7.9 The President shall hold office until their successor takes office.
- 7.10 The person who holds office as President may relinquish the office prior to the expiry of their term of office by notifying the Secretary in writing not less than two months in advance of the next Annual General Meeting of his or her intention to resign as President at that Annual General Meeting. In that event, an election shall be held at the Annual General Meeting for the office of President, rather than the office of President-Elect, and the person so elected shall upon election assume the office of President.

**Past President**

- 7.11 Upon the President-Elect assuming office as President pursuant to Rule 7.7, the person who previously held the office of President shall, subject to their consent, hold office as Past President.
- 7.12 The Past President shall hold office until the next election of a person as President-Elect.
- 7.13 A person who consents to holding office as Past President shall not, during the term of their office, be eligible for election as a member of Council.
- 7.14 If any casual vacancy occurs in the office of the Past President, the office shall for the remainder of the term remain vacant unless the Council determines otherwise.

**Council member's term of office**

- 7.15 Members of Council shall be elected for a term of two years and are eligible for re-election with no maximum term.
- 7.16 The term of office for each member of the Council shall commence on the 1<sup>st</sup> day of October following the date of the Annual General Meeting at which an election of officers is held, or, in the event of Rule 7.17 applying, a declaration of election being made.

**Candidates less than or equal to vacancies**

- 7.17 If the number of candidates for the office of members of the Council is less than, or the same as the number of vacancies, the person chairing the Annual General Meeting shall declare those nominated to be elected. In the event that the number of candidates nominated for office and declared elected is less than the number required for the Council, those persons declared elected shall as soon as practicable after the Meeting hold a meeting of those elected and appoint such person or persons as may be necessary to constitute as far as is possible (but without requiring any elected member to stand down) the Council in accordance with the categories of members set out in Rule 6.4.

**Multiple candidates**

- 7.18 If there is more than one candidate for the office of President-Elect (or President in the event of an election being held for the office of President pursuant to Rule 7.10) or if the number of candidates for office of member of the Council is more than the number of vacancies, a ballot shall be held for the election of the President-Elect (or President in the event of an election for that office being held pursuant to Rule 7.10) or the members of the Council, as the case may be, in the manner set out in Rules 7.19 to 7.22.

**Voting papers**

- 7.19 The Secretary shall forthwith after the date on which nominations close, send to each Member at his or her address and/or contact details appearing in the Register of Members a voting paper containing, in alphabetical order of surnames, a list of all the duly nominated candidates together with directions for voting. Any Member who satisfies the Secretary that they have not received or has lost or spoiled his or her voting paper shall be entitled to receive a voting paper and complete it in the required manner at any time before the closing of the ballot. The voting paper shall be in the form or to the effect following, with such additions or modifications as the Council may in any particular case deem necessary:

“Council of the New Zealand Bar Association | Ngā Ahorangi Motuhake o te Ture Incorporated. Voting paper for the use at election to be held on \_\_\_\_\_ day the day of 20 \_\_\_\_\_ for (President-Elect and/or a member of the Council as the case may be).

#### CANDIDATES

##### Directions:

- (1) The voter must vote for no more candidate(s) than there are vacancies.
- (2) The voter must strike out the name of any candidate for whom they do not wish to vote. Any marking through a candidate's name will be treated as a striking out.
- (3) If the voting paper was received by electronic means, it must be returned by electronic means.
- (4) This voting paper must be enclosed in a sealed envelope with the name of the voter signed and legibly printed on the outside of the flap of the envelope.
- (5) The voting paper must be delivered to the address of the Secretary given on the voting paper not later than 4 p.m. on the day that is 3 working days preceding the Annual General Meeting at which time the ballot shall close.”

If there is more than one nomination for Associate member on Council a separate voting paper will be sent to Associate members only.

#### **Election process**

7.20 Where a voter has advised the Association of an electronic mail (email) address, then:

- (a) By not later than a date to be specified each year by the Association, the Secretary must send an email to each such voter, setting out:
  - (i) the biographical details of each candidate;
  - (ii) electronic voting papers and details of the procedure for electronic voting in respect of the election, including the closing time for voting;
  - (iii) such other information as the Secretary may determine.
- (b) The voter may then vote electronically, using the electronic voting papers according to the procedure prescribed by the Secretary. Such a vote shall be a voting paper for the purpose of this Constitution.
- (c) Where a voter entitled to vote has not advised the Association of an email address then:
  - (i) by not later than a date to be specified each year by the Association, the Secretary must send to each such voter the following:
    - (1) the biographical details of each candidate;

- (2) a voting paper containing in alphabetical order or surnames, a list of all the candidates and also directions as to voting including the closing time for voting; and
  - (3) such other information as the Secretary may determine.
- (ii) After the closing of the ballot, the envelopes containing the voting papers must be opened and the votes recorded for each candidate.
- (d) The Secretary must then collate the postal votes with those votes made by way of electronic voting and set out:
  - (i) the total number of votes received;
  - (ii) the number of votes rejected;
  - (iii) the total number of valid votes in favour of each candidate.
- (e) Each voter is entitled to one vote only, irrespective of the method of voting chosen. If the Secretary is satisfied that a voter has voted more than once, or the voter has not voted in accordance with the relevant prescribed procedures, the voter's vote will be invalid.

