

**RNZRSA CONSTITUTION**

**RNZRSA CONSTITUTION INDEX**

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## 1. NAME

- 1.1 The name of the Society is the "Royal New Zealand Returned and Services Association Incorporated, Te Ratonga Kahui Morehu a Tu o Aotearoa" ("RNZRSA").

## 2. OBJECTS AND PURPOSE

- 2.1 The objects and purposes of RNZRSA ("Objects and Purposes") are:

- (a) Loyally to uphold the sovereignty of New Zealand as a member of the Commonwealth of Nations and as a member of the United Nations
- (b) To foster and maintain the welfare and security in New Zealand within the concept of the establishment and maintenance of international peace with honour.
- (c) To perpetuate the comradeship born of service to New Zealand and to promote the general welfare of those who serve or have served New Zealand, and their families;
- (d) To foster the ANZAC spirit of courage, commitment, comradeship and compassion;
  - (i) by acting as guardians of remembrance including leading the community in preserving the memory of those who served, particularly those who lost their lives; and
  - (ii) by keeping the Spirit of Anzac alive through continuing to develop its meaning and relevance for today's world.
- (e) To foster remembrance of the service undertaken by New Zealand Service Personnel;
- (f) To cultivate a sense of responsibility within members of the RNZRSA community towards fellow citizens, the local community, and for the well-being of mankind;
- (g) To promote the defence of New Zealand, and guard the good name, interests and standing of serving members of the New Zealand Defence Force;
- (h) To support those who have served New Zealand at home and abroad and actively assist them in their transition to civilian life, especially if they are detrimentally affected by their service;
- (i) To provide for the relief of poverty, the advancement of education or any other matter beneficial to the community.

- 2.2 The Objects and Purposes listed above are stand-alone independent objects and purposes.

## 3. RNZRSA CONSTITUTIONAL PRINCIPLES

3.1 In pursuance of its Objects and Purposes, RNZRSA seeks to recognise and create a fellowship of:

- (a) those who serve or have served New Zealand including in New Zealand's armed forces (Navy, Army, Air Force, Reserves) and collectively called the New Zealand Defence Force, and sworn New Zealand police officers ("New Zealand Service Personnel"); and
- (b) the families of New Zealand Service Personnel, those otherwise associated with the New Zealand Defence Force or other service to New Zealand, and those who have served in the armed forces of other countries or as sworn police officers of other countries ("Non Service Personnel").

On joining RNZRSA each Member commits to a shared vision of the Objects and Purposes of RNZRSA.

3.2 As part of giving effect to the Objects and Purposes set out in this Constitution, each Member commits to:

- (a) Working constructively with other Members and RNZRSA to pursue the Objects and Purposes;
- (b) Treating each other and RNZRSA with courtesy, mutual respect and tolerance at all times;
- (c) Demonstrating acceptance of diversity, sensitivity for the customs, practices, culture and personal beliefs of others;
- (d) Supporting human rights and dignity including equality of opportunity; and
- (e) Personal integrity and honesty in all matters involving RNZRSA, its Members and third parties.

3.3 RNZRSA shall remain politically neutral and non-sectarian, in that it shall neither endorse nor oppose any candidate or organisation seeking election to public office of any kind.

#### **4. RNZRSA STRUCTURE**

4.1 RNZRSA shall be structured as follows:

- (a) There shall be an Annual General Meeting of RNZRSA ("AGM") attended by the Board, National President, Forum, RNZRSA Life Members, delegates and observers of Member Associations, and delegates of Affiliate Associations ("National Council");
- (b) There shall be a National President and two National Vice Presidents, all elected by National Council at an AGM;
- (c) There shall be a National Board of Governance established pursuant to clause 6 ("Board") the members of whom are the officers of RNZRSA;
- (d) There shall be a Forum established pursuant to clause 7 and the Bylaws ("Forum");

- (e) There shall be a Chief Executive appointed by the Board and who shall be the contact person for the purposes of the Incorporated Societies Act 2022 (and in the event of any CEO vacancy, the Board shall appoint a temporary contact person);
  - (f) There shall be operational roles approved by the Board;
  - (g) RNZRSA shall have members, including RNZRSA Life Members, Member Associations and Affiliate Members, as further described in clause 8.2 (“Members”).
  - (h) Member Associations shall be grouped into districts as defined in the Bylaws from time to time (“Districts”).
  - (i) Each District shall be represented by a District representative elected pursuant to the Bylaws (“District Representative”).
  - (j) The Board members, Forum members, Chief Executive, Complaints Committee members and Selection Panel members are officeholders of RNZRSA (“Officeholders”).
- 4.2 The Board shall be responsible for the governance and strategic oversight of RNZRSA, including carrying out the Objects and Purposes.

4.3 Not used.

4.4 Not used.

## 5. **POWERS**

- 5.1 Except as otherwise set out in this Constitution, RNZRSA has full rights, powers and privileges conferred on it by the Incorporated Societies Act 2022 including without limitation the following:
- (a) To trade, make profits and/or losses;
  - (b) To construct, maintain, improve, alter, enlarge, pull down, demolish, remove, replace, manage, acquire, hold, gift, sell, bail, exchange, license, lease, mortgage and otherwise encumber, exhaust, use and/or exploit any and all forms of real or intangible property;
  - (c) To establish, undertake and execute any trusts;
  - (d) To lend, borrow, gift, invest or otherwise deal with any form of money, security or asset;
  - (e) To write down or write off any debt to the extent it may be considered irrecoverable;
  - (f) To communicate, discuss and represent to any government, regulatory authority, organisation, individual or other body information, matters of concern or interest to Members generally;

- (g) To join with in any capacity such other organisation, body or person and to incorporate companies, to enter partnerships and joint ventures if to do so is not inconsistent with RNZRSA's Objects and Purposes, and constitutional principles set out in clause 3 (“Constitutional Principles”);
  - (h) To delegate;
  - (i) To the extent permitted by law, to indemnify including to obtain insurance cover for Officeholders and others, in accordance with clause 5.7;
  - (j) Without limiting the foregoing, to do such things, incur such costs and complete such documents as may in the opinion of RNZRSA be conducive to the performance of its Objects and Purposes, and Constitutional Principles; and
  - (k) To make, amend, delete, replace and otherwise alter bylaws, and policies for the conduct and control of RNZRSA activities and codes of conduct applicable to Members, in accordance with clause 12.
- 5.2 The powers set out in clause 5.1 are independent main powers, they shall be applied broadly and shall not be construed in a manner that limits RNZRSA's performance of its Objects and Purposes, Constitutional Principles or operations.
- 5.3 The Board may execute all of the powers of RNZRSA. Some powers of RNZRSA may require prior approval by National Council at an AGM or SGM, as set out in this Constitution. The Board shall obtain the approval of National Council at an AGM or SGM prior to borrowing or lending of amounts to any one body or group of bodies exceeding in total, cumulatively or at any one time, NZ\$500,000. The Board may delegate all or such of the powers of RNZRSA in such manner and to such persons as might be considered desirable by the Board for the operation of RNZRSA.

#### **Prohibition on pecuniary/financial gain**

- 5.4 While RNZRSA may trade and make profits, in no event will RNZRSA operate for the pecuniary/financial gain of any of its Members or Officeholders. Subject to clauses 5.5 and 5.6 in no event will a Member or Officeholder:
- (a) Have an exclusive or otherwise disposable right to any property held by RNZRSA;
  - (b) Be entitled to share in the revenue generated by any RNZRSA activity irrespective of the contribution to the generation of that revenue by the Member or Officeholder; or
  - (c) Be entitled to receive any gain, dividend, distribution, a share of any profits or any other financial benefit howsoever generated by RNZRSA.
- 5.5 It shall not contravene the prohibition on pecuniary/financial gain if a Member or Officeholder receives:
- (a) Remuneration for goods and/or services provided to RNZRSA in the ordinary course of that Member's or Officeholder's employment or retention by RNZRSA;

- (b) Payment for goods and/or services provided to RNZRSA by a Member or Officeholder in the ordinary course of their occupation or the occupation of a business in which a Member or Officeholder is retained;
- (c) Reimbursement for costs incurred by that Member or Officeholder in performing service on behalf of RNZRSA;
- (d) Payment to which the Member or Officeholder would be equally entitled if not a Member or Officeholder having entered into a transaction with RNZRSA on arm's length terms;
- (e) Prizes, other than financial prizes in competitions run by RNZRSA for Members;
- (f) Incidental Member benefits in accordance with the Objects and Purposes of RNZRSA; or
- (g) As otherwise permitted in section 24 of the Incorporated Societies Act 2022,

provided in all circumstances that any such remuneration, payment or reimbursement must be reasonable, no more than market value and (where applicable) for services/goods actually performed/supplied by the recipient.

5.6 To the extent permitted by law, a Member or Officeholder shall not be disentitled from receiving a distribution or other benefit from a charitable trust or any other form of independent charity:

- (a) Established or administered by RNZRSA; or
- (b) Where RNZRSA holds the power to appoint trustees or administrators of the charity,

provided that:

- (i) Neither RNZRSA nor the Member or Officeholder in question has the ability to exercise effective control over the decision to provide the distribution or benefit; and
- (ii) The distribution or benefit is permitted by the charitable trust or charity concerned.

