

# **RULES AND CONSTITUTION**

## **ELEVATING WORK PLATFORM ASSOCIATION INCORPORATED**



**VERSION 3  
30<sup>th</sup> APRIL 2013**

# RULES OF ELEVATING WORK PLATFORM ASSOCIATION OF NEW ZEALAND (Inc.)



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## **INTERPRETATION**

“Act” means the Incorporated Societies Act 1908 as amended from time to time,

“Annual Financial Statement” means the Annual Financial Statement to be approved by the Members and delivered to the Registrar of Incorporated Societies under section 23 of the Act.

“Association” means the Elevating Work Platform Association of New Zealand Incorporated,

“Board” means the Board of Directors referred to in Rule 12,

“Director” means a representative who is elected to the Board, and “Directors” means all of them,

“EWPA” means Elevating Work Platform Association of New Zealand (Inc.)

“Honorary Member” means a member of the type referred to Rule 5 4,

“Life Member” means a member of the type referred to Rule 5 5,

“Member” means a member of the type referred to in Rule 5 3, and “Members” means all of them,

“Officers” means the Chief Executive Officer, and any other officer of the Associations who may be appointed from time to time pursuant to Rule 15,

## **1. NAME**

The full name of the Association shall be the “Elevating Work Platform Association of New Zealand Incorporated”

## **2. OBJECTS**

The objects of the Association are to

- 2.1 Strive to become and remain recognized as the knowledgeable, responsible official representative and authoritative organisation of those involved in the Elevating Work Platform Industry.
- 2.2 Promote within the Elevating Work Platform Industry best and safest practice in the use and maintenance of Elevating Work Platforms.
- 2.3 Promote within the Industrial and Commercial communities a wider understanding of regulations, codes of practice, standards and qualifications and certification relevant to the Elevating Work Platform Industry.
- 2.4 Foster the registration of trainers, certification of platforms, inspectors, engineers and procedures relating to a better appreciation of the various safe, effective and valuable uses to which such platforms can usefully be put.
- 2.5 Promote and safeguard the interests of the Members and others involved in the Elevating Work Platform Industry.
- 2.6 Establish and promote the adoption of high standards, ethics and responsible business practices amongst Members and others involved in the Elevating Work Platform industry.
- 2.7 Maintain and promote a favourable public perception of the Members and the Elevating Work Platform Industry in general.
- 2.8 Take any lawful action to defend the Members and others involved in the Elevating Work Platform Industry against any threat to their industry-related interests so long as such actions are consistent with other objects of the Association..
- 2..9 To pursue opportunities to promote and enhance the interests of the Members and others involved in the Elevating Work Platform Industry.
- 2.10 Encourage and promote goodwill and regular communication among the Members to further the stated objects of the Association.
- 2.11 Acquire and disseminate information amongst the Members concerning new opportunities, developments, innovations, challenges or threats affecting the Elevating Work Platform Industry with the aim of increasing the efficiency, productivity and profitability of their businesses.
- 2.12 Negotiate on behalf of the Members for concessionary prices or terms of supply for goods or services which they may wish to acquire.

- 2.13 Co-operate and/or affiliate with any other bodies with similar objects, to more effectively facilitate the achievement of those objects.

### **3 POWERS**

- 3.1 Subject to the Act and to these Rules, the Association shall have power to do every lawful thing that a natural person is capable of doing.
- 3.2 In particular, and without limiting the generality of Rule 3.1, the Association may carry on or invest in any business, borrow money from any suitable source, and give security over the property of the Association in support of that borrowing.
- 3.3 The Association shall not have power to do anything that is not consistent with or reasonably conducive to the attainment of its objects, or that would result in the Members being deemed to be associated for pecuniary gain as defined by the Act.