7.21 The results of an election must be declared by a date to be specified each year by the Association or as soon after as is reasonably practicable.

#### **Election Agent may be engaged**

7.22 The Association may engage a company or organisation (**Election Agent**) to conduct the election. In that event, the Election Agent and/or one of its officers will, in relation to the election, carry out all or such of the functions of the Secretary under Rule 7.20 as are agreed upon.

#### **Election by postal vote**

7.23 Despite the provisions of Rule 7.20, the Council may, if it considers it impractical or undesirable for a particular election or part of a particular election to be conducted on an electronic vote basis, direct that the election or the relevant part of the particular election be conducted on a postal vote basis in accordance with the provisions of Rule 7.20. In that event, the preceding provisions of Rule 7.20, with appropriate modifications, will apply to the election by postal vote.

#### **Informal votes**

7.24 A voting paper or electronic vote shall be informal in any of the following cases:

- (a) If the name of the voter does not appear signed or printed legibly on the outside of the flap of the envelope.
- (b) If the voter is disqualified from voting under Rule 12.16.
- (c) If the number of candidates whose names have not been struck out is greater than the number of vacancies to be filled.
- (d) If the envelope containing the voting papers is delivered after the closing of the ballot or the electronic vote is received after the closing of the ballot.

### **Scrutineers**

- 7.25 The Council shall appoint not fewer than two scrutineers who shall be Members who are not candidates for office.
- 7.26 Between the time fixed for the closing of the ballot and the commencement of the Annual General Meeting the envelopes containing the voting papers shall be opened and all electronic voting results shall be so printed by the Secretary and the scrutineers. The scrutineers shall determine the formality of voting papers in terms of Rule 7.20. The Secretary shall notify the scrutineers of the names of all Members whose voting papers are informal pursuant to Rule 7.24. They shall then count the votes recorded for each candidate.
- 7.27 On completion of the count the scrutineers shall prepare a list showing the number of valid votes cast for each candidate, and list the candidates in the order of the votes cast with the candidate having the most votes being listed first. The list shall be delivered to the person chairing the Annual General Meeting.
- 7.28 In the event that the requirements of Rule 6.4 are met, the scrutineers shall certify the list as a list showing the number of valid votes cast for each candidate and the person chairing the meeting shall declare the 12 candidates with the most votes elected.
- 7.29 In the event that the requirements of Rule 6.4 are not met, the scrutineers shall eliminate from the list the candidate in the list of the top 12 candidates having the least number of votes whose election is not necessary to meet the requirements of that Rule. The scrutineers shall, if necessary, repeat this exercise until such time as the requirements of Rule 6.4 are met in the list of the top 12 candidates, and shall then certify the amended list as a list showing the number of valid votes cast for each candidate (but with the names of the candidates who have been eliminated/deleted) and the person chairing the meeting shall declare the 12 candidates with the most votes on that list elected.
- 7.30 In the event that there are not enough candidates to enable the exercise contained in Rule 7.29 to be completed so as to meet the requirements of Rule 6.4, the scrutineers shall add back to the list the candidates who were eliminated from the list of top 12 candidates in the order in which they were eliminated until such time as the list comprises 12 candidates.

### **Election result**

- 7.31 The person chairing the Annual General Meeting shall declare the candidates elected in alphabetical order.
- 7.32 If, by reason of an equality of votes given for two or more candidates the election is not complete the person chairing the Annual General Meeting shall decide by lot in such a manner as they may determine which of such candidates shall be elected and thereby complete the election.
- 7.33 The accidental omission to forward a voting paper either by post or email to any Member entitled to vote, or the non- receipt of a voting paper by, any Member shall not invalidate the election.

## **8. Financial reporting**

### **Accounting records**

- 8.1 The Council must ensure that there are kept at all times, accounting records that:
- (a) correctly record the transactions of the Association, and

- (b) allow the Association to produce financial statements that comply with the requirements of the Act, and
- (c) would enable the financial statements to be readily and properly audited.