5.7 RNZRSA may indemnify and/or obtain insurance for its Officeholders, employees or a Member for liabilities or costs to the extent permitted by sections 94 to 98 of the Incorporated Societies Act 2022. Without limiting the foregoing, this includes indemnifying or insuring a Board member for liabilities or costs in relation to the following matters:

- (a) Liability (other than criminal liability) for a failure to comply with any duty imposed by law, this Constitution or the Bylaws on a Board member in their capacity as a Board member; and

- (b) Costs incurred by the Board member in defending or settling any claim or proceeding relating to that liability.

5.7A RNZRSA shall indemnify each Board member for all liability to any person (other than RNZRSA) for any act or omission in their capacity as a Board member, and costs incurred by them in defending or settling any claim or proceeding that relates to that liability, provided that this indemnity does not cover any:

- (a) criminal liability of the Board member; or
- (b) liability that relates to the Board member's dishonesty, wilful misconduct or gross negligence.

## 5.8 Conflict of Interest

- (a) For the purposes of this clause and as may otherwise be required by law:
  - (i) "Matter" means RNZRSA's performance of its activities or exercise of its powers or an arrangement, agreement, understanding or contract made or entered into or proposed to be entered into by RNZRSA;
  - (ii) "Interested" or "Interest" means deriving a financial benefit from the Matter; and
  - (iii) "Person" includes a body corporate.
- (b) Subject to (c) below, a Person is Interested in a Matter if that Person•
  - (i) May derive a financial benefit from the Matter;
  - (ii) Is the spouse, civil union partner, de facto partner, child, grandchild, parent, grandparent, sibling, nephew, niece, uncle, aunt or first cousin of a Person who may derive a financial benefit from the Matter;
  - (iii) May have a financial interest in a Person to whom the Matter relates;
  - (iv) Is a partner, director, officer, board member, representative or trustee of a Person who may have a financial interest in a Person to whom the Matter relates; or
  - (v) May be Interested in the Matter as defined in the Bylaws.
- (c) A Person is not Interested in a Matter:
  - (i) Because that Person receives an indemnity, insurance cover, remuneration or other benefits authorised by law, this Constitution or the Bylaws;
  - (ii) If that Person's Interest is the same or substantially the same as the Interest of all or most other Members due to their membership of RNZRSA; or

- (iii) Where that Person's Interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence that Person in carrying out the Person's responsibilities at law, under this Constitution or Bylaws.
- (d) A Board member that is Interested in a Matter must disclose as soon as practicable after the Board member becomes aware of the Interest, details of the nature and extent of the Interest to the Board and which must record the Interest in an Interests Register.
- (e) Where a Board member is Interested in a Matter relating to RNZRSA, that Board member may (subject to clause 5.8(g)) take part in discussion relating to that Matter, but is not entitled to vote on, or sign any document relating to, that Matter. An SGM is not required to be called where 50% or more of the Board are Interested in a Matter. The process for dealing with a Board member being Interested in a Matter:
  - (i) shall be consistent with the law relating to charities and incorporated societies in effect from time to time; and
  - (ii) may be set out in the Bylaws.
- (f) The procedures dealing with Officeholders (other than Board members) having an Interest in a Matter relating to the RNZRSA shall be dealt with in accordance with the Bylaws.
- (g) No Member or Officeholder who is to be paid for goods or services, or otherwise receive a benefit from RNZRSA (or where an associate of the Member or Officeholder is to be paid or receive a benefit) is permitted to take part in or influence any decision of RNZRSA regarding the payment/benefit.

## **6. RNZRSA GOVERNANCE**

- 6.1 National Council shall at an AGM elect the National President and two Vice Presidents, pursuant to the process set out in clause 10 and the Bylaws. Subject to the terms of this Constitution, the National President and National Vice Presidents shall hold office for a term of three (3) years commencing at the end of the AGM at which they were elected. The National President and National Vice Presidents shall hold office up to and including the AGM at which an election is to be held for their position and shall remain in office until the end of that AGM. If the National President or National Vice President is re-elected at an AGM, then they shall hold office for a further term of three (3) years. No National President or National Vice President may hold office for more than two terms, whether consecutive or not. The National President's role shall include amongst other duties:
- (a) Generally being the public face of the RNZRSA at both national and international levels;
  - (b) Being chairperson of meetings of National Council, other than AGMs or SGMs;

- (c) Being a Board member;
  - (d) Being chairperson of the Selection Committee;
  - (e) Assisting with dispute resolution including in accordance with the Dispute Resolution procedures in clause 9 and Schedule Two; and
  - (f) Carrying out ceremonial duties on behalf of the RSA, both in New Zealand and overseas.
- 6.1A The National Vice Presidents will not be Board members, but will be Forum members, and will undertake such duties and for such duration as set out in the Bylaws.
- 6.2 Upon the person acting as National President ceasing to be National President for any reason (other than due to the expiry of their term), the Forum shall (subject to compliance with clause 6.8.3) nominate (by majority vote) one of the National Vice Presidents to be National President and notify the Board of such nomination, and the Board shall co-opt that nominee to role of National President. The Board shall have all necessary powers to co-opt the nominee as National President and a Board member, clause 6.8.2 shall apply, and the Selection Panel shall not be involved. The Forum shall make such nomination by majority vote. The person co-opted to the role of National President shall hold office only until the end of the AGM immediately after being co-opted as National President to the intent that a new National President shall be elected at that AGM. The person co-opted as National President shall immediately resign from any other role previously held within RNZRSA (including National Vice President) or any Member Association or Affiliate Member.
- 6.3 Not used.
- 6.4 Not used.
- 6.5 The Board shall comprise:
- (a) the National President;
  - (b) a Kaumātua, if appointed pursuant to clause 6.6A; and
  - (c) a minimum of five (5) and a maximum of eight (8) Board members appointed pursuant to clause 6.6B.
- 6.6 The Board Chair shall be elected annually from within the Board, by Board members. While the role of National President and Board Chair are distinct, they may be filled by the same person. Consideration must be given to the importance of the relationship between the Board Chair and the National President when electing the Board Chair. The Board Chair shall be elected at the first meeting of the Board after each AGM, and will hold office until the end of the first meeting of the Board after the next AGM. Provided the Chair remains a Board member, there is no limit on the number of the terms the Board Chair may serve.
- 6.6A The Board shall use its best endeavours to appoint a Kaumātua as a Board member. A kaumātua shall have a term as Board member of one (1) year, and the term is renewable annually by the Board for up to an additional eight (8) years. A Kaumātua

must retire after nine (9) years of service, whether consecutive or otherwise. The process in clause 6.8.2 applies to the Kaumātua.

6.6B Appointed Board members shall have an initial term of three (3) years (“Initial Term”). A Board member’s Initial Term may be renewed for a further term of three (3) years, provided the Board approves and the Board member accepts such renewal (“First Renewed Term”). A Board member’s First Renewed Term may be renewed for a further period of three years, provided the Board approves and the Board member accepts such renewal (“Second Renewed Term”). A Board member must retire after nine (9) years of service, whether consecutive or otherwise. For the avoidance of doubt:

- (a) this Board member renewal process does not apply to the National President or Kaumātua;
- (b) the process in clause 6.8.2 applies to appointed Board members;
- (c) the Selection Committee is not involved in the process relating to the First Renewed Term or Second Renewed Term; and
- (d) a co-opted term does not get included in any elected term.

6.6C The Board may appoint up to two ex-officio members of the Board from time to time, on terms and conditions determined by the Board. An ex-officio member of the Board will not, solely by virtue of becoming an ex-officio member of the Board, become a Board member, officer of RNZRSA or Officeholder, member of National Council, nor obtain any voting rights (either in respect of the Board or at any AGM, SGM or other meeting of National Council), but being appointed as an ex-officio member of the Board will not affect any such rights that the ex-officio member of the Board may otherwise have (for example if the ex-officio member is a member of the Forum or is an RNZRSA Life Member). Ex-officio members shall be observers of the Board only, unless permitted to engage in a Board meeting by the Board, Board Chair or National President. Ex officio members of the Board are not required to comply with clause 6.8.2 or be approved by the Selection Panel.