### **4 MEMBERSHIP**

- 4.1 The minimum number of Members of the Association shall be 15 or such other number as is required by the Act from time to time, but there shall be no maximum number.
- 4.2 There shall be the following categories of membership
- 4.3 Members,
  - 4.4 Honorary Members,
  - 4.5 Life Members,
- 4.3 Members may be sole traders, partnerships, companies or other entities or individuals who conduct business or activities relevant to the EWPA Industry.. Candidates who do not meet the above criteria may be admitted by the Board as Members of the Association, Members are entitled to attend, speak at and vote at general meetings, participate in postal ballots, elect representative to the Board, and receive all the other benefits that the Association may from time to time provide.
- 4.4 Honorary Members must be individuals who have made a contribution to the Association or the Elevating Work Platform Industry, that in the opinion of the Board is significant. Honorary Members are entitled to attend and speak at general meetings, but not to vote, participate in postal ballots or become Representatives of the Board. They may, at the Board's discretion, be required to pay subscriptions or other levies to the Association.
- 4.5 Life Members must be individuals who have made a contribution to the Association that in the opinion of the Board is extraordinary and worthy of special recognition, Life Members are entitled to attend, speak and vote at general meetings, and to participate in postal ballots or elect Representatives to the Board. They shall not be required to pay any subscription or other levy to the Association.
- 4.6 Candidates for membership of the Association in any category may apply for membership or may be nominated by an existing Member. Applications or nominations for membership of the Association in any category must in the first instance be made to the Board. To be eligible for membership in any category a candidate must first be approved by the Board in its sole discretion. Members and Honorary Members shall be admitted to membership if the Board approves the candidate. Life Members must, in addition to being approved by the Board, be

elected by the Members. Proposals to elect a Life Member may be submitted to the Members either at a general meeting, or by postal ballot, at the Board's option.

- 4.7 The Chief Executive Officer shall maintain the register of Members in accordance with the requirements of the Act.

## **5 SUBSCRIPTIONS AND LEVIES**

- 5.1 Members shall be required to pay to the Association such annual subscriptions as may be determined by the Board in respect of the subscription year in question and subsequently approved by the members either at a general meeting or by postal ballot.
- 5.2 The Association may differentiate between different classes of Members as to the annual subscription which each class shall pay in any given year. A Member who has more than one branch or semi-autonomous business outlet in New Zealand may be required to pay more than the annual subscription in any given year.
- 5.3 In addition to the annual subscription, the Board may decide that the Association requires extra funds to take advantage of some opportunity, or to ward off some threat, or to otherwise achieve the objects of the Association for the benefit of one or more of the Members, the Members as a whole, the Association itself, or the Elevating Work Platform Industry in general. In that event the Board shall propose a special levy to the members and shall submit it to a vote of the Members either at a general meeting or by postal ballot. To become binding the proposal must be approved by more than 50% of the Members who are required to contribute the extra funding and who vote on the proposal.
- 5.4 The subscription shall commence upon membership approval by the Board and shall end twelve (12) months later. Membership subscription invoices shall be issued at time of joining the Association and again at renewal of Membership.
- 5.5 Any Member who has failed to pay his/her/its subscription or any other sum payable to the Association when due may have his/her/its entitlement to membership services, vote at any general meeting or in any postal ballot suspended by the Board until such time as payment is made in full.

## **6 TERMINATION OF MEMBERSHIP**

- 6.1 Membership of the Association shall automatically terminate if the Member in question
- 6.1.1 dies or (if partnership, company or other similar entity) ceases to exist, or
  - 6.1.2 resigns by notice in writing to the Association
- 6.2 The Board may in its absolute discretion terminate a membership of the Association at any time after the Member in question
- 6.2.1 fails to pay the relevant annual subscription or any other sum payable to the Association after being requested in writing to do so by the Chief Executive Officer,

- 6.2.2 does not comply with any provision of these Rules or any regulations or bylaw inclusive of Industry Code of Practice, Best Practice and the Code of Conduct made by the Board pursuant to these Rules after being requested in writing to do so by the Chief Executive Officer,
  - 6.2.3 ceases to meet the relevant criteria for membership in the opinion of the Board in its absolute discretion,
  - 6.2.4 does anything that in the opinion of the Board in its absolute discretion is likely to seriously harm the Association or the Elevating Work Platform Industry in general.
- 6.3 Unless the Board otherwise agrees, termination of membership (voluntarily or compulsorily) shall not relieve the relevant Member of liability to pay any subscription or other sum that has already become due. No candidate for membership who has previously been expelled from the Association for non-payment of a subscription or other sum will be re-admitted to membership until all arrears have been paid in full.
- 6.4 A Member threatened with expulsion under Rules 6.2.2 – 6.2.4 shall be given a reasonable opportunity to explain his/her/its conduct before the Board reaches its decision. All complaints relating to proceedings under Rules 6.2.2- 6.2.4 shall be submitted to the Chief Executive Officer in writing.