### **Annual financial statements**

- 8.2 The Treasurer shall prepare annual financial statements of the Association. Such financial statements shall be presented to the Annual General Meeting for confirmation.

### **Audit**

- 8.3 At the Annual General Meeting it shall be open to any Member to move that the financial statements be audited. If a resolution to such effect is passed a qualified auditor (for the purposes of the Act) shall be appointed to audit the financial statements of the Association and report on them at the next Annual General Meeting or any Special Meeting called for that purpose. The Council shall have responsibility for negotiating the auditor's remuneration which shall be paid out of the funds of the Association.

## **9. Proceedings of Council**

### **Council meetings and procedures**

- 9.1 The Council may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Minutes must be kept of all Council meetings.
- 9.2 The President, or failing the President, the President-Elect, or failing that, a Vice President elected by the Council, or failing that, a member elected by the Council shall be the person chairing each meeting.
- 9.3 Questions arising at any meeting shall be decided by a majority of votes. Each member present shall have one vote. In case of an equality of votes, the person chairing the meeting shall have a second or casting vote.
- 9.4 The President may, and the Secretary on the requisition of any three members of the Council shall, at any time convene a meeting of the Council. It shall not be necessary to give notice of a meeting except to a member's address and/or contact details in the Register of Members.
- 9.5 The quorum necessary for the transaction of the business of the Council shall be five members. For the purpose of this Constitution the Council shall be deemed to be holding a meeting if a quorum of members are linked by a teleconference or video by which all members participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- 9.6 The Council may dispatch business by electronic means in the following manner:
- (a) The President or President-Elect may raise a question for resolution by the Council in an electronic means sent to each member of the Council.
  - (b) The question shall be decided by a majority of votes of the Council.
  - (c) Votes shall be cast and counted by whatever means specified in the electronic communication sent to the Council once, in the discretion of the President or President-Elect, a reasonable opportunity has been accorded to all members of the Council to express their views on the question for resolution.
- 9.7 Subject to the presence of the necessary quorum, the Council may act notwithstanding any vacancies in its membership, or that it may afterwards be discovered that there was some defect in the election of any member of the Council or that they were disqualified.

- 9.8 Any written proposal that has been sent to each Council member and returned to the Secretary, either with an affirming signature in hard copy or by electronic means, will become a decision of the Council if the required number of affirmations is received in accordance with this Rule 9.8. Such decisions will be ratified and recorded in the minutes of the next Council meeting.
- 9.9 All acts done at any meeting of the Council, or of a sub-committee of the Council, or by any person acting as a Council member, shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Council member or person acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Council member.

### **Council powers**

- 9.10 The Council has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of the Association, subject to such modifications, exceptions, or limitations as are contained in the Act or in this Constitution, and may exercise all such powers of the Association as are not by this Constitution required to be exercised by the Association in General Meeting.

### **Insurance and indemnity**

- 9.11 The Association may, subject to the provisions of the Act, indemnify present and former Members and Association employees who act in good faith in seeking to advance the Association's purposes and activities, and/or take out insurance cover in conjunction with or for the purposes of that indemnity, but no such indemnity or insurance shall be provided where a Member or employee is criminally liable for the acts or defaults in respect of which indemnity or insurance benefits are sought.
- 9.12 No Council member shall be liable for the acts or defaults of any other Council member, or any loss occasioned thereby, unless occasioned by that Council member's wilful default or wilful acquiescence.

### **Council authorities**

- 9.13 The Council shall have the final right to decide any question of interpretation relating to this Constitution or any dispute or issue arising under this Constitution.

## **10. Administration**

- 10.1 In addition to the Secretary and Treasurer, any other person or persons deemed necessary for the conduct of the affairs of the Association may from time to time be appointed by the Council upon such terms, including remuneration, as the Council may think fit.
- 10.2 Any barrister or solicitor appointed to act for the Association pursuant to Rule 3.1(c) shall be paid out of the funds of the Association such fee or other remuneration as the Council shall determine.

## **11. Resignation**

- 11.1 Any member of the Council may resign from the Association or the Council by notice in writing to the President or Secretary, and that resignation shall be effective, subject in the case of the President resigning in terms of Rule 7.10, as from such time as the Council shall determine.
- 11.2 Unless the Council otherwise decides, the levy payable under Rule 15 shall not be refundable in whole or in part upon the resignation of any Member.

## **12. General Meetings**

- 12.1 An Annual General Meeting of the Association shall be held each year after the 1<sup>st</sup> of June and before the 30<sup>th</sup> of September. The Council shall decide the date and the venue or venues.
- 12.2 All other General Meetings shall be called Special General Meetings.