6.7 If a Board member vacancy arises (other than the National President) which results in less than the minimum number of appointed Board members being in office, or the minimum number of appointed Board members is satisfied but the Board request that a vacancy is filled, such vacancy shall be filled by the Selection Committee comprising:

- (a) The National President or their representative (who shall be the chairperson of the Selection Committee);
- (b) The Board Chair or their representative (or another Board member if the National President is the Board Chair);
- (c) A member of the Forum (selected by the Board Chair);
- (d) The Chair of the People and Culture Committee or their representative (or if re-standing another Board member nominated by the Board); and

- (e) The Selection Committee may appoint an advisor from a recognised Director Institute or Association or other such professional as required.
- 6.8 The Selection Committee shall otherwise be governed by a Selection Process prepared by the Selection Committee and ratified by the Board.
- 6.8.1 The Selection Committee act to provide the Board with suitably qualified, skilled and experienced Board members which meet the Eligibility Criteria in Schedule One. Appointment of a Board member must be announced at an AGM, where the timing of such appointment is sufficiently proximate to an AGM, or where it isn't, by notifying Members in writing (which may be by email or by inclusion in a newsletter).
  - 6.8.2 All Board members (including the National President) must prior to their election or appointment, consent to becoming a Board member, and certify that they are not disqualified from being elected or appointed or otherwise holding office as a Board member and officer of RNZRSA.
  - 6.8.3 In addition, the Selection Committee also assist with the selection of candidates for the Forum as set out in the Bylaws.
- 6.9 The Board has all the powers necessary for managing, directing and supervising the management of, the operation and affairs of RNZRSA, subject to such modifications, exceptions or limitations contained in the Incorporated Societies Act 2022 or this Constitution. Unless otherwise specified in this Constitution or Bylaws, decisions of the Board shall be made by majority vote, with each Board member having one vote. In the event of a tied vote on any matter, the Board Chair has a second, casting, vote on the matter. The quorum for Board meetings is at least half of the number of the Board, and no proxies are permitted. The Board shall otherwise operate pursuant to the Bylaws, which may be updated from time to time by the Board. The Board shall otherwise govern its own procedures in accordance with the law, this Constitution, and the Bylaws.
- 6.10 The Board shall appoint the Chief Executive. The Chief Executive shall be responsible to the Board for the operational management of RNZRSA including implementing the policies and objectives for RNZRSA established by the Board from time to time and shall otherwise have the powers and duties set out in the Bylaws, the staff policy manual and delegated authorities from the Board. The person holding the role of Chief Executive shall perform the role until that person resigns, is removed by the Board, terminated pursuant to the terms of the appointment or as otherwise provided for in this Constitution or the Bylaws.
- 6.11 A Board member (including the National President) shall cease to be on the Board upon:
- (a) Death;
  - (b) Mental incapacity;
  - (c) Bankruptcy;
  - (d) Conviction of a criminal offence that includes a term of imprisonment as a penalty;

- (e) Failure to attend 3 consecutive meetings of the Board (without the consent of the Board Chair);
- (f) Resignation in writing to any one of the Board Chair or National President (with such resignations being irrevocable);
- (g) Removal from office pursuant to this Constitution or the Bylaws;
- (h) A decision to remove the Board member from office made in accordance with the Dispute Resolution procedures in clause 9 and Schedule Two;
- (i) Failing to meet, or failing to continue to meet, the Eligibility Criteria set out in Schedule One;
- (j) The Board member accepting the position of District Representative or District Vice President; or
- (k) The Board member becoming an employee of RNZRSA or an employee of a Member Association (for the removal of doubt receipt of an honorarium or reimbursement of expenses does not constitute employment).

6.12 Where a vacancy of an appointed Board member arises between AGMs, and the Board has at least five (5) appointed Board members (in addition to the National President and Kaumātua), the Board may:

- (a) leave the vacancy for filling until a later date;
- (b) co-opt a suitable person for a period ending at the next AGM, provided that any co-opted Board member complies with the requirements of clause 6.8.3 and the Board resolves that the person complies with the Eligibility Criteria in Schedule One. Any co-opted person may apply for a position on the Board and participate in any selection process run by the Selection Committee (for clarity, a co-opted Board member cannot remain a Board member longer than the next AGM unless they are appointed by the selection process or are co-opted again after the next AGM); or
- (c) request that the Selection Committee fill the vacancy.

6.13 Not used.

6.14 Any meeting of the National Council, the Forum and the Board may treat all or part of a meeting as 'in confidence' or 'in closed session' at their own motion or at the motion of the National President and/or the Board Chair.

6.15 All members of the Forum and Board are obligated to work co-operatively with each other in the best interests of the RNZRSA, with mutual trust, transparency, confidence and without bias at all times. All Members shall uphold the authority, mana and status of the National President, Forum and Board members of the RNZRSA. The Board and Forum (and all of their members) must comply with the Constitution, Bylaws (including any code of conduct set out therein), the Incorporated Societies Act 2022 and other applicable law, and the Board and Forum

(and all of their members) must not do anything to put RNZRSA in breach of the Constitution, Bylaws, Incorporated Societies Act 2022 and other applicable law.

- 6.16 From the date that is 5 years after the re-registration of RNZRSA under the Incorporated Societies Act 2022 (“Applicable Date”), a majority of Board members must be Members or representatives of body corporates that are Members (“Majority Requirement”). A Board member must not be appointed to the Board where the Majority Requirement will not be complied with.
- 6.17 For the avoidance of doubt, prior to the restriction in clause 6.16 applying, a majority of Board members may be people that are not Members or are not representatives of body corporates that are Members.
- 6.18 If the Board will not comply with the Majority Requirement at the Applicable Date, the Board must prior to the Applicable Date determine amongst themselves what steps will be taken to comply, or if no steps are available, which Board members are required to retire so the Majority Requirement is complied with. If a decision cannot be reached a reasonable time prior to the Applicable Date, the Board Chair may determine which Board members are required to resign, and those Board Members shall give effect to that decision. Clauses 6.16, 6.17 and 6.18 shall not be of any effect if section 45(3) of the Incorporated Societies Act 2022 is repealed prior to the Transition Period End Date, or if a further exemption to the Majority Requirement is granted to RNZRSA.

## **7. RNZRSA FORUM**

- 7.1 There shall be a Forum with the following members:
- (a) The National Vice Presidents;
  - (b) The District Representatives; and
  - (c) A person representing the Affiliate Members appointed annually by the National President, in consultation with the Affiliate Members, pursuant to the process set out in the Bylaws.
- 7.2 Not used.
- 7.3 Not used.
- 7.4 The Board Chair or such other member of the Board as nominated by the Board Chair, and the National President or such other member of the Board as nominated by the National President, shall be entitled to attend and be heard at all meetings of the Forum but shall not be a member of the Forum and will have no voting rights at meetings of the Forum.
- 7.5 A member of the Forum shall be removed from the Forum if they meet any removal criteria described in clause 6.11(a) — (i) of this Constitution (with reference to Board replaced with reference to the Forum) or as set out in the Bylaws.
- 7.6 The members of the Forum shall not be officers of RNZRSA and to the extent permitted by law shall not be treated as having any governance or other liability for the affairs of RNZRSA.

7.7 Eligibility for membership of the Forum, the process by which Forum members and District Representatives are elected, the procedures for meetings of the Forum and scope of the role of the Forum, establishment of Districts and District Representatives, together with any other matter surrounding the functions and operation of the Forum, Districts and District Representatives, shall be set out in the Bylaws.

## **8. MEMBERSHIP**

### **Classes of membership**

8.1 Not used.

8.2 There shall be three classes of membership of RNZRSA as follows:

- (a) Member Associations, as further described in clause 8.3;
- (b) RNZRSA Life Members, as further described in clause 8.5; and
- (c) Affiliate Members, as further described in clause 8.8.

8.3 All Member Associations as at the date of adoption of this Constitution (including RSA Online), and any new Member Associations admitted as a Member pursuant to clauses 8.17 to 8.23, shall be Member Associations.

8.4 Not used.

8.5 All Honorary Life Members of RNZRSA and Life Members of RNZRSA at the date of adoption of this Constitution shall be RNZRSA Life Members. New RNZRSA Life Memberships shall be conferred by National Council at an AGM on the recommendation of the Board, after the Board has consulted with the Forum. Eligibility and the process for grant of RNZRSA Life Membership shall otherwise be defined in the Bylaws. RNZRSA Life Members must be individuals, and must consent to be a Member.

8.6 Not used.

8.7 Not used.

8.8 Affiliate Members at the date of adoption of this Constitution, and any new Affiliate Members admitted as a Member pursuant to clauses 8.17 to 8.23 shall be Affiliate Members.

8.9 For the avoidance of doubt, members and life members of Member Associations or Affiliate Members are not members of RNZRSA.

8.10 Not used.

8.11 Not used.

8.12 Not used.

8.13 Not used.

8.14 Not used.

8.15 Not used.

8.16 Not used.

### **How to become a member, member rights and obligations**

8.17 Any organisation wishing to join RNZRSA as a Member Association or Affiliate Member shall consent to their membership of RNZRSA, complete the application form prescribed from time to time by the Board and send it to the Chief Executive.

8.18 Not used.

8.19 A RNZRSA Life Member shall be entitled to wear the badges of membership set out in the Bylaws. Member Associations and Affiliate Members may grant the right to wear badges of membership of RNZRSA to their members, as set out in the Bylaws.

8.20 Not used.

8.21 Each Member agrees to comply with, give effect to, and act in a manner that is consistent with, this Constitution, and each Member Association and Affiliate Member agrees to comply with their own constitution and rules/bylaws. Each Affiliate Member agrees to adopt and maintain a constitution that is consistent with this Constitution, including without limitation the Objects and Purposes and Constitutional Principles, and the rules/bylaws that are required to be adopted and maintained by an Affiliate Member in the Bylaws.

