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# **Constitution of the Soil and Health Association of New Zealand**

**As approved by the Special General Meeting on 4 May 2024**

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# Rules of the Soil and Health Association of New Zealand

This Constitution is effective from 7 October 2023.

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## 1. Name and Charitable Status

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### 1.1 Name

The name of the Association is the Soil and Health Association of New Zealand Incorporated (in these **Rules** referred to as the ‘**Association**’). The trading name of the **Association** is Organic New Zealand.

### 1.2 Registered Office

The Registered Office of the Association shall be at such a place as the Council shall from time-to-time resolve.

### 1.3 Charitable status

The Association is registered as a charitable entity under the Charities Act, 2005.

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## 2. Definitions and interpretation

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### 2.1 Definitions

In these Rules, unless the context requires otherwise, the following words and phrases have 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 any regulations made under the Act or under any Act which replaces it.

‘Annual General Meeting’ means a meeting of the Members of the Association held once per year which, among other things, will receive and consider reports on the Association’s activities and finances.

‘Associated Person’ means a person who:

- (a) may obtain a financial benefit from any matter being dealt with by any Member (as a Council Member, or in any General Meeting, or otherwise for the Association) where that person is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, sibling, nephew, niece, uncle, aunt, or first cousin of that Member;
- (b) may have a financial interest in a person to whom any matter being dealt with by any Member (as a Council Member, or in any General Meeting, or otherwise for the Association) relates;

- (c) is a partner, director, officer, board Member, or trustee of a person who may have a financial interest in a person to whom any matter being dealt with by any Member (as a Council Member, or in any General Meeting, or otherwise for the Association) relates; or
- (d) may be interested in any matter because the Association's constitution so provides.

but no such Member shall be deemed to have any such interest:

- (e) merely because that Member receives an indemnity, insurance cover, remuneration, or other benefits authorised under this Act; or
- (f) if that Member's interest is the same or substantially the same as the benefit or interest of all or most other members of the Association due to the membership of those members; or
- (g) if that Member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence that Member in carrying out that Member's responsibilities under this Act or the Association's constitution; or
- (h) if that Member is an officer of a union and that Member's interest is merely as an employee that will benefit from the union acting in the ordinary course of promoting its members' collective employment interests.

'Chair' means the Council Member responsible for, among other things, overseeing the governance and operations of the Association and chairing General Meetings.

'Clear Days' means complete days, excluding the first and last-named days (for instance, excluding the date a Notice of meeting is posted or sent to Members and the date of the meeting).

'Council' means the Association's governing body.

'Council Member' means a Member of the Council, including the Chair, Secretary and Treasurer.

'Deputy Chair/Vice Chair' means the Council Member elected or appointed to deputise in the absence of the Chair/President.

'General Meeting' means either an Annual General Meeting or a Special General Meeting of the Association.

'Joint Member' means a person who is a Member of the Association jointly with another person. Joint membership of the Association cannot comprise more than 2 individuals.

'Matter' means:

- (a) the Association's performance of its activities or exercise of its powers; or
- (b) an arrangement, agreement, or contract (a transaction) made or entered into, or proposed to be entered into, by the Association.

‘Member’ means a person properly admitted to the Association who has not ceased to be a Member of the Association.

‘Notice’ to Members includes any notice given by post, courier, or email or by any other electronic means approved by the Council and the failure for any reason of any Member to receive such Notice or information shall not invalidate any meeting or its proceedings or any election.

‘Register of Interests’ means the register of interests of Council Members kept under these Rules.

‘Register of Members’ means the register of Members kept under these Rules.

‘Rules’ means the rules in this document.

‘Secretary’ means the Council Member responsible for, among other things, keeping the Register of Members, the Register of Interests, and recording the minutes of General Meetings and Council meetings.

‘Special General Meeting’ means a meeting of the Members, other than an Annual General Meeting, called for a specific purpose or purposes.

‘Treasurer’ means the Council Member responsible for, among other things, overseeing the finances of the Association.

**2.2 Interpretation**

- (a) Words importing masculine gender shall include the feminine and the singular shall include the plural and vice versa.
- (b) If there is an inconsistency between a provision of the main body of this Constitution and a provision of a schedule or annexure of this Constitution, the provision of the main body of this Constitution will prevail to the extent of the inconsistency.

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**3. Purposes**

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**3.1 Charitable purposes**

The Association is established and maintained exclusively for charitable purposes (including any purposes ancillary to those charitable purposes), namely:

**Advocacy**

- (a) To promote the development of the best physical health and spiritual well-being of all people by all or any of the means set out herein.
- (b) To promote an understanding of the community's responsibility to ensure the perpetuity of the soil's sustainable fertility - the foundation for the existence the prosperity and health of all life on the earth.

- (c) To promote organic methods of gardening, farming and other natural production and processing methodology, and the conservative sustainable use of all natural resources to foster:
  - (i) an awareness of the interdependence of all life on earth;
  - (ii) the need to live in harmony with the natural environment.
- (d) To promote encourage and assist the enactment of legislation or the carrying out of research or any other activity whether public or private which will:
  - (i) ensure the conservation of soil, water, air and natural flora and fauna.
  - (ii) ensure the return of organic wastes to the soil by composting mulching or any other means compatible with the Association objectives.
  - (iii) minimise or eliminate environmental pollution and degradation.
  - (iv) protect the ecosystems and their biodiversity.
  - (v) protect the scenic values of the land and seascape.

### **Education**

- (e) To foster and encourage by demonstration and example the practice of composting organic wastes.
- (f) To collect, collate and distribute accurate and relevant information pertaining to all the above matters and to make this available as required with the purpose of creating a body of informed public opinion.
- (g) To publish a periodical magazine or newsletter devoted to topical articles and news items relating to the objectives and activities of the Association and other kindred subjects.
- (h) To acquire by purchase or otherwise a library of appropriate books periodicals papers and other publications for the information of members.
- (i) To disseminate by any appropriate means information relevant to the work and objectives of the Association.