### **Annual General Meeting**

- 12.3 The Annual General Meeting may be held at two or more venues as may be determined by the Council providing that each venue is linked by a satisfactory teleconference or video, but otherwise shall be held consecutively in Wellington and Auckland or, in any particular year, in such other place as the Council may decide.
- 12.4 At least 10 working days' notice specifying the place or places and the time of the Annual General Meeting and the general nature of the business to be transacted at that meeting shall be given to all Members.
- 12.5 At each Annual General Meeting a report of the Council and annual financial statements shall be submitted to the Members. The meeting shall also consider any motion by any Member of which notice has been given in accordance with Rule 12.6. Any business not specified in the notice calling the meeting or in any notice of motion under Rule 12.6 may be transacted at the meeting by leave of the person chairing the meeting unless, upon the objection of any Member, a majority of those present at the meeting decides that such business be not considered or transacted by the meeting.

### **Notice of Motion**

- 12.6 Any Member desiring to move any motion at an Annual General Meeting on any matter not covered by the notice convening the meeting shall notify the Secretary at least 10 working days before the meeting. The written notice must include a request to introduce the motion, and the background to and reasons for the motion. The Secretary shall then send a copy of the motion with the proposer's name to each Member or, when this is not practicable, shall send a summary of the motion and shall state where the full text of the motion may be seen.

### **Special General Meetings**

- 12.7 The Council may convene a Special General Meeting at any time and at any place or places and shall give reasonable opportunity for all Members to attend.
- 12.8 Upon receiving a requisition in writing signed by at least 15 financial Members and specifying the objects of the meeting, the Secretary shall convene a Special General Meeting to be held not less than 10 days nor more than 40 days after the Secretary receives the requisition. Such a requisition shall be deemed not to be signed by a financial Member unless either the Member's signature is legible or the Member's signature has the Member's name printed legibly beside it.
- 12.9 A Special General Meeting may be held at one or more venues as provided for Annual General Meetings in Rule 12.3 but otherwise shall be held at such place as the Council may decide.
- 12.10 At least 5 working days' notice of every Special General Meeting specifying the time and place or places of the meeting and the general nature of the business to be transacted at that meeting shall be given to all Members.
- 12.11 No business shall be transacted at any Special General Meeting other than that specified in the notice convening the meeting.

**Quorum**

- 12.12 No business shall be transacted at any Annual General Meeting or Special General Meeting unless 10 Members entitled to take part in the proceedings are present or linked up by teleconference or video. If, within half an hour from the time appointed for the meeting, the required number of Members is not present or linked up the meeting, if a Special General Meeting shall lapse without prejudice to the calling of another meeting for the same purpose or, if an Annual General Meeting shall stand adjourned for one week and then from week to week until the requisite number of Members is present or linked up, as the case may be.

**Proxies**

- 12.13 Any Member may, if entitled to vote, vote by proxy on any question submitted to the decision of a General Meeting. No person shall be appointed a proxy who is not a Member and entitled to vote at the meeting. The form appointing a proxy must be received by the Secretary not less than 48 hours before the time appointed for the meeting at which the proxy is to be used.

**Minutes**

- 12.14 Minutes shall be recorded by or under the direction of the Secretary, in records to be kept for that purpose, of the proceedings of all meetings of the Association and of the Council.

**Chair**

- 12.15 The President shall preside at every General Meeting. In the absence of the President, any President-Elect shall preside. In the event of the absence of the President and any President-Elect, one of the Vice Presidents of the Association to be chosen by the meeting shall preside. In the event of the absence of the President and any President-Elect, and any Vice President, one of the members of the Council to be chosen by the meeting shall preside. In the absence of the President, any President-Elect, and all members of the Council, then some Member to be chosen by the meeting shall preside. At every General Meeting the person chairing the meeting shall have both a deliberative and a casting vote.

**Voting**

- 12.16 No Member shall be entitled to vote on any ballot or at any General Meeting nor be eligible for any office or seat on the Council or to join in a requisition for a meeting under Rule 12.6 while his or her levy, or any former levy or other sum payable by him or her to the Association, is unpaid. In the case of a ballot a Member shall be deemed not to have paid his or her annual levy unless they have paid it at least 7 days before the day on which the ballot closes.

**Resolutions Binding**

- 12.17 Subject to Rule 18.14, all resolutions of the Association shall be passed by the votes of a majority of the Members entitled to vote who are present at a General Meeting or represented by proxy (in any case where voting by proxy is permitted under Rule 12.13) and shall be binding on all Members whether they are at the meeting or not. A declaration by the person chairing the meeting that a resolution has been carried or lost, together with an entry in the minutes, shall be conclusive evidence of the fact.