8.22 Each Member Association agrees to:

- (a) Adopt the applicable Model Constitution set out in the Bylaws, including giving effect to any updates that the Board makes to such Model Constitution, as soon as practicable. A Member Association must not modify, amend or replace their constitution without the prior written consent of the Chief Executive;
- (b) Ensure that their members comply with the Member Association's constitution;
- (c) Support and give effect to all resolutions of National Council passed at an AGM or SGM;
- (d) Maintain financial sustainability;
- (e) Act in a manner that does not harm RNZRSA or Members;
- (f) Advise RNZRSA promptly of any inability to comply with this Constitution, the Bylaws, the Member Association's constitution or applicable law;
- (g) Seek help from and work with RNZRSA to restore any breach to full compliance;
- (h) Permit District Representatives to attend and vote at (and have all other rights of a full financial member of the Member Association, whether or not

any membership or other fee has been paid) member meetings and committee meetings of Member Associations, as further set out in the Bylaws; and

- (i) Pay their Membership Fee pursuant to clause 8.36.
- 8.23 Upon an application for membership of RNZRSA being accepted by the Board, the prospective member shall pay a membership fee (“Membership Fee”). The manner in which the Membership Fee is calculated and paid/payable shall be set out in the Bylaws. Membership shall not be conferred until the Membership Fee is paid. RNZRSA Life Members are not required to pay a Membership Fee.
- 8.24 Not used.
- 8.25 On all matters put to National Council at an AGM or SGM the following shall (subject to clause 8.37) have one vote:
- (a) RNZRSA Life Members;
  - (b) The National President;
  - (c) Each member of the Forum;
  - (d) Each member of the Board (other than the National President);
  - (e) Each Member Association; and
  - (f) Each Affiliate Member.
- 8.26 Votes at an AGM or SGM shall be cast and scrutinised as prescribed in clauses 10.8 to 10.12 and the Bylaws.
- 8.27 Each Member is granted a licence to use Intellectual Property held by RNZRSA on such terms and conditions as might be set out in the Bylaws from time to time.

### **Ceasing to be a member**

- 8.28 A Member’s membership of RNZRSA will terminate:
- (a) Where the Member is a:
    - (i) RNZRSA Life Member, immediately on the RNZRSA Life Member notifying the Chief Executive in writing that they wish to terminate their membership.
    - (ii) Member Association or Affiliate Member, on the Board resolving under clause 8.43 to accept the Member Association or Affiliate Member’s notice of termination of membership issued pursuant to clause 8.43, provided that such notice of termination of membership may only be issued after the process in clauses 8.39 to 8.42 has been followed.

- (b) Following a decision to terminate that Member's membership made in accordance with the Dispute Resolution procedures in clause 9 and Schedule Two;
- (c) Upon the death, mental incapacity, liquidation, other winding up or cessation of existence for any reason of a Member;
- (d) Where the Member fails to pay their Membership Fees, pursuant to clause 8.39; and
- (e) As otherwise expressly set out in this Constitution.

8.29 Upon the termination of Member's membership for any reason:

- (a) All concessions and other arrangements for the payment of monies (including Membership Fees) owing to RNZRSA as at the date of termination shall immediately end and all monies owing to RNZRSA by the terminated Member (including Membership Fees) shall be payable within 10 (ten) working days of the date of termination of membership;
- (b) All badges of membership of RNZRSA shall be removed and either destroyed or returned to RNZRSA within 10 (ten) working days of the date of termination of membership, and all rights to use and grant further use of badges of membership shall immediately cease on termination;
- (c) The terminated Member shall immediately cease all use of Intellectual Property owned by RNZRSA, with effect from the date of termination; and
- (d) If the terminated Member is a Member Association and at the time of termination uses the words "Returned" and "Services" together or separately and/or the initials "RSA" as part of its name or to identify itself, the terminated Member shall change its name to remove the words "Returned" and "Services" and the initials "RSA" and shall complete such name change within 20 working days of the date of termination.
- (e) A Member Association and Affiliate Member shall:
  - (i) not distribute the Poppy, solicit donations in connection with the Poppy or otherwise collect Poppy funds;
  - (ii) not hold itself out as a Member;
  - (iii) remove all signage, letterhead, livery or other material using RNZRSA Intellectual Property, the words "Returned" and "Services" and the initials "RSA" in any combination;
  - (iv) shall cause any trust or entity within the control of the Member to change its name to remove all use of RNZRSA Intellectual Property, the words "Returned" and "Services" and the initials "RSA" in any combination;
- (f) the terminated Member shall ensure that any funds howsoever held collected utilising the Poppy, RNZRSA Intellectual Property, the words "Returned" and "Services" and the initials "RSA" in any combination are transferred to the RNZRSA National Poppy Trust or such other entity able to

complete the purpose for which the funds were collected as determined by the Board; and

- (g) shall cease to be entitled to any rights or privileges associated with membership of RNZRSA, including without limitation the right to attend and vote at an AGM, SGM or other meeting of National Council.

8.29A The provisions of this Constitution that are intended to survive termination of membership from RNZRSA and shall continue in full effect notwithstanding the termination of membership.

### **Register of Members and access to information**

8.30 Subject to clause 8.31, compliance with RNZRSA's privacy policy as set out in the Bylaws and New Zealand law relating to the collection, use and disclosure of personal information:

- (a) The Chief Executive (or such other person appointed by the Board during a Chief Executive vacancy) shall keep and maintain a Register of Members comprising the following Member information in order for RNZRSA to communicate information, comply with its obligations and/or provide assistance to Members:
  - (i) The Member's full name and where applicable incorporation number;
  - (ii) The Member's full postal address and email address (if any);
  - (iii) The Member's phone number;
  - (iv) The date on which each Member became a Member;
  - (v) In respect of Member Associations, with the written consent of the members of the Member Association (which may be in the Member Association's constitution or rules/bylaws), the full names, addresses, email addresses, dates of birth, service numbers (if applicable) of its members, and any other information RNZRSA requires to calculate the Membership Fees for the Member Association;
  - (vi) Information required for RNZRSA to comply with its legal obligations, including the name of each Member that ceased to be a Member within the previous 7 years and the date on which each Member ceased to be a Member; and
  - (vii) Such other information as determined by the Board from time to time,

(together being "Member Information");
- (b) RNZRSA shall not allow access to the Register of Members or Member Information by anyone other than RNZRSA staff and officers needing

access to perform the purpose for which the Member Information was collected or other person permitted by the Privacy Policy or applicable law;

- (c) Each Member agrees to provide Member Information to RNZRSA and in doing so to comply with RNZRSA's privacy policy; and
  - (d) RNZRSA agrees to hold Member Information securely with access limited to those staff requiring access to perform the purpose set out above or as otherwise agreed in accordance with RNZRSA's privacy policy or applicable law.
- 8.31 Member Information shall ultimately be the property of the person about whom it is provided. A person about whom Member Information has been collected shall subject to applicable law have a full right of access to their Member's Information on the Register of Members and a right to have that information removed and/or corrected upon written notice to the Chief Executive. Members must update the Chief Executive with any changes to their Member Information, and the Chief Executive shall have the right to amend the Register of Members. The process for amending or otherwise correcting Members Information on the Register of Members shall be set out in RNZRSA's privacy policy.
- 8.32 Members are entitled to request information held by the RNZRSA pursuant to section 80 of the Incorporated Societies Act 2022.
- 8.33 RNZRSA is entitled to refuse any request for information on the grounds set out in section 81 of the Incorporated Societies Act 2022.
- 8.34 Not used.
- 8.35 Not used.

#### **Membership Fees and Failure to pay Membership Fees**

- 8.36 Members (except Life Members) must pay the Membership Fees on an annual basis during the term of their membership of RNZRSA, in accordance with requirements set out in this Constitution and the Bylaws. If a Member fails to pay Membership Fees in full by the end of the RNZRSA financial year in which it was levied, that member shall be sent a notice requiring payment within one month of the date of the notice ("Payment Period").
- 8.37 If payment of Membership Fees has not been received by the RNZRSA by the end of the Payment Period, the Member is suspended from membership of the RNZRSA and loses all rights and privileges of membership of RNZRSA during the period of such suspension, but remains liable to pay the Membership Fees. The Board may lift the suspension on receipt of the Membership Fees in full.
- 8.38 If the Member enters into a documented payment arrangement with RNZRSA that is satisfactory to the Board, the Board may lift the suspension, subject to the Member's compliance with the payment arrangement. In the event the Board considers the Member has not complied with the payment arrangement, the Board may re impose the suspension.
- 8.39 If the Member has not paid Membership Fees within a further 20 working days after expiry of the Payment Period, then the Board may terminate the Member's

membership with RNZRSA, without being required to give prior notice to that Member.

- 8.39A Any Membership Fees that are unpaid as at the expiry of the Payment Period may be collected from the Member by the RNZRSA (or its nominated collection agent) as a due debt. The Member shall on request reimburse the RNZRSA for all costs and expenses incurred (on a solicitor client basis) in collecting any unpaid Membership Fees.

### **Withdrawing as a member**

- 8.40 A Member Association or Affiliate Member may only terminate their membership of RNZRSA if:
- (a) the Member Association or Affiliate Member has passed a resolution to terminate their membership with RNZRSA at a validly called annual general meeting or special general meeting of their members, and such resolution is passed with at least a 75% majority of members voting in favour; or
  - (b) the Member Association or Affiliate Member has passed a resolution to wind up or enter liquidation (or where multiple resolutions are required, the final resolution is passed) at a validly called annual general meeting or special general meeting of their members, in accordance with the process set out in the Member Association or Affiliate Member's Constitution.
- 8.41 Notice of a meeting being called to consider a matter under either 8.40(a) or 8.40(b) must be provided to the Chief Executive at least 14 days prior to the AGM or SGM. The Chief Executive may attend, and shall have speaking rights at, the Member Association or Affiliate Member's AGM or SGM.
- 8.42 Immediately after the resolution to withdraw from membership of RNZRSA has been passed by the Member Association or Affiliate Member at a meeting as detailed above, the Member Association or Affiliate Member may issue notice to the Chief Executive requesting termination of the Member Association or Affiliate Member's membership with RNZRSA ("Termination Notice"), and such Termination Notice shall set out:
- (a) The steps taken to follow the process set in clauses 8.40 and 8.41 above, including reasonable supporting evidence;
  - (b) The date from which it is intended termination should become effective; and
  - (c) Whether the Member Association or Affiliate Member intends to be wound up or be voluntarily liquidated.