## **7 MODIFICATION AND INTERPRETATION OF THESE RULES**

- 7.1 These Rules may be altered, added to or rescinded by the Members, subject to the following conditions
- 7.1.1 A notice stating the general tenor of any proposed alteration or addition, or the reasons for any proposed rescission, shall be given to each Member who is entitled to vote at least 21 days before the vote is to be taken.
  - 7.1.2 If the proposal is to be voted on at a meeting of the Members (as opposed to a postal ballot), the proposal may be amended during the course of the meeting,
  - 7.1.3 No motion to alter, add to or rescind any of these Rules shall be effective unless it is carried by a majority of the Members who are entitled to vote and who vote on the proposal.
- 7.2 In the event of any dispute, doubt or difference arising as to the interpretation or application of these Rules or any of them, the decision of the Board (having first sought legal advice if considered appropriate) shall be final and binding.

## **8 GENERAL MEETING**

- 8.1 The annual general meeting of the Association shall be held within 6 months of the end of each financial year, on a date and at a time and place to be determined by the Board.
- 8.2 The business to be conducted at the annual general meeting shall include the approval of the annual report and Annual Financial Statement, the election of the Officers, the announcement of the composition of the Board, the approval of the annual subscription, the consideration of any special business of which the required notice has been given, and any general business which there is sufficient time to deal with.

- 8.3 Special general meetings of the Association shall be held whenever
- 8.3.1 the Board determines that such a meeting is necessary or desirable, or
  - 8.3.2 at least five Members of the Association request in writing that such a meeting be held,
- Where Members request a special meeting, they shall at the same time notify the Board of the business which they wish to be dealt with at the meeting, and provided it is business which may properly be dealt with by the Members in general meeting, the Board shall convene the meeting. The Board shall determine the date, time and location of any special general meetings, but in doing so, shall use its best endeavours to be fair to both the Members requesting the meeting, and all the other Members.
- 8.4 The business to be conducted at special general meetings shall be the business for which the special general meeting in question was convened or requested to be convened.
- 8.5 Unless at least 50% of the Members entitled to vote consent to a shorter period of notice, at least 21 days notice of any annual general meeting or special general meeting shall be given to all the Members who have previously supplied to the Association full contact details, to which notices may be sent. Each notice shall state the general tenor of the business to be dealt with at the meeting.
- 8.6 Notice of meetings may be given to any Member by personal delivery, facsimile, email or post. Any accidental omission to give notice to any Member, who was entitled to receive it, shall not invalidate any decisions taken at the relevant meeting.
- 8.7 The quorum for AGM's, Special or General meetings shall be 15 Members who are entitled to vote, including all current Directors of the Association, present in person or by proxy. If there is no quorum present at the appointed time, those present in person shall use their best endeavours to encourage other Members to attend or to submit proxies. If there is still no quorum within one hour of the appointed time, the meeting will be dissolved and may not be reconvened without following the procedure set out in clauses 8.1 – 8.6
- 8.8 The Board shall determine who is to act as chairman of any general meeting, and if the Board fails to do so, then those Members present in person shall elect one (1) of their number to serve as chairman of the meeting.
- 8.9 With the consent of a majority of the Members present in person, the chairman may adjourn any general meeting to a later time or date.

## **9 VOTING**

- 9.1 Each Member shall be entitled to one vote, except those whose voting rights have been suspended pursuant to Rule 6.2.1-6.2.4 , or whose terms of admission to membership of the Association excluded the right to vote. Members which are partnerships, companies or other entities may only cast their vote through a person who is duly authorized to represent them, or their proxy holder.