### **Processes for organic producers**

- (j) To promote and enable a sustainable and ethical future for producers and consumers including by means of appropriate inspection, certification, and labelling.
- (k) To set standards specifications and processes for organic and other natural production systems for the production of organically grown food of all types and related products and to encourage the wider recognition and use of organically grown foods and related products in New Zealand.
- (l) To consider and, where applicants meet the prescribed standards, certify, organically grown foods of all types and other related natural products, as

complying with the standards set by **BioGro New Zealand** or any other appropriate authority.

- (m) To register a trademark or trademarks to promote the objectives set out in these rules and to license members and others who have been certified as meeting the required standards to use such trademark or trademarks in conjunction with their certified produce, products, or services.
- (n) To co-operate with other societies and organisations whose aims, and objectives are of a similar or like nature and to assist such groups to further their aims and objectives.

#### **Other**

- (o) To honour Te Tiriti o Waitangi.
- (p) Generally, to arrange or deal in any activity, business negotiation or transaction which is directly or indirectly beneficial to the interests of the Association or its members or for the furtherance of these objectives.
- (q) In seeking to fulfil the objectives set forth herein the Association shall be limited in the application of any funds of the Association wholly or principally to the fulfilment of its said objectives within New Zealand to the intent that the Commissioner of Inland Revenue shall at all times classify the Association as a donee organisation for the purpose of section LD 3(2) of the Income Tax Assessment Act, 2007. Accordingly:
  - (i) any income, benefit, or advantage must be used to advance the charitable purposes of the Association;
  - (ii) no Member, or Associated Person, is allowed to take part in, or influence any decision made by the Association in respect of payments to, or on behalf of, the Member or Associated Person of any income, benefit, or advantage; and
  - (iii) any payments made to a Member or Associated Person must be for goods and services that advance the charitable purpose and must be reasonable and relative to payments that would be made between unrelated parties.

### **3.2 Act and Regulations**

Nothing in this Constitution authorises the Association to do anything which contravenes or is inconsistent with the **Act**, any regulations made under the **Act**, or any other legislation.

### **3.3 Power to borrow money.**

The Association has the power to borrow money.

### **3.4 Other powers**

In addition to its statutory powers, the **Association**:



- (a) may use its funds to pay the costs and expenses to advance or carry out its purposes, and to employ or contract with such people as may be appropriate;
- (b) may invest in any investment in which a trustee may lawfully invest;
- (c) may borrow or raise money or secure the payment of money owing or the satisfaction or performance of any obligation or liability incurred or undertaken by the association in such a manner as the association may think fit and in particular by the issue of mortgages charges pledges lien or other security over or upon the whole or any part of the association's property or assets whether present or in the future;
- (d) may lend and advance money or give credit to servants of the Association or customers, persons, or corporations dealing with the Association;
- (e) may make draw accept endorse execute and issue cheques, bills of exchange, promissory notes, bills of lading, dock or other warrants debentures and any other instruments negotiable or transferable by delivery or to order or otherwise;
- (f) may deal with Association members on a co-operative basis;
- (g) may from time to time to enter into contracts with any Association members or with any other person incorporated or unincorporated.
- (h) may take or accept any gift deed legacy or other donation in any form whether subject to any trust or not;
- (i) may fix the honoraria of Council members and Officers;
- (j) may hire or appoint and prescribe the responsibilities of staff, consultants, contractors, or other person(s) or organisations at such remuneration and conditions as it shall resolve.

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## **4. Members**

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### **4.1 Minimum number of members**

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

### **4.2 Types of members**

The classes of membership and the method by which Members are admitted to different classes of membership are as follows:

- (a) **Member:** A Member is an individual, a body corporate or Joint Members admitted to membership under these Rules and who or which has not ceased to be a Member. A Member can be a single or a joint Member with another person. Subject to these Rules, a Member is entitled to one vote at any meeting of the Association.

- (b) Joint Member: Two individuals (but not more than 2) may join the Association under a joint membership, paying one subscription. Both individuals may attend and speak at General Meetings, but together shall have only one vote.
- (c) Life Member: A Life Member is a person honoured for highly valued services to the Association elected as a Life Member by resolution of a General Meeting passed by a two-thirds majority of those Members voting subject to any resolution by NC to the contrary. A Life Member shall have all the rights and privileges of a Member and shall be subject to all the same duties as a Member except the obligation to pay subscriptions.
- (d) Honorary Member: An Honorary Member is a person honoured for services to the Association or in an associated field elected as an Honorary Member by resolution of a General Meeting passed by a two-thirds majority of those present and voting. An Honorary Member has no membership rights, privileges, or duties.

### **4.3 Becoming a Member - consent**

- (a) Every applicant for membership must consent in writing to becoming a **Member**.

### **4.4 Becoming a Member: process.**

- (a) An applicant for membership must complete and sign any application form and supply any information as required by the Council.
- (b) The Council may accept or decline an application for membership. The Council must advise the applicant of its decision (but is not required to provide reasons for that decision).

### **4.5 Obligations and rights**

- (a) Every Member shall provide the Association with that Member's name and contact details (including postal address, telephone number(s), and any email address) and promptly advise the Association of any changes to those details.
- (b) Membership does not confer on any Member any right, title, or interest (legal or equitable) in the property of the Association.

### **4.6 Other obligations and rights**

- (a) All Members (including Council Members) shall promote the interests and purposes of the Association and shall do nothing to bring the Association into disrepute.
- (b) A Member is only entitled to exercise the rights of membership (including attending and voting at General Meetings, accessing, or using the Association's premises, facilities, equipment, and other property) if all subscriptions and any other fees have been paid to the Association by the due date, but no Member or Life Member is liable for an obligation of the Association by reason only of being a Member.

- (c) Any Member that is a body corporate shall provide the Secretary with the name and contact details of the person who is the organisation's authorised representative, and that person shall be deemed to be the organisation's proxy for the purposes of voting at General Meetings. The Council may decide what access or use Members may have to any premises, facilities, equipment, or other property owned, occupied, or otherwise used by the Association, including any conditions of and fees for such access or use.
- (d) All Honorary, Life, and financial Single or Joint Members shall be entitled to receive free of charge one copy of each issue of the Association's magazine and such other benefits and publications as the Council may from time-to-time resolve.