**Irregularity of Meeting**

- 12.18 If any irregularity occurs in the convening or holding of any General Meeting or in any proceedings at or ancillary to any such meeting, and it is not noticed and objected to at the time, all proceedings at that meeting shall be of the same force and validity as if no such irregularity had occurred; but if any irregularity is noticed and objected to, the meeting

shall decide whether to uphold that objection and the meeting's decision shall be final and conclusive.

### 13. **Dispute resolution**

#### **Disputes and complaints**

13.1 In this Constitution, unless the context otherwise requires, any reference to:

- (a) “**complaint**” means an allegation that the conduct or discipline of any Member(s) has/have fallen short of expected standards of conduct for Members, and the complaint may allege:
  - (iii) a breach or failure to observe a specific Rule, Regulation or policy; and/or
  - (iv) other misconduct likely to cause distress, embarrassment or concern to another Member or Members or member or members of the public or tend to damage the reputation of the Association.
- (b) “**dispute**” means a complaint, disagreement or conflict involving the Association and/or its Members in relation to specific allegations, such as misconduct, a breach of these Rules, or the Act, or that a Member's rights or interests have been compromised. Without limitation, it may be between Members, Members and the Association, or between Council members and Members.

13.2 If the Association receives notice of a complaint or dispute under this Rule 13 the dispute will be heard or otherwise dealt with the Disputes Resolution Rules attached in Schedule 1.

#### **Referral to New Zealand Law Society**

13.3 The Council may of its own motion or on the complaint in writing of any person enquire into the conduct of any Member and/or may refer the complaint to the New Zealand Law Society.

#### **Council powers**

13.4 If the Council, following the hearing of a dispute under the Disputes Resolution Rules, is of the opinion that the Member concerned has acted unethically or in a manner which is prejudicial to the functions and best interests of the separate and independent bar, it may do one or more of the following things:

- (a) censure the Member;
- (b) require the Member to take such steps as the Council sees fit to redress or rectify the complaint;
- (c) expel the Member or suspend the Member from membership for a specified period;
- (d) order the complainant (if a Member) or the person or persons complained against to meet any of the Association's reasonable costs in dealing with a dispute or complaint; or
- (e) require the Member to resign from the Association.

13.5 For certainty:

- (a) a dispute that relates to a complaint, and any decision on a dispute, may relate to a person who is no longer a Member but who was a Member at the time of the relevant conduct; and

- (b) if a dispute that relates to a complaint about a Member who resigns after the complaint is received, the Council shall have power to continue to follow the procedures for the hearing of the dispute under the Disputes Resolution Rules and, if the complaint is upheld, of imposing penalties in accordance with this Constitution.

## **14. Finances**

### **Financial year**

- 14.1 Each financial year shall close on the 31st day of March.

### **Annual financial statements**

- 14.2 At the end of each financial year, the Council shall cause to be prepared as soon as convenient after the balance date an annual report and annual financial statements of the Association during the preceding financial showing the financial position and results of the Association as at the 31<sup>st</sup> day of March in each year for presentation to the Annual General Meeting.

### **Banking**

- 14.3 All moneys paid to or received by the Association shall be paid to the credit of the Association at the bank or banks appointed by the Council. All withdrawals from that bank or banks shall be signed or authorised by such persons as the Council may determine.

### **Refunds and payments**

- 14.4 The Council may refund to Members any travelling or other expenses properly incurred in attending meetings of the Council or any committee or subcommittee of the Association or of the Council or in connection with any other business of the Association. The Council may pay the President:
- (a) an honorarium and/or
  - (b) a fixed allowance for general entertainment, travelling and other expenses not specifically refunded to the President pursuant to this Rule 14.5.

## **15. Levies**

### **Annual levy**

- 15.1 The Council may impose on Members an annual levy to be payable at a time and in the manner fixed by the Council. The instalment or instalments shall be recoverable as a debt due to the Association. The Council may, by similar resolution, decide that a levy already imposed shall no longer be payable or may be reduced in amount. The Council shall have a discretion to remit in whole or in part the annual levy of any Member who may apply for remission.

### **Non-payment**

- 15.2 If any Member fails to pay the levy within 30 days, or such other period fixed by the Council, of the date of the notice advising that the levy is due, his or her membership shall lapse, unless the Council decides to extend the date for payment, in which case his or her membership shall lapse at the expiry of that extended term.

## **16. Common Seal**

The Common Seal (if any) of the Association shall be kept in the custody of the Secretary, or of anyone else the Council may appoint for the purpose. It shall not be affixed to any document except upon a resolution of the Council and in the presence of three members of the Council who shall also sign the document.