### **Acceptance of Member Withdrawal**

- 8.43 If a Member Association or Affiliate Member has provided a Termination Notice to the Chief Executive, the Chief Executive shall review the information provided with the notice. If the Chief Executive is not, acting reasonably, satisfied that the process

set out in clauses 8.40 to 8.42 has been followed by the Member Association or Affiliate Member, the Chief Executive may return the Termination Notice to the Member Association or Affiliate Member, identify the steps that the Member Association or Affiliate Member is required to take to give effect to such termination of membership and report the attempted membership termination to the Board. If the Chief Executive is satisfied that the process set out in clauses 8.40 to 8.42 has been followed by the Member Association or Affiliate Member, then the Chief Executive shall provide the Termination Notice to the Board. The Member Association or Affiliate Member's termination of membership shall not be effective until the Board has resolved to accept the Termination Notice, and notified the Member Association or Affiliate Member of such acceptance. The Board shall have unfettered power to accept or reject an attempted but defective Termination Notice issued by a Member Association or Affiliate Member.

### **Becoming a member again**

- 8.44 Any former Member may apply for re-admission as a Member in the manner prescribed for new applicants, and may be re-admitted only by resolution of the Board, after the Board has consulted with the Forum.
- 8.45 If a former Member's membership was terminated following a disciplinary or dispute resolution process, the applicant may be re-admitted only by a resolution passed by National Council at an AGM, on the recommendation of the Board after consultation with the Forum.

## **9. DISPUTES**

- 9.1 Every Member and Officeholder, and RNZRSA itself, will comply with and follow the Disputes Resolution procedures in Schedule Two in respect of the matters set out in this clause 9.
- 9.2 The following persons/entities ("Complainant") may commence the Dispute Resolution procedures in Schedule Two in respect of any of the persons/entities listed in clause 9.3, but only in relation to the matters set out in clause 9.4, or, where the Complainant is the RNZRSA also in relation to the matters set out in clause 9.5:
- (a) A Member;
  - (b) Any member of the Board;
  - (c) Any member of the Forum; or
  - (d) The RNZRSA.
- 9.3 A Complainant may commence the Dispute Resolution procedures in Schedule Two in respect of any of the following persons/entities ("Respondent") in relation to any of the matters set out in clause 9.4, or where the Complainant is the RNZRSA also in relation to any of the matters set out in clause 9.5:
- (a) A Member (including RNZRSA Life Members, Member Associations and Affiliate Members). Where the Respondent is a Member Association or Affiliate Member, reference to Respondent includes the Respondents officeholders, employees and/or members);

- (b) Any member of the Board;
- (c) Any member of the Forum; or
- (d) The RNZRSA.

9.4 The following matters as between any Complainant and any Respondent shall be subject to the Dispute Resolution procedures in Schedule Two:

- (a) Allegation that the Respondent has engaged in misconduct, including any breach of the Constitution or Bylaws (including any code of conduct therein) where applicable to the Respondent;
- (b) Allegation that the Respondent has breached or is likely to breach a duty under this Constitution, Schedule Two, or the Incorporated Societies Act 2022;
- (c) Allegation that the Respondent is or has acted in a manner that has or may harm the interests of RNZRSA or members of RNZRSA generally;
- (d) Allegation that the Respondent has damaged or may damage the rights or interests of a member of RNZRSA, or has damaged or may damage the rights or interests of the members of RNZRSA generally; and
- (e) Such other matters that this Constitution refers to as matters of dispute or where this Constitution provides for a complaint to be resolved, other than such matters where this clause 9 is specifically excluded.

9.5 The following matters as between the RNZRSA as Complainant and a Member as Respondent shall be subject to the Dispute Resolution procedures in Schedule Two:

- (a) Allegation that the Member cannot comply with or is not compliant with this Constitution or, in the case of a Member Association or Affiliate Member, the member's own constitution;
- (b) Where the Member is the subject of a complaint by a third party to RNZRSA; and
- (c) Where the member is in financial difficulty.

9.6 For the removal of doubt, it is recorded that the matters referred to in clauses 9.4 and 9.5, and the Dispute Resolution procedures in Schedule Two, apply only in respect of a person's or entity's actions (or inactions) in their capacity as a Member or as a Board member or as a Forum member, as the case may be. A decision made pursuant to the Dispute Resolution procedures set out in this clause 9 or Schedule Two are not subject to review or appeal.

## **10. GENERAL MEETINGS OF THE RNZRSA**

10.1 An AGM shall be called by the Board annually, with such AGM to take place within 6 months of the RNZRSA's balance date and no more than 15 months after the last AGM.

- 10.2 A special general meeting of National Council (“SGM”) may be called by the Board by providing at least 21 days’ notice to all members of National Council. The Board must call an SGM if it receives written request signed by at least 20 Members, provided such request states the business that the SGM is to deal with. An SGM must only consider and deal with the business specified in the notice calling the SGM. The procedures set out in this Constitution and Bylaws that relate to an AGM shall apply to an SGM with all necessary amendments, unless a specific process for an SGM is otherwise set out in this Constitution or Bylaws. Other meetings of National Council may be called by the National President from time to time. Any resolution passed at a meeting of National Council other than at an AGM or SGM shall not be binding on the RNZRSA, the Board, Forum or Members.
- 10.3 The Board shall be responsible for:
- (a) ensuring accurate minutes of any AGM, SGM or other meeting of National Council are kept; and
  - (b) the logistics, administration and any other requirements for any AGM, SGM or other meeting of National Council.
- 10.4 Notice of each AGM shall include an agenda, the minutes from the previous AGM, the annual report, financial statements, interests register, matters to be discussed and motions to be voted on, elections to be undertaken and the nominees for such election (if any) and any other matter required by law or that the Board considers appropriate. The annual report, financial statements and interests register must be presented at National Council. Notice of the AGM shall be given to National Council (and anyone else the Board considers appropriate) no later than twenty-one (21) days prior to the AGM.
- 10.5 The Forum, RNZRSA Life Members, delegates of Member Associations and delegates of Affiliate Members (“Proposer”) may raise a matter at an AGM by providing notice of motion (“Notice of Motion”) to the Chief Executive no later than forty-nine (49) days before the date of the AGM.
- 10.5A Notices of Motion must set out the motion to be voted on and the basis for the motion. The Chief Executive shall provide all Notices of Motion to the Board for consideration.
- 10.5B The Board is not required to put any Notice of Motion to an AGM where it:
- (a) Or a similar matter, has been considered and rejected by National Council (whether at an AGM, SGM or other meeting of National Council) within the immediately preceding three (3) years;
  - (b) Is contrary to the requirements of the Constitution for the bringing of a notice of motion, the Objects and Purposes, Constitutional Principles or clauses 5.4 — 5.6;
  - (c) Is contrary to law or seeks to have RNZRSA, the Board or any other person act in a manner contrary to law;
  - (d) Could reasonably be considered defamatory, hate speech or otherwise derogatory;
  - (e) Is vexatious;

- (f) Is unreasonable;
  - (g) Can reasonably be interpreted in several ways or is otherwise ambiguous as to its purpose; or
  - (h) Is withdrawn by the Proposer prior to the AGM.
- 10.5C Upon receiving a Notice of Motion, the Chief Executive and/or Board may discuss the matter with the Proposer.
- 10.6 The Board Chair, or such other Board member appointed by the Board Chair in their absence, shall be the chairperson of the AGM and any SGM. The National President, or a Vice President appointed by the National President, shall be the chairperson of any other meeting of National Council. The Board shall allow attendance at an AGM or SGM by electronic means (for example video conference). Attendance at any other meeting of National Council shall be in the National President's discretion. Attendees of any meeting, whether it be of a National Council (including any AGM or SGM), the Forum, the Board, or any other meeting of RNZRSA, who are present electronically or through equivalent technology and are able to engage in the meeting through such means, shall be considered present for the purposes of attendance at a meeting and in assessing a quorum.
- 10.7 The quorum for any AGM or SGM shall be attendance (pursuant to clause 10.6) of at least 50 members of National Council that are entitled to vote. Decisions made when a quorum is not present are not valid. If within half an hour after the start time of an AGM or SGM a quorum is not present, the meeting:
- (a) if called at the request of a Member, shall be dissolved; or
  - (b) if called by the Board or National President, shall be adjourned to a day, time and place determined by the Board Chair, and if at such adjourned AGM or SGM a quorum is not present, those members of National Council present shall be deemed to constitute a sufficient quorum.
- 10.8 A RNZRSA Life Member may attend an AGM, SGM or other meeting of National Council, and pursuant to clause 8.25 the RNZRSA Life Member shall have a single vote.
- 10.9 A Member Association may appoint one delegate to attend an AGM, SGM or other meeting of National Council, and pursuant to clause 8.25 that delegate shall have a single vote. A Member Association may appoint two observers (in addition to the delegate) to attend an AGM, SGM or other meeting of National Council, but such observers are not entitled to vote or otherwise participate in the AGM, SGM or other meeting of National Council. The delegate and observer appointment process is set out in the Bylaws.
- 10.10 An Affiliate Member may appoint one delegate to attend an AGM, SGM or other meeting of National Council, and pursuant to clause 8.25, that delegate shall have a single vote. The delegate appointment process is set out in the Bylaws.
- 10.11 No person may represent more than one member of National Council. Additional attendees at an AGM, SGM or other meeting of National Council (including media)

must be approved by the Chief Executive or Board Chair in advance of the meeting. The chairperson of any AGM, SGM or other meeting of National Council may direct that any person not entitled to be present at such meeting, or obstructing the business of such meeting, or behaving in a disorderly or abusive manner, or failing to abide by the directions of the chairperson, and may direct that the person be removed from the meeting. All attendees at National Council are subject to the applicable requirements of this Constitution and the Bylaws (including any code of conduct set out therein).