## **4.7 Subscriptions and fees**

### **4.7 Subscriptions and fees**

- (a) Membership subscription and any other fees for membership shall be set by resolution of the Council.
- (b) Membership subscriptions may be made by periodic instalment or be made for multiple years.
- (c) A Member's subscription shall run for the duration of a fixed number of issues of the Association's magazine. For the avoidance of doubt, a Member's subscription shall cease on the last day of the period covered by the final magazine provided them.
- (d) Any Member failing to pay a subscription (including any periodic payment), or any levy within 4 weeks of the date the same was due for payment shall be unfinancial and shall (without being released from the obligation of payment) have no membership rights and shall not be entitled to participate in any Association activity or to access or use the Association's premises, facilities, equipment and other property until all the arrears are paid. If any such arrears are not paid within 3 months of the due date for payment the Council may terminate the Member's membership (without being required to give prior notice to that Member).

## **4.8 Ceasing to be a Member.**

- (a) A Member ceases to be a Member:
  - (i) on death (or if a body corporate on liquidation or if a partnership on dissolution of the partnership);
  - (ii) by resignation from that Member's class of membership by notice to the Secretary;
  - (iii) on becoming unfinancial;
  - (iv) on termination of a Member's membership following a dispute resolution process under these Rules;

with effect from the death of the Member or the date of receipt by the Secretary, or any subsequent date stated in the notice of resignation, or termination of membership following a dispute resolution process under these Rules.

#### **4.9 Resignation or termination of Membership**

- (a) A Member who resigns or whose membership is terminated under these Rules;
  - (i) remains liable to pay all outstanding subscriptions and fees except if the member has ceased to be a member because of death;
  - (ii) shall cease to hold themselves out as a Member of the Association;
  - (iii) shall return to the Association all material provided to Members by the Association (including any membership certificate, badges, handbooks, and manuals; and
  - (iv) shall cease to be entitled to any of the rights of an Association Member.

#### **4.10 Becoming a Member again.**

- (b) Any former Member may apply for re-admission in the manner prescribed for new applicants. However, if a former Member's membership was terminated following a dispute resolution process, the applicant may be re-admitted only by resolution at a General Meeting on the recommendation of the Council.

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## **5. General Meetings**

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### **5.1 Annual General Meetings**

An Annual General Meeting shall be held once a year on a date and at a location determined by the Council and consistent with any requirements in the Act, and the Rules relating to the procedure to be followed at General Meetings shall apply

- (a) The business of Annual General Meetings shall be to:
  - (i) confirm the minutes of previous Association Meeting(s);
  - (ii) receive the Chair's annual report on Association business;
  - (iii) receive the Treasurer's report on the finances of the Association, and the audited annual financial statements;
  - (iv) appoint an auditor;
  - (v) consider any motions and remits;
  - (vi) consider any general business; and

- (vii) elect Council members.
- (b) The Council shall present the following information at each Annual General Meeting:
  - (viii) an annual report on the affairs of the Association during the most recently completed accounting period;
  - (ix) the annual financial statements for that period; and
  - (x) notice of any disclosures of conflicts of interest made by Council Members during that period (including a summary of the matters, or types of matters, to which those disclosures relate).

## **5.2 Special General Meetings**

- (a) Special General Meetings may be called at any time by the Council by resolution. The Council must call a Special General Meeting if the Secretary receives a written request signed by at least 2% per cent of financial Members. Any resolution or written request must state the business to be addressed at the Special General Meeting.
- (b) The Rules relating to the procedure to be followed at General Meetings shall apply to a Special General Meeting, and a Special General Meeting shall only consider and deal with the business specified in the Council's resolution or the written request by Members for the Meeting.

## **5.3 General Meetings: Procedure**

- (a) The Council shall give all Members at least 28 Clear Days' Notice of any General Meeting and of the business to be conducted at that General Meeting.
- (b) The General Meeting and its business will not be invalidated simply because one or more Members do not receive the Notice.
- (c) All financial Members may attend and speak at General Meetings, and may vote at General Meetings:
  - (i) in person; or
  - (ii) by a signed original or signed, scanned original written proxy (an email or copy not being acceptable) in favour of some individual entitled to be present at the meeting and received by, or handed to, the Secretary before the commencement of the General Meeting; or
  - (iii) by postal vote, in accordance with these Rules; or
  - (iv) through the authorised representative of a body corporate as notified to the Secretary, and
  - (v) no other proxy voting shall be permitted.

- (d) No General Meeting may be held unless at least 10 eligible financial Members attend (including any Members who attend by electronic means), two of whom shall be the returning officer and the assistant returning officer and two of whom shall be elected officers. This will constitute a quorum.
- (e) If, within half an hour after the time appointed for a meeting a quorum is not present, the meeting, if convened upon request of Members, shall be dissolved; in any other case it shall stand adjourned to a day, time and place determined by the Chair of the Association, and if at such adjourned meeting a quorum is not present those present in person or by proxy shall be deemed to constitute a sufficient quorum.
- (f) Any decisions made when a quorum is not present are not valid.
- (g) General Meetings shall be held in such a place and at such a time as the Council shall resolve or as may have been resolved at any previous meeting.
- (h) General meetings including Annual General meetings may be held by electronic means in such a manner as shall be resolved by the Council.
- (i) All General Meetings shall be chaired by the Chair. If the Chair is absent, the Deputy Chair shall chair that meeting.
- (j) Any Chair of a General Meeting has a deliberative and, in the event of a tied vote, a casting vote.
- (k) Any Chair of a General Meeting may:
  - (i) with the consent of a majority of Members attending at that General Meeting adjourn the General Meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place;
  - (ii) direct that any person not entitled to be present at the Meeting, obstructing the business of the Meeting, behaving in a disorderly manner, being abusive, or failing to abide by the directions of the Chair be removed from the Meeting, and
  - (iii) in the absence of a quorum or in the case of emergency, adjourn the Meeting or declare it closed.
- (l) The Council may put forward motions for the Association to vote on ('Council Motions'), which shall be notified to Members with the notice of the General Meeting.
- (m) Any Member may request that a motion be voted on ('Member's Motion') at a General Meeting, by giving notice to the Secretary at least 14 Clear Days before that meeting. The Member may also provide information in support of the motion ('Member's Information').
- (n) Minutes must be kept by the Secretary of all General Meetings.