## **17. Regulations or by laws**

- 17.1 The Council may make Regulations on matters referred to in this Constitution that require further elaboration in detail.
- 17.2 Regulations will only be made, amended or rescinded by the assent of not less than two-thirds of the Council members.
- 17.3 The requirements for considering whether consultation on a proposed Regulation is appropriate are the same as the requirements for a proposed substantive change to this Constitution, as set out in Rule 18.2.
- 17.4 Information regarding Regulations made, amended or rescinded will be promptly communicated to Members.

## **18. Amending Rules**

### **Amendment process**

- 18.1 Subject to Rule 18.4, this Constitution may be altered or added to at any Annual General Meeting or Special General Meeting.
- 18.2 Before a resolution to make substantive changes to this Constitution is put before a General Meeting, the Council will consider whether consultation with the Members is appropriate and undertake consultation to the extent the Council considers reasonable.
- 18.3 Notice in writing of any proposed alteration or addition and of the terms of such alterations or addition shall be delivered to the Secretary not less than 20 working days before the meeting in the case of an Annual General Meeting and together with the requisition for the meeting in the case of a Special General Meeting. Not less than 10 working days' notice of the proposal to alter or add to the Rules shall be given to the Members by the Secretary in accordance with this Constitution.

### **Super majority in some cases**

- 18.4 The following Rules, including this Rule, may not be altered or added to unless approved by a majority of not less than 75% of the Members entitled to vote in terms of Rule 12.17 and voting on the resolution:
  - (a) Rule 2 relating to the general functions of the Association;
  - (b) Rule 4.3 relating to the qualification for full Members;
  - (c) Rules 6.4 and 7.28 to 7.30 relating to the composition and election of the Council;
  - (d) Rules 7.18 to 7.24 relating to the holding of a ballot; and
  - (e) Rule 12.3 relating to the means of conducting the Annual General Meeting.

### **Ordinary majority in all other cases**

- 18.5 Any other alteration or addition may be passed by a majority of the Members entitled to vote in terms of Rule 12.17 and voting on the resolution.

### **Entrenchment of not-for-profit status**

- 18.6 Notwithstanding Rules 18.1 to 18.3 and 18.4, Rules 6.14, 3.2 and 3.3 and 22 may not be altered, amended, or revoked so as to adversely affect the not-for-profit status of the Association, as specified from time to time by the Inland Revenue Department. This Rule 18.6 itself may not be altered or revoked and shall be included and implied into any Rules of Association that may replace this Constitution.

**Update Registrar**

- 18.7 Every alteration to this Constitution, including any change of the Association's name, shall be promptly registered with the Registrar of Incorporated Societies as required by the Act.

**19. Notices**

- 19.1 A notice may be given to any Member by or on behalf of the Association, or the Council, or Secretary of the Association, either personally or by sending it by post or emailing it to that Member at his or her professional address and/or contact details as recorded in the Registry of Members.
- 19.2 Where a notice is sent by post, service of the notice shall be deemed to be effected on the third working day after being sent.
- 19.3 A notice of a meeting shall be deemed to be effected 24 hours after the letter containing the notice is posted and in any other case at the time at which the notice would be delivered in the ordinary course of post.
- 19.4 Where a notice is sent by email, service of that notice shall be deemed to be effected as soon as the notice is sent.
- 19.5 The accidental omission to give notice of a meeting to, or the non- receipt of notice of a meeting by, any Member shall not invalidate the proceedings at any meeting.

**20. Member access to Information**

- 20.1 A copy of this Constitution and any amendments made to them shall be made available to any financial Member on request in writing from that Member.
- 20.2 A Member may at any time make a written request to the Association for information held by the Association. The request must specify the information sought in sufficient detail to enable the information to be identified.
- 20.3 The Association must, within a reasonable time after receiving a request:
- (a) provide the information, or
  - (b) agree to provide the information within a specified period, or
  - (c) agree to provide the information within a specified period if the Member pays a reasonable charge to the Association (which must be specified and explained) to meet the cost of providing the information, or
  - (d) refuse to provide the information, specifying the reasons for the refusal.
- 20.4 Without limiting the reasons for which the Association may refuse to provide the information, the Association may refuse to provide the information if:
- (a) withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons, or
  - (b) the disclosure of the information would, or would be likely to, prejudice the commercial position of the Association or of any of its Members, or
  - (c) the disclosure of the information would, or would be likely to, prejudice the financial or commercial position of any other person, whether or not that person supplied the information to the Association, or
  - (d) the information is not relevant to the operation or affairs of the Association; or
  - (e) withholding the information is necessary to maintain legal professional privilege, or

- (f) the disclosure of the information would, or would be likely to, breach an enactment, or
- (g) the burden to the Association in responding to the request is substantially disproportionate to any benefit that the Member (or any other person) will or may receive from the disclosure of the information, or
- (h) the request for the information is frivolous or vexatious; or
- (i) the request seeks information about a dispute or complaint which is or has been the subject of the procedures for resolving such matters under this Constitution and the Act.