10.11A Unless otherwise required by this Constitution, decisions of National Council at an AGM, SGM or other meeting of National Council shall be made by simple majority vote of those members of National Council present (as per clause 10.6) and voting. No proxies are permitted.

10.11B Except:

- (a) elections for National President and the Vice Presidents which are dealt with under clause 10.11C; and
- (b) where a poll is required under clause 10.11E,

voting at an AGM, SGM or other meeting of National Council shall be by voice or show of hands as determined by the chairperson of the meeting. In the case of an equality of votes, the chairperson of the meeting shall have a casting vote in addition to any vote that they may otherwise be entitled.

10.11C Voting in the election processes for National President and the Vice Presidents at an AGM shall be by poll, in accordance with the processes set out in the Bylaws.

10.11D Voting procedures in respect of each voting method are as set out in the Bylaws or as determined by the chairperson of the meeting. Electronic voting is permitted.

10.11E A poll (rather than voice or show of hands) must be undertaken on any matter arising at an AGM, SGM or other meeting of National Council where determined necessary by the chairperson. If a poll is required, it shall use a voting method determined by the chairperson of the meeting, and follow procedures set out in the Bylaws. The poll shall be deemed to be conclusive in respect of the matter in respect of which the poll was required. A determination that a poll is necessary may be withdrawn. The requirement for a poll shall not prevent the continuance of an AGM, SGM or other meeting of National Council for the transaction of any business other than the resolution on which the poll is required.

10.11F A declaration by the chairperson of an AGM, SGM or other meeting of National Council that a resolution has been carried or lost shall be conclusive evidence of the fact without proof of the number of votes recorded in favour of or against such resolution.

10.12 The procedures for attending, calling and holding National Council shall otherwise be set out in the Bylaws, provided that the chairperson of National Council shall have the discretion at National Council to alter the agenda, introduce any item of business that the Board considers requires discussion at or a decision from National Council, and to make any other procedural ruling that the National President considers necessary for National Council to proceed efficiently, provided that no such ruling may breach any requirement set out in this Constitution.

- 10.13 Written resolutions may not be passed in lieu of an AGM, SGM or other meeting of National Council.

## **11. AMENDMENTS TO THE CONSTITUTION**

- 11.1 Without limiting the power of the Board to make minor amendments to this Constitution pursuant to section 31 of the Incorporated Societies Act 2022, the Constitution of RNZRSA may be changed or rescinded and replaced at an AGM or SGM provided that:

- (a) Each member of National Council is provided with no less than twenty-one (21) days written notice of the motion to change or rescind and replace the Constitution; and
- (b) Changes to clauses 2.1, 3.1 – 3.3, 5.4 – 5.6, 11 and 16 must not be made unless the charitable status of RNZRSA is not compromised under the Charities Act 2005 or any other legislative provisions or rule of law governing the operations of charities in New Zealand.

- 11.2 To change provisions of the constitution other than clauses 2.1, 3.1—3.3, 5.4—5.6, and 16 a simple majority of members of National Council present (pursuant to clause 10.6) at the AGM or SGM and voting on the motion shall be sufficient. To rescind and replace the Constitution or to alter clauses 2.1, 3.1 — 3.3, 5.4 — 5.6, and 16, a majority of at least 75% of members of National Council (pursuant to clause 10.6) at the AGM or SGM and voting on the motion shall be required.

## **12. RNZRSA BYLAWS**

- 12.1 RNZRSA may create bylaws (“Bylaws”) governing any matter that is not expressly addressed in this Constitution or required to be addressed in this Constitution by the law governing the formation and operation of charities and incorporated societies.
- 12.2 The Board has the power to create, amend, delete, replace or otherwise alter Bylaws at any time.
- 12.3 The creation, amendment, deletion, replacement or other alteration of a Bylaw is not an amendment to this Constitution.
- 12.4 In the event a provision of this Constitution refers to Bylaws and the requisite Bylaws are not in effect, the Board shall determine a process to apply to the situation. Members agree to abide by the decision of the Board.
- 12.5 Without limiting the foregoing or any other provision of this Constitution, if the Board have refused to remove or amend a Bylaw at the request of a member, any member may ask National Council at an AGM to invalidate or amend a Bylaw by submitting a Notice of Motion pursuant to clause 10.5.
- 12.6 No Bylaw may conflict with the provisions of this Constitution, and to the extent that any Bylaw does conflict with the provisions of this Constitution, the Bylaw is void and of no effect.

- 12.7 No adoption or amendment of any Bylaw shall be made where such adoption or amendment conflicts with the constitutional principles and objects and purposes contained in the constitution of RNZRSA, or with the rules of natural justice.
- 12.8 The Bylaws must include a code of conduct, including process to establish and update from time to time. The code of conduct shall apply to (without limitation) all Members, members of the Board, members of the Forum, attendees at National Council and other people determined by the Board.

### **13. REPORTING STANDARDS**

- 13.1 The Board has responsibility for controlling, investing and spending the funds and property of the RNZRSA in accordance with objects of RNZRSA. The Board shall ensure that RNZRSA complies with the applicable law relating to the operation of charities and incorporated societies including the preparation, reporting and registration of financial statements. The accounts shall comply with the requirements of the Incorporated Societies Act 2022, Charities Act 2005 and otherwise as set out in the Bylaws.
- 13.2 Unless an audit is not required by New Zealand law, the accounts of RNZRSA shall be audited by an Auditor, who shall be qualified to carry out audits in accordance with the Financial Reporting Act 2013, must be independent and must not be a Member. The Board shall appoint the Auditor.

### **14. TRUSTS AND FUNDS**

- 14.1 Administration within RNZRSA of all Trusts and Funds administered by RNZRSA shall be the responsibility of the Board.
- 14.2 Subject to clause 14.3, and without limiting clause 5.1(c), the Board may establish any new charitable trust (or subject to applicable law update and amend an existing charitable trust), or establish or update any fund management documents, policies and procedures for the management of charitable trusts and any funds collected for charitable purposes through donations or otherwise. Each member of National Council agrees to comply with all Board directives given pursuant to this clause 14.2 unless otherwise agreed in writing with the Board.
- 14.3 The Board and each Member recognise and accept that:
- (a) All charitable trusts and funds collected or held under or in connection with the Poppy, Returned Services, Returned and Services or RSA name, settled by or under the control of RNZRSA or a Member (through the appointment of trustees or otherwise) must only be applied or administered in accordance with the terms of the trust and/or fund unless otherwise directed by a Court of appropriate jurisdiction;
  - (b) All monies held by such a trust and/or fund must be kept separate from any operating accounts of RNZRSA or the Member; and
  - (c) On the winding up of RNZRSA the powers of RNZRSA in connection with the trust and/or fund must be transferred to persons capable of performing its purpose in accordance with New Zealand law.

14.4 Where the power of appointment of trustees of any trust or fund was or is held by DEC (subsequently NEC) or RNZRSA, that power will be exercised and administered by the Board.

14.5 RNZRSA acting through the Board is authorised to settle any funds held by RNZRSA or under its control on any charitable trust to benefit some or all people falling within the definition of (i) New Zealand Service Personnel or Non Service Personnel, whether a Member or a member of a Member Association, or (ii) for the relief of poverty, the advancement of education, or such other charitable purposes within New Zealand as are recognised by the laws of New Zealand, provided that they are consistent with the Objects and Purposes, and Constitutional Principles of RNZRSA.

## **15. EXECUTING DOCUMENTS AND COMMON SEAL**

15.1 RNZRSA may, but is not required to, have a common seal for ceremonial purposes as set out in the Bylaws. The common seal is not required to be affixed to any deed, agreement or other document signed by the RNZRSA.

15.2 Any deed required to be signed by the RNZRSA must be signed by any two Board members.

15.3 Agreements and other documents required to be signed by the RNZRSA must be signed by (i) any two Board members, or (ii) such other persons that are approved to do so pursuant to the then current delegated authority policy that has been approved by the Board.

## **16. LIQUIDATION AND WIND UP**

16.1 The members of National Council may resolve to wind up, or place RNZRSA into liquidation pursuant to Part 5 of the Incorporated Societies Act 2022, using the following process:

- (a) The Board must include such a resolution into the notice of meeting for an AGM or call an SGM for considering such a resolution;
- (b) Pursuant to clauses 10.2 and 10.4 (as applicable), at least 21 days' notice of the AGM or SGM must be provided to all members of National Council;
- (c) The resolution to wind up or put RNZRSA into liquidation must be considered at the AGM or SGM, and if passed must be confirmed by a further SGM held not earlier than thirty (30) days and not later than sixty (60) days after the date on which the resolution to be liquidate was passed; and
- (d) The resolutions to wind up or put RNZRSA into liquidation must be passed by a majority of members of National Council present (as per clause 10.6) and voting at each AGM or SGM.