- 9.2 At general meetings, votes shall be taken by the method of voices for and against, but if after using that method there is no clear indication of the outcome of the motion, then the vote shall be taken by a show of hands. At any time prior to the vote being taken, or immediately after the result is announced, a poll may be demanded either by the chairman or by five Members present. If a poll is demanded, it shall be taken in such manner and at such stage during the meeting as the chairman may direct.
- 9.3 In the case of an equality of votes, the chairman shall have a casting vote. A simple majority shall be sufficient to pass any Members' resolution, except a resolution to impose a special levy under Rule 6 3 which shall require the support of more than 50% of the Members who are required to contribute the extra funding and who vote on the proposal.
- 9.4 Members who are entitled to vote at general meetings may do so by proxy. The minimum requirements for a valid proxy are that the Member nominates the person who is to vote on his/her/its behalf, that person must be a Member or a duly appointed representative of a Member, and the nomination must be in writing and received by the Chief Executive Officer at least 24 hours before the commencement of the meeting in question. Proxies are automatically revoked at the conclusion of the relevant meeting or adjourned meeting.
- 9.5 Instead of holding a general meeting (other than the annual general meeting) the Members may pass valid resolutions by means of a postal ballot conducted by the Chief Executive Officer. All Members who are entitled to receive notice of general meetings and to vote at general meetings must be invited to participate in the postal ballot, but any accidental omission to issue the invitation to any Member entitled to receive it, shall not invalidate any resolutions passed pursuant to the postal ballot. A postal ballot shall not be effective unless at least 15 Members entitled to vote respond within the prescribed time. In all other respects, postal ballots shall be conducted as closely as possible in accordance with the requirements for general meetings.
- 9.6 Provided the Board is satisfied that there are sufficient safeguards to verify the privacy and authenticity of the votes that are cast, postal ballots may be conducted by facsimile, email or any other method of communication instead of by post.

## **10 BOARD**

- 10.1 There shall be a Board of Directors which shall be responsible for the supervision of the affairs of the Association, for overseeing the activities of the Officers, and for all policy decisions, provided that they are consistent with these Rules (as modified from time to time). Subject to the Act and these Rules, the Board may do any lawful thing that it considers to be consistent with or incidental or conducive to the attainment of the objects of the Association.
- 10.2 The Board shall be comprised of Six (6) Directors. A candidate for election to the Board must be a member in his/her own right or a Director, Officer, Employee or proprietor of a Member. Subject to Rule a Director's term of office shall be two years, from the end of the Annual General Meeting at which his or her election is announced, unless he or she ceases to be a Director before the expiry of the term.

- 10.3 The election of Board members shall be conducted as follows:
- 10.3 a The Chief Executive Officer shall first call for nominations by a specified date. Nominations should be received by the Association not less than twentyone days ( 21) before the date of the Annual General Meeting. All nominations shall be signed by at least two (2) two financial Members.
- 10.3 b The Chief Executive Officer shall conduct the election of the Directors in accordance with item 9.6 at least fourteen (14) days prior to the Annual General Meeting in sufficient time to ensure that the result of the elections can be announced at the annual general meeting.
- 10.3 c After determining the results of the elections the successful candidates shall (whether or not they have been previously disclosed) be announced at the annual general meeting, and they shall take office at the conclusion of that meeting.
- 10.4 A Director shall cease to be a Director as and from the date when the Director
- 10.4.1 dies or in the opinion of the Board becomes so incapacitated that he or she is effectively incapable of performing the duties required of a Director.
- 10.4.2 no longer qualifies to be a Director under the criteria set out in Rule
- 10.4.3 resigns by notice in writing to the Board, or
- 10.4.4 is removed from office by a majority vote of the Members who are entitled to vote.
- 10.5 If any Director ceases to be a Director during his or her term of office, and the Members entitled to elect a replacement have not yet done so, the Board may appoint a replacement, provided that the replacement is eligible to be a Director under Rule 10 2. The Board may exercise its discretion when appointing a replacement.. A replacement Director's term of office shall expire at the same time as the term of the person he or she has replaced would have expired, but he or she shall be eligible for re-election.
- 10.6 The Board may co-opt additional suitably qualified people to attend Board meetings and/or assist the Board in the performance of its functions, as and when the Board considers it necessary or desirable.
- 10.7 The Board may make decisions in any of the following ways
- 10.7.1 at Board meetings,
- 10.7.2 by postal ballot or by circulating a written resolution to be signed by the Directors, or
- 10.7.3 by conference call over the telephone, facsimile or email communications.
- 10.8 Notice of every proposed Board meeting, conference call, postal ballot or written resolution shall be given to every Director who is entitled to participate and who has supplied to the Association an address for the service of notices. At least seven days notice shall be given of Board meetings and conference calls, and the notice shall be in writing and shall state the general tenor of the business to be discussed.