20.5 If the Association requires the Member to pay a charge for the information, the Member may withdraw the request, and must be treated as having done so unless, within 10 working days after receiving notification of the charge, the Member informs the Association:

- (a) that the Member will immediately pay the charge, or
- (b) that the Member considers the charge to be unreasonable.

20.6 Nothing in this Rule 20 limits Information Privacy Principle 6 under the Privacy Act 2020.

## 21. **Contact person**

21.1 The Association shall have at least one but not more than three contact person/s whom the Registrar can contact when needed. Unless otherwise determined by the Council, the Secretary shall perform that role. Any such contact person must be:

- (a) at least 18 years of age; and
- (b) ordinarily resident in New Zealand; and
- (c) not disqualified under the act from holding that office.

21.2 Any change in the Association's contact person or that person's name or contact details shall be advised to the Registrar within 20 working days of that change occurring, or the Association becoming aware of the change.

## 22. **Winding Up**

### **Resolving to put the Association into liquidation**

22.1 The Association shall be wound up if at a General Meeting it passes a resolution requiring the Association to be wound up and if such 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 so to be confirmed was passed.

22.2 The surplus assets after payment of the Association's liabilities shall not be paid or distributed amongst the Members but shall be transferred to some other not-for-profit entity having for their objects the carrying on of functions similar to those referred to in Rule 2 or shall be held in trust by a trustee or trustees for a similar purpose, and such decision shall be determined by a majority of such Members as shall be present at the subsequent meeting of the Association as provided in Rule 22.1.

22.3 In the event of the liquidation of the Association pursuant to the Act or in the event of the Association being otherwise removed from the register pursuant to the Act the surplus assets after payment of the Association's liabilities and the expenses of liquidation or removal shall be transferred in the same manner as provided in Rule 22.2.

## 23. Definitions and interpretation

### Definitions

- 23.1 In this Constitution, unless the context requires otherwise, the following terms shall bear the following meanings:

**Act** means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time) and where required includes regulations made under the Act.

**Annual General Meeting** means a meeting of the Members held once per year in accordance with the Act and this Constitution, as applicable.

**Associate Member** means a person who has been admitted as such under Rule 4.4.

**Association** is the Association referred to in Rule 1.1.

**Constitution** means these Rules and includes any amendments or alternations made to these Rules in accordance with Rule 18.

**Contact details** means the physical, postal and electronic addresses and telephone number(s) of a Member or Council member.

**Council** means the Association's governing body referred to in Rule 6.

**Council member** includes the Association's President, Vice-President, Secretary, Treasurer and other Council members elected under Rule 7, co-opted under Rules 6.5 and 6.6, or appointed under Rules 6.10 and 6.11.

**financial year** means the financial year of the Association defined in Rule 14.1.

**Full Member** means means a person who been admitted as such under Rule 4.3.

**General Meeting** means either an Annual General Meeting or a Special General Meeting.

**Honorary Member** is a Member recognised as such pursuant to Rule 4.7.

**Interested** in relation to a Council (or any sub-committee) member means a member who is interested in a matter for any of the reasons set out in section 62 of the Act.

**Interests Register** means the register of interests of Council (or any sub-committee) members kept under this Constitution.

**Life Member** is a Member recognised as such pursuant to Rules 4.12 to 4.14.

**Member** is a Member admitted to membership of the Association, whatever their membership class, unless otherwise stated in this Constitution.

**Non-practising Member** means a person who has been admitted as such under Rule 4.6.

**Register of Members** is the register of Members kept under Rule 5.

**Registrar** means the Registrar of Incorporated Societies appointed in accordance with the Act.

**Regulation** means a regulation or bylaw created under Rule 17.

**Secretary** means the person appointed to that role under Rule 6.8 and, subject to any determination of the Council, the person appointed as Executive Director.

**Special General Meeting** means a meeting of the Members, other than an Annual General Meeting, called for a specific purpose or purposes under this Constitution.

**Treasurer** is the person appointed to hold that position as referred to in Rule 6.9.

**Working Day** has the meaning in the Legislation Act 2019. Examples of days that are not Working Days include, but are not limited to, a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day.

**written notice** means communication by post, delivery, courier, electronic means (including email, and website posting), or advertisement in periodicals, or a combination of these methods.