## **5.4 Remits**

- (a) At least 28 days before the date of the Annual General Meeting the Council shall prepare and distribute to financial Members an Agenda consisting of matters and remits and a list of candidates for election to the Council, with CV's, along with the relevant ballot forms. This Agenda may be published in or accompany the Association's magazine or be forwarded to financial Members by such other means in writing as the Council shall deem to be expedient provided however, that the non-receipt of any such notice of Agenda shall not invalidate or prejudice any act, resolution or proceeding of the Meeting and the Returning Officer.
- (b) In the case of extraordinary business to be brought before a General Meeting or a proposal to alter or revoke a resolution or rule the notice of Agenda shall in the same manner as set out in Rule 5.3 (General Meetings -Procedure).
- (c) Where in the majority opinion of the Council any remit or other business is contrary to the spirit of the aims and objects of the Association as set out in these Rules, this opinion with reasons may be appended to the remit in question on the Agenda document.
- (d) A summary of the main rules governing the voting process shall appear with the Agenda documents so that the membership may fully understand their rights and obligations under the Rules.
- (e) Members intending to submit remits and other matters of business must accompany those submissions with relevant information, arguments, and explanations.
- (f) Votes shall be cast in accordance with the Rules set out in Rule 6. (Voting Procedures)

## **5.5 Resolution in lieu of Meeting**

- (a) A written resolution may be passed in lieu of a general meeting.
- (b) A written resolution is valid if it is approved by no less than 75% of the number of members who are entitled to vote.
- (c) A written resolution may consist of 1 or more documents in similar form (including letters, electronic mail, or other similar means of communication as National Council may from time to time approve) each approved by or on behalf of 1 or more of the persons entitled to vote.
- (d) A member may give their approval by:
  - (i) signing the resolution; or
  - (ii) giving their approval to the resolution in any other manner permitted by this Constitution or by the Act.
- (e) The society must, within 5 working days after a resolution is passed under this rule send a copy of the resolution to an address for each person who was entitled to vote

who did not approve the resolution and on whose behalf the resolution was not approved.

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## **6. Voting Procedures**

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### **6.1 Voting for National Council Members**

- (a) The National Council members shall be elected in accordance with Rule 7.3 (Election or Appointment).
- (b) At least 28 days before the AGM a list of nominees, the names of their proposer and seconder, their biography and aspirations for the Association shall be posted with a ballot form to each voting Member of the Association.
- (c) Ballots forms shall include a list of all persons nominated for office and directions for voting.
- (d) In all other respects the voting shall be in accordance with Rule 6.2.

### **6.2 General Voting procedures**

- (a) Voting may take place by electronic means in such a manner as shall be resolved by Council.
- (b) Remit papers included in the Agendas set out in Rule 5.4 (Remits) shall include two boxes beside each remit clearly marked “In Favour of Remit” and “Against Remit”, to be marked by a tick in accordance with the voter’s preference.
- (c) Postal ballots may be returned in one of two ways to the Returning Officer:
  - (i) by being placed in a sealed envelope and marked “ballot paper of (name and initials of Member)” and posted in a covering envelope addressed to the Returning Officer at National Office; or
  - (ii) by being placed in a sealed envelope and marked “ballot paper of (name and initials of Member)” and delivered by hand to the Returning Officer at the meeting by a second person. This may occur only where the member voting is unable to personally attend the meeting.
- (d) The Returning Officer shall arrange for an up-to-date register of voter Members for recording the delivery of postal votes and those attending the AGM. Names may be added to the register at the discretion of the Returning Officer and the Chair upon presentation of evidence of eligibility. In the event of a dispute eligibility to vote shall be determined in accordance with Rule 4 (Members). The voter register shall be available for inspection by Members at the AGM.
- (e) Postal ballots papers are to be placed by the Returning Officer and their assistant in a locked secure container after the name of each voting member has been checked against the register of eligible voters. The register and the ballot paper shall be kept in a secure place to which only the returning officer and their assistant have access.



- (f) On the day and at the venue of the AGM the Returning Officer and their assistant shall count the postal votes and obtain a preliminary result which will remain confidential (subject to Rules 6.2(g) and 6.2(h)) until the meeting votes on all other agenda matters requiring a vote. The Returning Officer will then consolidate the postal and meeting votes and present those to the Chair for announcement to the meeting. The order of the reporting of votes shall be in the order set out in the Agenda. The meeting and the Returning Officer shall decide and grant further assistance if required in counting the votes. Where Rules 6.2(g) and 6.2(h) apply the Returning Officer must inform the meeting via the Chair.
- (g) The meeting may vote to amend a remit posted under Rule 5.4 (Remits) only if 30 or more voters attending the meeting are in favour of such a vote and providing the provisions of Rule 6.2(h) do not apply.
- (h) Where the counting of postal votes shows that, before the commencement of the meeting, 50% or more of total possible votes are in favour of or against any given remit or issue then the meeting vote must proceed on that remit or issue in its original form as issued to Members under Rule 5.4 (Remits).
- (i) Business which has not been notified under Rule 5 (Remits) but which in the opinion of those present at the meeting deserves further attention may be directed to the National Council meeting for its decision.
- (j) Except as provided by these Rules all decisions shall be by majority of votes.
- (k) Voting for National Council Members shall be by way of secret ballot. In all other cases voting shall be recorded on voices or by way of show of hands unless otherwise decided by the meeting.
- (l) The Chair of any General Meeting shall have a casting as well as a deliberative vote.