- 10.9 Board meetings, conference calls, postal ballots or written resolutions shall be convened or initiated by the Chief Executive Officer whenever requested by the President or at least two Directors.
- 10.10 The quorum for Board meetings and conference calls shall be three Directors present in person or by proxy, and the necessary majority required to pass a resolution at a Board meeting or conference call or to carry a postal vote or written resolution, shall be 75% of the Directors entitled to vote, acting in person or proxy. All current Directors shall be entitled to vote either in person or by proxy. The minimum requirements for a valid proxy are that the Director nominates the person who is to vote on his or her behalf, that person must be eligible to be a Director under Rule 12 2, and the nomination must be in writing and received by the Chief Executive Officer prior to or at the commencement of the meeting or conference call in question. Proxies are automatically revoked at the conclusion of the relevant meeting or conference call.
- 10.11 The Board shall elect one of the Directors as President and the President's term of office shall be for at least one year. The President shall act as chairman of all Board meetings and conference calls, or if he or she is not present within 15 minutes of the appointed time for the meeting or conference call, then those Directors who are present at that time shall elect a chairman.
- 10.12 In all other respects, the Board may regulate its decision-making procedures as it sees fit, consistent with its responsibilities and privileges, the objects of the Association, and the provisions of these Rules.

## **11 SUBCOMMITTEES**

- 11.1 The Board may from time to time create subcommittees for any purposes within the Boards's scope of authority, and appoint Directors to serve on those subcommittees. The Board may delegate any of its functions to the subcommittees and shall determine the procedures to be followed by those subcommittees in carrying out those functions.
- 11.2 Each of the subcommittees shall appoint a head of their subcommittee, who shall represent the subcommittee on the Board. Subcommittees may revoke any such appointment and appoint a substitute person at any time. No such appointment or revocation shall take effect until written notice of the appointment or revocation has been received by the Chief Executive Officer.

## **12 VALIDITY OF ACTS DONE BY BOARD OR SUBCOMMITTEES**

All acts done and decisions taken by the Board or any subcommittees of the Board shall be valid notwithstanding the fact that there is any defect in the appointment of any member of the Board or relevant subcommittee, or any accidental failure to give notice of a meeting, conference call, postal ballot or written resolution to any member of the Board or relevant subcommittee, provided that there was a quorum in each case. Members of the Board or its subcommittees may participate in the conduct of their business notwithstanding the fact that they may be interested in the outcome of that business in another capacity, provided that they act in good faith and in the best interests of the Association.

### **13 APPOINTMENT OF OFFICERS**

- 13.1 The Officers of the Association shall comprise of the Chief Executive Officer, and any other officer who may be appointed from time to time, either by the Board or by the Chief Executive Officer with the prior approval of the Board. Until the Board resolves otherwise, the Chief Executive Officer shall perform the functions normally undertaken by a Secretary and Treasurer of an incorporated society.
- 13.2 The Officers shall be appointed for such duration and on such terms and conditions as the Board may decide. Unless the Board decides otherwise, the Chief Executive Officer shall not be a Member of the Association.
- 13.3 The Chief Executive Officer shall be accountable to the Board, and unless the Board resolves otherwise, any other officers appointed from time to time shall be accountable to the Chief Executive Officer.
- 13.4 Any of the Officers may operate as an independent contractor, providing services to the Association on a contract basis rather than as an employee. In addition to any remuneration they may be entitled to, the Officers shall be entitled to be reimbursed for any out-of-pocket expenses they may reasonably incur in the course of performing their duties.
- 13.5 The Association shall maintain a policy or policies of insurance to indemnify the Directors and Officers in respect of any liability they may incur in the course of or as a result of performing their functions as Directors and Officers, to the maximum extent permissible by law.