### **Interpretation**

23.2 The following provisions shall apply in the construction and interpretation of this Constitution except to the extent that the context requires modification:

- (a) headings and sub-headings do not assist interpretation and appear only for convenience;
- (b) the singular number includes the plural and vice versa and words indicating one gender include all other genders,
- (c) the word "**person**" includes any association of persons whether corporate or unincorporate, and any state or government or department or agency thereof, whether or not having separate legal personality,
- (d) except as defined in Rule 23.1, any terms not defined in this Constitution, but which are defined in the Act shall bear the same meaning in this Constitution as in the Act;
- (e) "**written**" and "**in writing**" includes electronic communications and any other means of communication resulting in permanent visible reproduction; and
- (f) a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or statutory instrument as from time to time amended or re-enacted or substituted.

## **SCHEDULE 1**

### **Dispute Resolution Rules**

#### **1. How complaint is made**

- 1.1 A Member or a Council member may make a complaint by giving to the Council (or a complaints subcommittee) a notice of the dispute in writing that:
- (a) states that the Member or Council member is starting a procedure for resolving a dispute in accordance with these Disputes Resolution Rules; and
  - (b) sets out the allegation(s) to which the dispute relates and whom the allegation or allegations is or are against; and
  - (c) sets out any other information or allegations reasonably required by the Association.
- 1.2 The information setting out the allegations must be sufficiently detailed to ensure that a person against whom an allegation or allegations is made is fairly advised of the allegation or allegations concerning them, with sufficient details given to enable that person to prepare a response.
- 1.3 A complaint may be made in any other reasonable manner permitted by this Constitution.
- 1.4 All Members (including the Council) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the Association's activities.
- 1.5 The complainant raising a dispute, and the Council, must consider and discuss whether a dispute may best be resolved through informal discussions, mediation, arbitration, or a tikanga-based practice. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.
- 1.6 Nothing in this Schedule shall be interpreted as in any way limiting the parties' respective obligations to protect the privacy of natural persons.

#### **2. Person who makes complaint has right to be heard**

- 2.1 A Member or a Council member who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.
- 2.2 Without limiting the manner in which the Member or Council member may be given the right to be heard, they must be taken to have been given the right if:
- (a) they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
  - (b) an oral hearing is held if the decision-maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - (c) an oral hearing (if any) is held before the decision-maker; and
  - (d) the Member's or Council member's written or verbal statement or submissions (if any) are considered by the decision maker.

#### **3. Person who is subject of complaint has right to be heard**

- 3.1 This clause 3 applies if a complaint involves an allegation that a Member or Council member or the Association (the **Respondent**):
- (a) has breached, or is likely to breach, a duty under this Constitution or the Act; or
  - (b) has damaged the rights or interests of a Member or the rights or interests of Members generally.

- 3.2 The Respondent has a right to be heard before the complaint is resolved or any outcome is determined.
- 3.3 If the Respondent is the Association, a Council member may exercise the right on behalf of the Association.
- 3.4 Without limiting the manner in which a Respondent may be given a right to be heard, a respondent must be taken to have been given the right if:
- (a) 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
  - (b) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
  - (c) an oral hearing is held if the decision-maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - (d) an oral hearing (if any) is held before the decision-maker; and
  - (e) the Respondent's written statement or submissions (if any) are considered by the decision-maker.

#### **4. Investigating and determining dispute**

- 4.1 The Association must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with this Constitution, ensure that the dispute is investigated and determined.
- 4.2 Disputes must be dealt with under this Constitution in a fair, efficient, and effective manner and in accordance with the provisions of the Act.

#### **5. The Association may decide not to proceed with complaint**

- 5.1 Despite clauses 4.1 and 4.2, the Association may decide not to proceed further with a complaint if:
- (a) the complaint is considered to be trivial; or
  - (b) the complaint does not appear to disclose or involve any allegation of the following kind:
    - (i) that a Member or a Council member has engaged in material misconduct;
    - (ii) that a Member, Council member, or the Association has materially breached, or is likely to materially breach, a duty under this Constitution or bylaws or the Act;
    - (iii) that a Member's rights or interests or Members' rights or interests generally have been materially damaged;
  - (c) the complaint appears to be without foundation or there is no apparent evidence to support it, or the person who makes the complaint has an insignificant interest in the matter; or
  - (d) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under this Constitution; or
  - (e) there has been an undue delay in making the complaint.

## **6. Council may refer complaint**

### **6.1 The Council may refer a complaint to:**

- (a) a subcommittee or an external person to investigate and report; or
- (b) a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.

### **6.2 The Council may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).**

## **7. Decision-makers**

### **7.1 A person may not act as a decision-maker in relation to a complaint if two (2) or more members of the Council or a complaints subcommittee consider that there are reasonable grounds to believe that the person may not be:**

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.