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## **7. Council**

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### **7.1 Composition**

- (a) Subject to these Rules and any policy directions of any General Meeting, there shall be a Council of the Association which shall govern the affairs and business of the Association. The Council shall be accountable to the Members for the advancement of the Association's purposes and the implementation of resolutions approved by any General Meeting. It will usually consist of no fewer than 7 Council Members who are:
  - (i) Members; and
  - (ii) natural persons; and
  - (iii) not disqualified by these Rules or the Act.
- (b) The Council will include:

- (i) a Chair;
- (ii) a Secretary and a Treasurer, who may be the same person; and
- (iii) other Council Members.

## **7.2 Qualifications**

- (a) Prior to election or appointment, every Council Member must consent in writing to be a Council Member and certify in writing that they are not disqualified from being appointed or holding office as a Council Member by these Rules or the Act.
- (b) Without limiting the Act or any other legislation concerning the qualification of any person to be a Council Member, the following persons are disqualified from being appointed or holding office as a Council Member:
  - (i) a person who is under 16 years of age;
  - (ii) a person who is an undischarged bankrupt;
  - (iii) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993;
  - (iv) a person who is disqualified from being a Member of the Council of a charitable entity under section 31(4)(b) of the Charities Act 2005;
  - (v) a person who has been convicted of any of the following, and has been sentenced for the offence, within the last 7 years:
    - (A) an offence under subpart 6 of Part 4 of the Act;
    - (B) a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961);
    - (C) an offence under section 143B of the Tax Administration Act 1994;
    - (D) an offence, in a country other than New Zealand, that is substantially like an offence specified in subparagraphs (A) to (C); or
    - (E) a money laundering offence or an offence relating to the financing of terrorism, whether in New Zealand or elsewhere.
  - (vi) a person subject to:
    - (A) an order under section 108 of the Credit Contracts and Consumer Finance Act 2003; or

- (B) a forfeiture order under the Criminal Proceeds (Recovery) Act 2009; or
  - (C) a property order made under the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act.
- (vii) a person who is disqualified from being a Member of the Council of a charitable entity under section 16 of the Charities Act 2005.

### **7.3 Election or appointment**

(a) The election of Council Members shall be conducted as follows:

- (i) Council Members shall be elected during Annual General Meetings. However, if a vacancy in the position of any Council Member occurs between Annual General Meetings, that vacancy shall be filled by resolution of the Council until the next Annual General Meeting (and any such appointee must, before appointment, supply a signed consent to appointment and a certificate that the nominee is not disqualified from being appointed or holding office as a Council Member by these Rules or the Act).
- (ii) a Returning Officer and Assistant Returning Officer appointed by the Council shall call for nominations to electable positions and presentation of remits and other matters of business at least 90 days before the AGM and this notice shall be published in the nearest magazine issue within this period or by such other means in writing as the Council shall deem to be expedient.
- (iii) a closure date for nominations shall be declared by the Council. This closure date shall be published along with the call for nominations.
- (iv) a candidate's written nomination must be accompanied by:
  - (A) the written consent of the nominee (who must be a financial Member);
  - (B) a certificate that the nominee is not disqualified from being appointed or holding office as a Council Member by these Rules or the Act;
  - (C) the names of the proposer and seconder (who must be financial Members; and
  - (D) a brief background history and note of the candidate's aspirations for his or her term in office,

and must be received by the Secretary at least 40 Clear Days before the date of the Annual General Meeting. If there are insufficient valid nominations received, further nominations may be received from the floor at the Annual General Meeting.

- (b) Votes shall be cast in accordance with these Rules. In the event of any vote being tied, the tie shall be resolved by the incoming Council (excluding those in respect of whom the votes are tied).
- (c) Two Members (who are not nominees) or non-Members appointed by the Chair shall act as scrutineers for the counting of the votes and destruction of any voting papers.
- (d) The failure for any reason of any financial Member to receive such Notice shall not invalidate the election.
- (e) At any time prior to the election a candidate can withdraw his or her nomination for election to Council.

#### **7.4 Term**

- (a) The term of office for all Council Members shall be two year(s), expiring at the end of the Annual General Meeting in the year corresponding with the last year of each Council Member's term of office. To the extent possible, the positions of no more than 4 Council Members shall be contestable for election at any Annual General Meeting so that in any one year there will always be at least 3 Council Members with at least one year's continuous experience in governing the Association's affairs.

#### **7.5 Officers' duties Mandatory**

- (a) At all times each Council Member:
  - (v) must act in good faith and in what they believe to be the best interests of the Association;
  - (vi) must exercise all powers for a proper purpose;
  - (vii) must not act, or agree to the Association acting, in a manner that contravenes the Act or this Constitution;
  - (viii) 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 considering, but without limitation, the nature of the Association, the nature of the decision, and the position of the Council Member and the nature of the responsibilities undertaken by them;
  - (ix) 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 the Association's creditors, or cause or allow the activities of the Association to be carried on in a manner likely to create a substantial risk of serious loss to the Association or to the Association's creditors; and

- (x) must not agree to the Association incurring an obligation unless he or she believes at that time on reasonable grounds that the Association will be able to perform the obligation when it is required to do so.

## **7.6 Powers of the Council**

Subject to these Rules and any resolution of any General Meeting the Council may:

- (a) exercise all the Association's powers, other than those required by the Act or by these Rules to be exercised by the Association in General Meeting, and
- (b) enter into contracts on behalf of the Association or delegate such power to a Council Member, sub-committee, employee, or other person.

## **7.7 Removal of a Council Member**

- (a) Where a complaint is made about the actions or inaction of a Council Member (and not in the Council Member's capacity as a Member of the Association) the following steps shall be taken:
  - (i) The Council Member who is the subject of the complaint, must be advised of all details of the complaint, and must be given adequate time to prepare a response to the complaint.
  - (ii) The complainant and the Council Member who is the subject of the complaint, must be given an adequate opportunity to be heard, either in writing or at an oral hearing by the Council if it considers that an oral hearing is required.
  - (iii) Any oral hearing shall be held by the Council (excluding the Council Member who is the subject of the complaint), and/or any oral or written statement or submissions shall be considered by the Council (excluding the Council Member who is the subject of the complaint).
  - (iv) If the complaint is upheld the Council Member may be removed from the Council by a resolution of the Council or of a General Meeting, in either case passed by a simple majority of those present and voting.