16.2 Failure to follow the process set out in clause 16.1 shall invalidate the resolution to wind up or liquidate RNZRSA.

- 16.3 If upon the wind up or liquidation of RNZRSA there remains, after the satisfaction of all its liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of RNZRSA but shall be given or transferred to some other charitable institutions or societies within New Zealand having objects and/or constitutional principles similar to those of RNZRSA, as determined by the Board and in default thereof to such charitable institutions or societies within New Zealand as a Registrar of Incorporated Societies, or the High Court of New Zealand or a Judge thereof, or in the event of an appeal being made, the relevant appeal authority may direct.

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## SCHEDULE ONE

### Eligibility Criteria

#### 1. Eligibility Criteria

- 1.1 Everyone who wishes to hold a position on the Board, Forum, Selection Committee or Complaints Committee is subject to meeting, and remaining in compliance with, the eligibility criteria set out in this Schedule.

#### 2. Board members

- 2.1 Where a person is, or is proposed to be, a Board member, they must:

- (a) comply with any applicable requirements set out in the Constitution or Bylaws;
- (b) not be disqualified from being an officer of a registered charity under the Charities Act 2005, or an officer of an incorporated society under the Incorporated Societies Act 2022;
- (c) not cause the Board, after their election or appointment as a Board member, to fail to comply with the requirements in clauses 6.16 and 6.17 in relation to the proportion of Board members that are required to be Members; and
- (d) be a “fit and proper person”, which is a term that describes an assessment of an individual’s competence and suitability for a specific occupation or privilege.

#### 3. Forum, Selection Committee and Complaints Committee

- 3.1 Where a person is, or is proposed to be, a member of the Forum, Selection Committee or Complaints Committee, they must:

- (a) comply with any applicable requirements set out in the Constitution or Bylaws; and
- (b) be a “fit and proper person”, which is a term that describes an assessment of an individual’s competence and suitability for a specific occupation or privilege.

#### 4. Fit and proper person

- 4.1 In respect of the “fit and proper person” requirement, such persons are to be assessed against clause 6.15 of the Constitution which provides that:

*All members of the Forum and Board are obligated to work co-operatively with each other in the best interests of the RNZRSA, with mutual trust, transparency, confidence and without bias at all times. All Members shall uphold the authority, mana and status of the National President, Forum and Board members of the RNZRSA.*

4.2 For the purpose of determining whether or not a person is eligible to be accepted as, or to continue to be, a member of the Board, Forum, Selection Committee, or Complaints Committee, as the case may be, the persons making the determination may take into account any matters it considers relevant and, in particular, may take into account any of the following matters:

- (a) Whether the person is disqualified from being an “officer” of a registered charity under the Charities Act 2005 (whether or not the person will actually be an “officer” of RNZRSA in accordance with that Act).
- (b) Whether the person is disqualified from being a “officer” of an incorporated society under the Incorporated Societies Act 2022 (whether or not that Act currently applies to RNZRSA, and whether or not the person will actually be an “officer” of RNZRSA in accordance with that Act).
- (c) Whether the person has been convicted of an offence in New Zealand, or elsewhere, within the last 7 years, and, if so
  - (i) the nature of the offence; and
  - (ii) the time that has elapsed since the offence was committed.
- (d) Whether the person is subject to an unresolved complaint under the RNZRSA Constitution and/or Bylaws.
- (e) Whether the person has been the subject of a complaint, either from within or outside of the RNZRSA, and either to the RNZRSA or to some other body or person, of a nature that could, in the opinion of the Panel or relevant Complaints Committee as the case may be, cause risk to the reputation of the RNZRSA if that person held, or continued to hold, a position of representation or governance with the RNZRSA.
- (f) Whether the person:
  - (i) is a subject of current disciplinary action in another profession or occupation in New Zealand or elsewhere; or
  - (ii) has been the subject of disciplinary action of that kind that has involved a finding of guilty, however expressed.

## SCHEDULE TWO

### DISPUTE RESOLUTION PROCEDURES

#### 1. Commencing a dispute resolution procedure

1.1 A Complainant (as defined in clause 9.2 of the Constitution) makes a complaint in accordance with Constitution by giving written notice to the Determining Body (as set out in clause 1.3 and 1.4) that:

- (a) states that the Complainant is starting a Dispute Resolution procedure;
- (b) sets out the allegation to which the dispute relates and whom the allegation is against (the Respondent as defined in clause 9.3 of the Constitution);
- (c) provides sufficient details of the allegation to enable the Respondent to be fairly advised of the allegation and to enable the Respondent to prepare a response; and
- (d) sets out any other information reasonably required by the RNZRSA (including where applicable any remedy sought).

1.2 Where the Respondent is a Member (as set out in clause 9.2 of the Constitution), the Determining Body is a complaints committee as set out in clause 3.2.

1.3 Where the Respondent is any member of the Board, any member of the Forum, or the RNZRSA, the Determining Body is a complaints committee as set out in clause 4.2.

1.4 In the first instance the Complainant shall provide the notice referred to in clause 1.1 to the person who will be the chair of the relevant complaints committee.

#### 2. Complainant and Respondent right to be heard

2.1 In all cases the Complainant and the Respondent have the right to be heard by the Determining Body before any complaint is resolved or any outcome is determined.

2.2 Without limiting the manner in which the Determining Body gives a Complainant the right to be heard, it will be taken that a Complainant has been given the right to be heard if:

- (a) the Complainant has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held);
- (b) an oral hearing is held if the Determining Body considers that an oral hearing is needed to ensure an adequate hearing;
- (c) an oral hearing (if any) is held before the Determining Body; and
- (d) the Complainant's written statement or submissions (if any) are considered by the Determining Body.

2.3 Without limiting the manner in which the Determining Body gives a Respondent the right to be heard, it will be taken that a Respondent has been given the right to be heard 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;
- (b) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held);
- (c) an oral hearing is held if the Determining Body considers that an oral hearing is needed to ensure an adequate hearing;
- (d) an oral hearing (if any) is held before the Determining Body; and
- (e) the Respondent's written statement or submissions (if any) are considered by the Determining Body.

### **3. Where the Respondent is a Member**

3.1 Where the Respondent is a Member (as set out in clause 9.2 of the Constitution), the Determining Body for any complaint regarding the Respondent is a complaints committee as set out in clause 3.2. Clauses 3.2 to 3.11 apply only where the Respondent is a Member.

3.2 A complaints committee shall be convened by the National President on receipt of the complaint. Subject to 3.11, the complaints committee shall be a minimum of five (but not more than six) people being:

- (a) the National President, who shall be the chair of the complaints committee (the "CC Chair");
- (b) one of the National Vice Presidents, appointed to the complaints committee by the CC Chair;
- (c) the Board Chair;
- (d) the Board member who is the then current Chair of People and Culture;
- (e) at least one, suitability qualified and/or experienced, independent person, appointed to the complaints committee by consensus agreement of the people listed in (a) to (d) above; and
- (f) at the discretion of the people listed in (a) to (d) above, a second, suitability qualified and/or experienced, independent person, appointed to the complaints committee by consensus agreement of the people listed in (a) to (d) above.

3.3 A person shall be an independent person for the purposes of 3.2 where that person is not:

- (a) a Forum member;
- (b) a Board member;

- (c) a Member, Officeholder or employee of the RNZRSA; or
  - (d) a member, committee member, officer, or employee of a Member.
- 3.4 The complaints committee must, as soon as is reasonably practicable after receiving a complaint in made in accordance with the Constitution and this Schedule Two, ensure that the matter is investigated and determined. The complaints committee must deal with such complaints in a fair, efficient and effective manner.
- 3.5 The complaints committee shall conduct the Dispute Resolution process as the complaints committee sees fit but subject to the requirements of this Schedule Two. The processes that the complaints committee uses may include, but are not required to include, and are not limited to:
- (a) meeting with the Complainant and Respondent, together or separately, to try and reach agreement on resolution of the matters;
  - (b) engaging an external person to investigate the complaint and report to the complaints committee;
  - (c) referring the matter to the Board for advice on governance issues affecting RNZRSA and other Members in respect of the complaint and/or matters raised in the complaint, and taking any such advice into account;
  - (d) referring the matter to the Forum for advice on representation issues affecting RNZRSA and other Members in respect of the complaint and/or matters raised in the complaint, and taking any such advice into account; and/or
  - (e) arranging for formal mediation to try and reach agreement on resolution of the complaint.
- 3.6 Despite clause 3.4, the complaints committee may decide not to proceed further with a complaint if:
- (a) the complaint is trivial;
  - (b) the complaint does not appear to disclose or involve any allegation of the kind set out in clause 9.4 of the Constitution, or in clause 9.5 of the Constitution where the Complainant is the RNZRSA;
  - (c) the complaint appears to be without foundation or there is no apparent evidence to support it;
  - (d) the person who makes the complaint has an insignificant interest in the matter;
  - (e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the Constitution or this Schedule Two; or