### **14 POWERS AND RESPONSIBILITIES OF THE CHIEF EXECUTIVE OFFICER**

- 14.1 The Chief Executive Officer shall be responsible for the day-to-day management of the affairs of the Association and , subject to the terms of his or her appointment and to any lawful directions given or qualifications imposed by the Board from time to time, shall have full authority to do any lawful thing that he or she considers to be consistent with or incidental or conducive to the attainment of the objects of the Association.
- 14.2 In particular, and without limiting the generality of Rule 16 1, the Chief Executive Officer 's powers and responsibilities shall include the following.
  - 14.2.1 To call and attend all general meetings of the Association and meetings or conference calls of the Board, and keep all minutes of those meetings or conference calls.
  - 14.2.2 To implement, administer and report results of all Member postal ballots and all Board postal ballots and written resolutions.
  - 14.2.3 To implement and carry into effect all decisions of the Members or the Board where that responsibility has not been specifically allocated to some other person.
  - 14.2.4 To receive, process and/or pass on to the appropriate recipient all incoming correspondence and other written or electronic communications relating to the Association, and maintain the files and records of the Association.
  - 14.2.5 To maintain the register of Members and to comply with all other requirements imposed on the Association by the Act.

- 14.2.6 To prepare immediately prior to each annual general meeting an annual report of the business and proceedings of the Association since the last annual general meeting.
- 14.2.7 At the request of the Board, to produce any correspondence, books, records or property of the Association within his or her possession or control, and on vacating office, to deliver to his or her successor or other authorized person all such correspondence, books, records or property.
- 14.2.8 to collect the moneys due to the Association and issue receipts.
- 14.2.9 to deposit all such moneys into a bank account in the name of the Association.
- 14.2.10 to maintain the accounts of the Association
- 14.2.11 to prepare prior to the annual general meeting the Annual Financial Statement required by the Act to be submitted to the Members, including a statement of income and expenditure during the last financial year, a statement of the Association's assets and liabilities as at the close of the last financial year, and a statement of all mortgages, charges and securities effecting the Association's property.
- 14.2.12 to pay all the expenses of the Association.
- 14.2.13 to obey all such lawful instructions and do all such lawful acts and things as may be given or required to be done by the Members, the Board, the Act and these Rules.
- 14.2.14 to do and perform all such other lawful duties as usually pertain to the office of Chief Executive Officer.

14.3 The Chief Executive Office shall not be entitled to a vote either on Board issues or Member issues, but he or she shall be entitled to attend all meetings of the Association and the Board or its subcommittees.

## **15 INCOME, INVESTMENT AND EXPENDITURE**

15.1 The activities of the Association shall be funded from annual subscriptions, and such other sources including levies, donations, grants, bequests, sponsorships, commissions, fees, surpluses from commercial activities, dividends, returns from investments and loans as the Board may determine from time to time.

15.2 All income of the Association that is not immediately required to meet expenditure, may be invested in such manner as the Board may see fit.

15.3 The funds of the Association may be utilized for any purpose that the Board in its absolute discretion considers to be consistent with the attainment of the objects of the Association, subject to the requirements of the Act and these Rules.

15.4 All cheques and other similar payment authorities drawn on the Association's bank accounts shall be signed by any two current Directors, or by one Director and the Chief Executive Officer.

## **16 ACCOUNTS**

- 16.1 The Financial Year of the Association shall expire on 31 March in each calendar year and the Accounts of the Association shall be made up as at that date.
- 16.2 The Accounts and the Annual Financial Statement shall be reviewed by a registered Chartered Accountant.

## **17 COMMON SEAL**

The Association shall have a common seal which shall be kept in the custody of the Chief Executive Officer, and shall not be affixed to any document or instrument except as authorized by a resolution of the Members or the Board. Any document or instrument to which the seal is affixed shall also be signed by any two current Directors, or by one Director and the Chief Executive Officer.

## **18 REGISTERED OFFICE**

The Association shall at all times have a registered office, and shall keep the Registrar or Incorporated Societies advised of the location of the registered office, in accordance with the requirements of the Act.

## **19 LIQUIDATION**

- 19.1 The Association may be put into liquidation in the manner provided by section 24 or section 25 of the Act.
- 19.2 Upon any such liquidation, the assets of the Association shall, after payment of all liabilities, be disposed of in such manner as the Members shall determine, provided that they shall not be divided amongst the Members but shall be distributed amongst some body or bodies having similar aims to those of the Association.