## **7.8 Cessation of Council membership**

- (a) A Council Member shall be deemed to have ceased to be a Council Member if that person ceases to be a Member or fails to attend two successive meetings without leave of absence.
- (b) Each Council Member shall within 10 Clear Days of submitting a resignation or ceasing to hold office, deliver to the Secretary all books, papers and other property of the Association held by such former Council Member.

## **7.9 Sub-committees**

- (a) The Council may appoint sub-committees of the Council consisting of such persons (whether Members of the Association) and for such purposes as it thinks fit. Unless otherwise resolved by the Council
  - (i) a sub-committee must not commit the Association to any financial expenditure without express authority, and
  - (ii) a sub-committee must not further delegate any of its powers.

## **7.10 Branches**

- (a) The Council may establish regional branches of Members who wish to focus on issues specific to the region in which they live or work and to allow Members to organise events and conduct promotional activities that meet the local needs of Members and contribute to building the Association in that region.
- (b) Regional branches are part of the Association and must act in accordance with these Rules and the directions of the Council. Without limiting the powers of the Council, the Council may close a regional branch if Members of the regional branch act in breach of these Rules or the directions of the Council.
- (c) Regional branch bank accounts may be opened by the Council in the Association's name if required to facilitate the activities of a regional branch. The Council and the Association's General Manager shall retain viewing and signing rights for such accounts.
- (d) Regional branches shall supply a brief report of their activities to each Annual General Meeting of the Association.
- (e) Regional branches must not commit the Association to any financial expenditure without express authority, and
- (f) Regional branches must not further delegate any of its powers.

## **7.11 General issues**

- (a) Special meetings of the Council shall be called by the Chair or by not less than one third of the Council Members by notice in writing to the Secretary, but no business shall be transacted at any such requisitioned meeting other than that stated in the notice of such meeting.
- (b) The Council and any sub-committee may act by resolution approved during a telephone conference call or through a written ballot conducted by email, electronic voting system, or post, and any such resolution shall be recorded in the minutes of the next Council meeting.
- (c) Other than as prescribed by the Act or these Rules, the Council or any sub-committee may regulate its proceedings as it thinks fit.

- (d) Subject to the Act, these Rules and the resolutions of General Meetings, the decisions of the Council on the interpretation of these Rules and all matters dealt with by it in accordance with these Rules and on matters not provided for in these Rules shall be final and binding on all Members.

## **7.12 Conflicts of interest**

- (a) A Member of the Council and/or of a sub-committee is interested in a matter if the Member of the Council and/or sub-committee:
  - (i) may obtain a financial benefit from the matter; or
  - (ii) is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, or first cousin of a person who may obtain a financial benefit from the matter; or
  - (iii) may have a financial interest in a person to whom the matter relates; or
  - (iv) is a partner, director, Member of the Council and/or sub-committee, board Member, or trustee of a person who may have a financial interest in a person to whom the matter relates.
- (b) However, a Member of the Council and/or sub-committee is not interested in a matter:
  - (i) merely because the Member of the Council and/or sub-committee receives an indemnity, insurance cover, remuneration, or other benefits authorised under the Act; or
  - (ii) if the Member of the Council's and/or sub-committee's interest is the same or substantially the same as the benefit or interest of all or most other Members due to the membership of those Members; or
  - (iii) if the Member of the Council's and/or sub-committee's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Member of the Council in carrying out the Member of the Council's and/or sub-committee's responsibilities under the Act or the Rules; or
  - (iv) if the Member of the Council and/or sub-committee is a Member of the committee of a union and the Member of the Council's and/or sub-committee's interest is merely as an employee that will benefit from the union acting in the ordinary course of promoting its members' collective employment interests.
- (c) A Member of the Council and/or sub-committee who is interested in a matter relating to the Association must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified):
  - (i) to the Council and/or sub-committee; and
  - (ii) in an Interests Register kept by the Council.

- (d) Disclosure must be made as soon as practicable after the Member of the Council and/or sub-committee becomes aware that they are interested in the matter.
- (e) A Member of the Council and/or sub-committee who is interested in a matter:
  - (i) must not vote or take part in the decision of the Council and/or sub-committee relating to the matter; and
  - (ii) must not sign any document relating to the entry into a transaction or the initiation of the matter; but
  - (iii) 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).
- (f) A Member of the Council and/or 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.
- (g) Where 50 per cent 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 members agree otherwise, and where 50 per cent 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.

### **7.13 Frequency and procedure of Council meetings**

- (a) The Council shall usually meet monthly at such times and places and in such manner as National Council determines.
- (b) The quorum for Council meetings is 4 of the eligible Council Members. Each Member of the Council shall have one vote at Council meetings except for a casting vote which may be exercised by the Chair or other person chairing the meeting.
- (c) Special meetings of the Council shall be called by the Chair or by not less than one third of the Council members by notice in writing to the Secretary, but no business shall be transacted at any such requisitioned meeting other than that stated in the notice of such meeting.

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## **8. Indemnity and Insurance**

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### **8.1 Indemnity**

- (a) The Association is authorised to indemnify any person, including a Council Member, a Member, an Officer, a Patron, or an employee of the Association, in respect of any liability (including any costs) and to effect insurance in respect of any liability to the extent permitted by the Act.



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## **9. Officers and Patrons**

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### **9.1 Patrons**

- (a) The National Council may appoint a Patron and Vice-Patrons subject to the ratification by members of the Association present at a General Meeting following the appointment. The term of appointment shall be by mutual agreement.

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## **10. Records**

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### **10.1 Register of members**

- (a) The Secretary shall keep an up-to-date Register of Members, recording for each Member their name, contact details, the date they became a Member, and any other information required by these Rules or prescribed by Regulations under the Act.
- (b) The Secretary shall provide each branch with a list of the members of that branch.