- (f) there has been an undue delay in making the complaint.
- 3.7 On hearing the complaint as provided for in this Schedule Two, and subject to clause 3.8, the complaints committee may:
- (a) determine the dispute, and make such directions as they consider appropriate, with which the Complainant and Respondent must comply;
  - (b) dismiss the complaint;
  - (c) uphold the complaint and make such directions as they consider appropriate, with which the Complainant and Respondent must comply; and/or
  - (d) uphold the complaint and:
    - (i) reprimand or admonish the relevant Member(s); and/or
    - (ii) suspend the relevant Member(s) from membership of the RNZRSA for a specified period; and/or
    - (iii) recommend to the Board that the relevant Member(s) membership of the RNZRSA be terminated.
- 3.8 In addition to the outcomes in 3.6 or 3.7, and whether the complaints committee decides not to proceed further with a complaint in accordance with clause 3.6, or hears the complaint, the complaints committee may order the Complainant and/or Respondent to meet any of RNZRSA's reasonable costs in dealing with the complaint.
- 3.9 For the avoidance of doubt, the complaints committee cannot terminate the membership of a Member. Such action may only be taken by the Board. For the further avoidance of doubt, such action may only be taken by the Board (but does not have to be taken by the Board) where the complaints committee has recommended that membership be terminated at the conclusion of the Dispute Resolution process.
- 3.10 In the event the matter at issue is of sufficient seriousness that either the complaints committee or the Board consider urgent action is required to preserve the reputation and/or integrity of RNZRSA, the RSA Movement, and/or a Member, the Board and the complaints committee shall consult with the Forum on the issue to consider what urgent action, if any, should be taken while the Dispute Resolution process is being undertaken. Following such consultation, the Board and the complaints committee shall determine whether any urgent action should be taken. Where any urgent action is deemed to be necessary, the Board shall immediately communicate that decision to the Complainant and the Respondent. The taking of urgent action shall not replace the Dispute Resolution process set out in this Schedule Two.
- 3.11 In relation to a complaints committee convened under clause 3.2, in the event that for any reason (including the application of clause 5.1) there are less than five people on a complaints committee at any time, the complaints committee may continue to deal with the complaint as long as there is at least one independent person remaining on the complaints committee. However where at any time there are less than three people on the complaints committee, and/or no independent

person on the complaints committee, the CC Chair of that complaints committee shall appoint replacement members to that complaints committee from the Board and/or the Forum and/or an independent person, as the case may be, to increase the number of people on the complaints committee to five.

**4. Where the Respondent is a Board member, a Forum member, or the RNZRSA**

4.1 Where the Respondent is a Board member, a Forum member, or the RNZRSA, the Determining Body for any complaint regarding the Respondent is a complaints committee as set out in clause 4.2. Clauses 4.1 to 4.13 apply only where the Respondent is a Board member, a Forum member, or the RNZRSA.

4.2 A complaints committee shall be convened by the chair of the complaints committee (the “CC Chair”) on receipt of the complaint. Subject to clause 4.13, the complaints committee shall be a minimum of five (but not more than six) people being:

- (a) subject to clause 4.4, the Board member who is the then current Chair of People and Culture, with that person being the CC Chair; and
- (b) one other Board member appointed to the complaints committee by the CC Chair, subject to where the Respondent is a Board member, this appointee to the complaints committee may not be the Board Chair;
- (c) two Forum members appointed to the complaints committee by the CC Chair, subject to where the Respondent is a Forum member, neither of those appointees to the complaints committee may be the National President;
- (d) at least one, suitability qualified and/or experienced, independent person, appointed to the complaints committee by consensus agreement of the people listed in 4.2 to (c) above; and
- (e) at the discretion of the people listed in clause 4.2 (a) to (c) above, a second, suitability qualified and/or experienced, independent person, appointed to the complaints committee by consensus agreement of the people listed in 4.2 (a) to (c) above.

4.3 A person shall be an independent person for the purposes of 4.2 where that person is not:

- (a) a Forum member;
- (b) a Board member;
- (c) a Member, Officeholder or employee of the RNZRSA; or
- (d) a member, committee member, officer, or employee of a Member (as set out in clause 9.2 of the Constitution).

- 4.4 Notwithstanding 4.2, where the current Chair of People and Culture is the Respondent or Complainant in respect of the complaint, or is unable to act as the CC Chair:
- (a) the CC Chair shall be another Board member appointed as CC Chair by the Board Chair (and for the avoidance of doubt, the Board Chair may appoint themselves as the CC Chair); and
  - (b) where the Board Chair is the Respondent or Complainant, the CC Chair shall be another Board member appointed as CC Chair by majority vote of the Board (with any member of the Board who is the Respondent or Complainant not eligible to be appointed, not eligible to vote, and not counted for the purposes of determining a majority vote).
- 4.5 The complaints committee must, as soon as is reasonably practicable after receiving a complaint made in accordance with the Constitution and this Schedule Two, ensure that the matter is investigated and determined. The complaints committee must deal with such complaints in a fair, efficient and effective manner.
- 4.6 In the situation that the complaint is in respect of, or includes, one or more of the following matters, the CC Chair will appoint an independent person to investigate the complaint, and report, with recommendations, to the complaints committee, prior to the complaints committee proceeding with the Disputes Resolution process. Those matters are:
- (a) assaulting or causing bodily harm to another person;
  - (b) sexual or racial harassment or intimidation;
  - (c) dishonesty; and/or
  - (d) aggressive behaviour.
- 4.7 The complaints committee shall conduct the Dispute Resolution process as the complaints committee sees fit but subject to the requirements of this Schedule Two. The processes that the complaints committee uses may include, but are not required to include, and are not limited to:
- (a) meeting with the Complainant and Respondent, together or separately, to try and reach agreement on resolution of the matters;
  - (b) engaging an external person to investigate the complaint and report to the complaints committee (for the avoidance of doubt this may be done where the matter is not one of those listed in clause 4.6); and/or
  - (c) arranging for formal mediation to try and reach agreement on resolution of the complaint.
- 4.8 Despite clause 4.5, the complaints committee may decide not to proceed further with a complaint if:
- (a) the complaint is trivial;
  - (b) the complaint does not appear to disclose or involve any allegation of the kind set out in clause 9.4 of the Constitution;

- (c) the complaint appears to be without foundation or there is no apparent evidence to support it;
- (d) the person who makes the complaint has an insignificant interest in the matter;
- (e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the Constitution and this Schedule Two; or
- (f) there has been an undue delay in making the complaint.

4.9 On hearing the complaint as provided for in this Schedule Two, and subject to clause 4.10, the complaints committee may:

- (a) determine the dispute, and make such directions as they consider appropriate, with which the Complainant and Respondent must comply;
- (b) dismiss the complaint;
- (c) uphold the complaint and make such directions as they consider appropriate, with which the Complainant and Respondent must comply; and/or
- (d) uphold the complaint and:
  - (i) reprimand or admonish the relevant person(s); and/or
  - (ii) where the Respondent is a Board member, recommend to the Board that the Respondent be removed from the Board; and/or
  - (iii) where the Respondent is a Forum member other than a District Representative, recommend to the Forum that the Respondent be removed from the Forum; and/or
  - (iv) where the Respondent is a District Representative, recommend to the Forum that the Respondent be removed from that office and/or the Forum.

4.10 In addition to the outcomes in clauses 4.8 and 4.9, and whether the complaints committee decides not to proceed further with a complaint in accordance with 4.8, or hears the complaint, the complaints committee may order the Complainant and/or Respondent to meet any of RNZRSA's reasonable costs in dealing with the complaint.

4.11 For the avoidance of doubt, the complaints committee cannot remove a Board member or Forum member from office. Such action may only be taken, on recommendation of the complaints committee at the conclusion of the Dispute Resolution process, by:

- (a) where the Respondent is a Board member, by majority vote of the other Board members, or where the Complainant is also a Board member, by

majority vote of the Board members excluding both the Respondent and the Complainant;

- (b) where the Respondent is a Forum member, by majority vote of the other Forum members, or where the Complainant is also a Forum member, by majority vote of the Forum members excluding both the Respondent and the Complainant.

4.12 In the event the matter at issue is of sufficient seriousness that either the complaints committee or the Board consider urgent action is required to preserve the reputation and/or integrity of RNZRSA, the RSA Movement, and/or a Member, the Board and the complaints committee shall consult on the issue to determine what urgent action, if any, should be taken while the Dispute Resolution process is being undertaken. Where any urgent action is deemed to be necessary, the complaints committee shall immediately communicate that decision to the Respondent and the Complainant. The taking of urgent action shall not replace the Dispute Resolution process set out in this Schedule Two.

4.13 In relation to a complaints committee convened under clause 4.2, in the event that for any reason (including the application of clause 5.1) there are less than five people on a complaints committee at any time, the complaints committee may continue to deal with the complaint as long as there is at least one independent person remaining on the complaints committee. However where at any time there are less than three people on the complaints committee, and/or no independent person on the complaints committee, the CC Chair of that complaints committee shall appoint replacement members to that complaints committee from the Board and/or the Forum and/or an independent person, as the case may be, to increase the number of people on the complaints committee to five.

## 5. Other matters

5.1 In addition to any specific restrictions in this Schedule Two, a person may not be a member (or continue to be a member) of the relevant Determining Body if two or more other members of that Determining Body 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.

5.2 Notwithstanding the provisions of this Schedule Two, in no circumstances does the convening of a complaints committee, or any process that a complaints committee is undertaking in accordance with this Schedule Two, prevent or limit the power of RNZRSA to notify and/or refer any matter that is the subject of or relates to a complaint, to an appropriate external body at any time.