### **10.2 Contents of Register of Members**

- (a) Subject to a Member's privacy rights, the information contained in the Register of Members shall include the following information regarding each Member's
- (i) postal address
  - (ii) phone number (landline and/or mobile)
  - (iii) email address (if any)
  - (iv) the date on which current membership lapse
  - (v) occupation and
  - (vi) whether the Member is financial or unfinancial.
- (b) Every Member shall promptly advise the Secretary of any change of their contact details.

### **10.3 Access to Register of Members**

- (a) With reasonable notice and at reasonable times, the Secretary shall make the Register of Members available for inspection by Members and Council Members. However, no access will be given to information on the Register of Members to Members or any other person, other than as required by law.

### **10.4 Register of Interests**

- (a) The Secretary shall always maintain an up-to-date register of the interests disclosed by Council Members.

## **10.5 Access to other information**

- (a) A Member may at any time make a written request to an Association for information held by the Association. The request must specify the information sought in sufficient detail to enable the information to be identified.
- (b) The Association must, within a reasonable time after receiving a request:
  - (i) provide the information; or
  - (ii) agree to provide the information within a specified period; or
  - (iii) 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
  - (iv) refuse to provide the information, specifying the reasons for the refusal.
- (c) Without limiting the reasons for which the Association may refuse to provide the information, the Association may refuse to provide the information if:
  - (i) withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons; or
  - (ii) 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
  - (iii) the disclosure of the information would, or would be likely to, prejudice the financial or commercial position of any other person, whether that person supplied the information to the Association; or
  - (iv) withholding the information is necessary to maintain legal professional privilege; or
  - (v) the disclosure of the information would, or would be likely to, breach an enactment; or
  - (vi) 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
  - (vii) the request for the information is frivolous or vexatious.
- (d) 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:
  - (i) that the Member will pay the charge; or
  - (ii) that the Member considers the charge to be unreasonable.

- (e) Nothing in this Constitution limits Information Privacy Principle 6 of the Privacy Act 1993.

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## **11. Finances**

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### **11.1 Control and management**

- (a) The funds and property of the Association shall be:
- (i) controlled, invested, and disposed of by the Council, subject to these Rules; and
  - (ii) devoted solely to the promotion of the purposes of the Association.

### **11.2 Balance date**

- (a) The Association's financial year shall commence on 01 April of each year and end on 31 March (the latter date being the Association's balance date).

### **11.3 Funds**

- (a) The annual subscriptions paid by members and any other money received by the Association shall be applied only for the furtherance of the purposes of the Association.
- (b) All subscriptions shall be payable directly to the National Office. Any subscription to the Association which shall have been paid to a regional branch must be sent in full together with full details of the person(s) so paying to the registered office of the Association within 30 days of such payment being received by such branch.
- (c) All funds of the Association shall be paid to the credit of the Association at such bank as may from time to time be resolved by the Council.
- (d) The Council shall from time to time decide upon the signatories to the Association's bank or other accounts.
- (e) The Council shall employ National Office staff to manage the Association's finances. The National Office shall receive all monies and pay all accounts of the Association.
- (f) The National Office shall have custody of all financial records and keep such records in an approved manner. The financial records shall be audited annually by a chartered accountant.
- (g) A chartered accountant shall prepare a Statement of Income and Expenditure and Balance Sheets for presentation to every Annual General Meeting.
- (h) All payments made by the Association to Council shall be detailed in the Association's Annual accounts.

- (i) The National Office shall send to the Registrar of Incorporated Societies an audited copy of the Income and Expenditure Accounts and Balance Sheets, as approved at the relevant Annual General Meeting.

## **11.4 Assets**

- (a) The major assets of the Association shall not be sold, disposed of, changed, or modified in any way or removed from the Association's direct control, by either the Council, or any committee, or Member(s) or staff Member or officer of the Association;
- (b) The members must be notified, with reasons, of any change or changes to the major assets of the Association 28 days prior to a Special or Annual General Meeting at which such changes are proposed. The agenda, and business, shall include a formal review of any proposed change to a major asset, allow for debate and voting on such changes according to the rules of the Association.
- (c) For the purpose of this Rule the major assets shall include:
  - (i) the name of the Association (The Soil and Health Association of New Zealand Incorporated);
  - (ii) the Association's magazine, advertisements, and its name (Organic NZ)
  - (iii) the Association's trading name (Organic New Zealand);
  - (iv) membership and subscription database;
  - (v) the Association's website and domain name;
  - (vi) any buildings or real estate owned by the Association;
  - (vii) after 30 September 2016, or such other date as it receives the shareholding, the Association's shareholding in BioGro New Zealand Limited; and
  - (viii) any other assets that the Council may add to this list at their discretion

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## **12. Dispute resolution**

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### **12.1 Raising disputes**

- (a) Any grievance by a Member, and any complaint by anyone, is to be lodged by the complainant with the Secretary in writing and must provide such details as are necessary to identify the details of the grievance or complaint. All Members (including the Council) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the Association's activities.
- (b) The complainant raising a grievance or complaint, and the Council, must consider and discuss whether a grievance or complaint may best be resolved through

informal discussions, mediation, or arbitration. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.

## **12.2 Investigating disputes**

- (a) This rule concerns any grievances of members relating to their rights and interests as Members, and any complaints concerning the alleged conduct or discipline of members, collectively referred to as “disputes.”
- (b) These disputes procedures are designed to enable and facilitate the fair, prompt and efficient resolution of grievances and complaints. Rather than investigate and deal with any grievance or complaint, the Council may:
  - (i) appoint a sub-committee to deal with the same; or
  - (ii) refer the same to an external arbitrator, arbitral tribunal, or external visitor (or referee), so long as minimum standards of natural justice and the following requirements under this rule are satisfied.
- (c) The Council or any such sub-committee or person considering any grievance or complaint is referred to hereafter as the "decision-maker". The decision-maker:
  - (i) shall consider whether to investigate and deal with the grievance or complaint; and
  - (ii) may decline to do so (for instance, if the decision-maker is satisfied that the complainant has insufficient interest in the matter or otherwise lacks standing to raise it; the matter is trivial or does not appear to disclose material misconduct or material; the matter raised appears to be without foundation or there is no apparent evidence to support it; some damage to Members’ interests may arise; or the conduct, incident, event or issue has already been investigated and dealt with by the Association).
- (d) Where the decision-maker decides to investigate and deal with a grievance, the following steps shall be taken:
  - (i) The complainant and the Member, or the Association, which is the subject of the grievance, must be advised of all details of the grievance.
  - (ii) The Member, or the Association, which is the subject of the grievance, must be given an adequate time to prepare a response.
  - (iii) The complainant and the Member, or the Association, which is the subject of the grievance, must be given an adequate opportunity to be heard, either in writing or at an oral hearing if the decision-maker considers that an oral hearing is required.
  - (iv) Any oral hearing shall be held by the decision-maker, and/or any written statement or submissions shall be considered by the decision-maker.
- (e) Where the decision-maker decides to investigate and deal with a complaint, the following steps shall be taken:

- (i) The complainant and the Member complained against must be advised of all allegations concerning the Member, and all details of the complaint.
  - (ii) The Member complained against must be given an adequate time to prepare a response and an adequate opportunity to be heard, either in writing or at an oral hearing if the decision-maker considers that an oral hearing is required.
  - (iii) Any oral hearing shall be held by the decision-maker, and/or any written statement or submissions shall be considered by the decision-maker.
- (f) A Member may not decide on or participate as a decision-maker regarding a grievance or complaint, if two or more Council Members, or the decision-maker, consider that there are reasonable grounds to infer that the person may not approach the grievance or complaint impartially, or without a predetermined view. Such a decision must consider the context of the Association and the case and may include consideration of facts known by the other Members about the decision-maker, so long as the decision is reasonably based on evidence that proves or disproves an inference that the decision-maker might not act impartially.

### **12.3 Resolving disputes**

- (a) The decision maker may:
  - (i) dismiss a grievance or complaint, or
  - (ii) uphold a grievance and make such directions as the decision-maker thinks appropriate (with which the Association and Members shall comply); or
  - (iii) uphold a complaint and:
    - (A) reprimand or admonish the Member, and/or
    - (B) suspend the Member from membership for a specified period, or terminate the Member's membership, and/or
    - (C) order the complainant (if a member) or the Member complained against, to meet any of the Association's reasonable costs in dealing with a complaint.

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## **13. Winding up**

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### **13.1 Process**

- (a) The Association may be wound up, or liquidated, or removed from the Register of Incorporated Societies in accordance with the provisions of the Act.

- (b) The Secretary shall give Notice to all Members of the proposed motion to wind up the Association or remove it from the Register of Incorporated Societies and of the General Meeting at which any such proposal is to be considered, of the reasons for the proposal, and of any recommendations from the Council in respect to such notice of motion.
- (c) Any resolution to wind up the Association or remove it from the Register of Incorporated Societies must be passed by a two-thirds majority of all Members present and voting.

## **13.2 Surplus assets**

- (a) If the **Society** is wound up, or liquidated, or removed from the Register of Incorporated Societies, no distribution shall be made to any **Member**, and if any property remains after the settlement of the **Society**'s debts and liabilities, that property must be given or transferred to another not-for-profit organisation for a similar charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005.

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## **14. Alterations to the Rules**

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### **14.1 Amending these Rules**

- (a) The Association may amend or replace these Rules at a General Meeting by a resolution passed by a two-thirds majority of those Members present and voting.
- (b) At least 28 Clear Days before the General Meeting at which any amendment is to be considered the Secretary shall give notice to all financial members of the proposed motion by publication in the magazine (or such other means in writing as National Council decides) of the full text of the proposed alteration, the reasons for the proposal, and any recommendations of the Council.
- (c) Any proposed alteration to these rules must not lead to or have the effect of compromising the ability of the Association to receive tax exempt donations and any alteration which may have such affect must first be approved by the Inland Revenue Department.
- (d) When an amendment is approved by a General Meeting:
  - (i) it shall be notified to the Registrar of Incorporated Societies in the form and manner specified in the Act for registration and shall take effect from the date of registration; and
  - (ii) it shall be provided to Charities Services, Department of Internal Affairs, within three months of the date of the amendment.

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## **15. Other**

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### **15.1 Common seal**

- (a) The common seal of the Association must be kept in the custody of: the Chair or the Secretary.
- (b) The common seal may be affixed to any document:
  - (i) by resolution of the Council, and must be countersigned by two Council Members or by one Council Member and the Secretary or
  - (ii) by such other means as the Council may resolve from time to time.

### **15.2 Contact person**

- (a) The Association's Contact Person shall be the Secretary who must be:
  - (i) at least 18 years of age; and
  - (ii) ordinarily resident in New Zealand; and
  - (iii) not disqualified under the Act from holding that office

And shall be appointed by the National Council.

- (b) Any change in that Contact Officer or that person's name or contact details shall be advised to the Registrar of Incorporated Societies within 20 Clear Days of that change occurring, or the Association becoming aware of the change.

### **15.3 General**

- (a) The Association may take any legal or other proceedings which it shall from time to time consider necessary including action to obtain payments of debts due to the Association. Such action may be taken by the Council at its discretion or by instruction from a General Meeting.
- (b) These Rules shall receive such fair large and liberal construction and interpretation as will best ensure the attainment of their objectives and of each provision hereof according to its true intent meaning and spirit. Except as directed by any General Meeting of the Association any question that shall arise concerning any interpretation of these Rules shall be decided by the Council.
- (c) These rules dated 7 October 2023 supersede all previous rules of the Association, which are now revoked.
- (d) The Council from time to time may make and amend bylaws, and policies for the conduct and control of Association activities and codes of conduct applicable to Members, but no such bylaws, policies, or codes of conduct applicable to Members shall be inconsistent with the Act, regulations made under the Act, or these Rules.



Signed by the National Council of the Soil & Health Association



Jenny Lux, Co-Chair



Charles Hyland, Co-Chair



Matt Morris  
National Councillor



Rebecka Keeling  
National Councillor



Kaitlyn Lamb  
National Councillor