

## CONSTITUTION AND RULES

### 1.0 NAME

- 1.1. The name of the Institute (hereinafter called “the Institute”) shall be The Employment Law Institute of New Zealand Incorporated.

### 2.0 REGISTERED OFFICE

- 2.1. The Institute's registered office shall be the address of the Secretary.

### 3.0 OBJECTS

- 3.1. The objects for which the Institute is established are:
- 3.1.1. To advance and promote appropriate processes for resolving employment relationship disputes that is fair to all parties;
  - 3.1.2. To respect, uphold and promote the professional status and individual & collective rights and interests of the Institute's members relating to Employment Law and procedure;
  - 3.1.3. To represent its members on an individual and collective basis in relation to Industrial and Employment Law issues;
  - 3.1.4. To provide and administer codes of conduct for its members;
  - 3.1.5. To provide training and education in Employment Law and procedure for its members and for other persons interested in Employment Law and Advocacy;
  - 3.1.6. To represent the Institute and its members (individually or collectively) in any proceedings of any Parliamentary Committee, Authority, Board, Commission or Court relating to any matter which, in the opinion of its Executive, warrants such representation;
  - 3.1.7. To establish, provide, operate and maintain for its members' beneficial financial schemes and projects of all lawful kinds;
  - 3.1.8. To promote, comment upon, or seek the rescission of existing or proposed enactments, regulations, by-laws, contracts, or any other rules or regulations affecting the interests of its members;
  - 3.1.9. To provide a complaints, resolution and disciplinary process for its members;

- 3.1.10. To support and/or assist any other person or group of persons for the purpose of promoting and achieving any object of the Institute, and to combine with, associate with, or co-operate with any such person or group;
- 3.1.11. To indemnify all members of the Executive and all agents of the Institute against all claims and demands made upon them in respect of all acts done by them in good faith which purport to be in pursuance of the Institute's objects, notwithstanding that such acts may not be strictly within the Institute's powers;
- 3.1.12. To remunerate any person or organisation for services rendered by that person or organisation to the Institute;
- 3.1.13. To produce and disseminate to its members' information on all matters affecting their interests, whether directly or indirectly, and to publish any kind or kinds of printed and informative written material either regularly or from time to time; and
- 3.1.14. To make public comment consistent with these objects.

## 4.0 AFFILIATION

- 4.1. The Institute may associate itself with, or affiliate to any other organisation whose objects support those of the Institute and /or its members and are not for purposes of gain.

## 5.0 POWERS

- 5.1. The Institute shall have all the rights, powers and privileges of a natural person as are necessary for undertaking any lawful activity within the scope of its objects or reasonably advantageous to their attainment.
  - 5.1.1. Specifically (and without derogating from such general power), the Institute may do all of the following, among other things, either alone or in conjunction with other persons:
    - 5.1.1.1. Set the annual fee for all members taking into account any application for an appropriate waiver at the discretion of the Executive) by a member on the basis of hardship;
    - 5.1.1.2. lend and borrow money, with or without security;
    - 5.1.1.3. guarantee and give guarantees for the payment of money or the performance of contracts or other obligations by any person;
    - 5.1.1.4. levy its members (if previously authorised to do so by a resolution reached at an Annual or Special Meeting of the Institute);

5.1.1.5. purchase or take lease, in the name of the Institute, or of Trustees for the Institute, any house, or building, or land;

5.1.1.6. sell, mortgage, exchange, or let the whole or any part of such house, building or land.

5.2. The Institute may sue or be sued by its registered name.

## 6.0 MEMBERSHIP

### 6.1. Membership Categories

6.1.1. Membership shall consist of the following categories:

#### (a) ORDINARY MEMBER:

A fit and proper person of good character who satisfies the Executive that they have sufficient knowledge of employment law to enable them to effectively, competently and professionally represent clients in matters of employment law, including employment relationship problems.

a. In this section, "employment law" means employment legislation, regulations, practices and procedures.

b. In considering whether a person should be admitted as an Ordinary Member, the Executive may consider all relevant factors, including:

- i. The person's experience with advising or representing clients on matters of employment law;
- ii. The person's experience representing clients in employment-related processes, mediation, the Employment Relations Authority and/or the Employment Court;
- iii. The person's experience in other jurisdictions or fields of practice;
- iv. Professional references from third parties;
- v. Evidence of continual professional development and/or relevant qualifications.

#### (b) ASSOCIATE MEMBER

A person of good character who does not currently satisfy the Executive that they have sufficient knowledge of employment law to enable them to effectively and professionally represent clients in matters of employment law, including employment relationship problems. Associate membership is not full membership and therefore does not qualify the member to apply to be a Legal Aid provider.

#### (c) STUDENT MEMBER

A person of good character admitted by the Executive who does not yet meet the requirements for admission to Associate membership but who is taking such steps as the Executive considers necessary for them to meet

those requirements, as could be demonstrated by:

- (a) actively seeking out and being mentored by an ordinary Member(s) of the Institute;
- (b) undertaking courses of study to build their knowledge and competence in the Employment sector; or
- (c) working with an ordinary Member(s) of the Institute to gain further practical experience in the Employment sector.

(d) LIFE MEMBER

Life members shall be restricted to persons who have rendered exceptional services to the Institute and who are duly elected as Life Members at an Annual General Meeting upon the recommendation of the Executive.

(e) ENTRY TO MEMBERSHIP

Applicants for Ordinary or Associate membership may be admitted as members of the Institute by the Executive if they:

- (a) complete a membership application on the form prescribed from time to time by the Executive, and forward it to the Secretary; and
- (b) are approved for membership by the Executive; and
- (c) agree to abide and conform to the Rules of the Institution and its Code of Conduct.

## 7.0 SUSPENSION AND TERMINATION

7.1. Membership may be suspended or terminated by a resolution of the Executive for good cause and in accordance with the principles of natural justice.

7.2. Good cause includes but is not limited to (a) a breach of the ELINZ Code of Conduct, (b) any action that brings the Institute into disrepute, (c) a member failing to pay any part of their membership subscription or any levy within two (2) months after it has fallen due, and the Executive resolves by a simple majority that the membership of that member shall lapse and cease.

7.3. Membership may be terminated after a member gives to the Secretary not less than fourteen (14) days written notice of that member's intention to terminate their membership.

7.4. A member whose membership has been suspended or terminated may appeal against the suspension or termination by delivering a written notice of intention to appeal to the Secretary not later than fourteen (14) days after the date of the suspension or termination. The notice shall specify the grounds of the appeal and the facts and legal principles upon which it is intended to be based.

7.5. As soon as practicable after receiving the notice of appeal, the Secretary shall convene a hearing of the

appeal before an independent Chairperson acceptable to the Executive and to the Appellant, or (failing agreement by them as to the Chairperson's identity) before a Chairperson nominated by the President of the New Zealand Law Society. At any appeal hearing, the Appellant and the Institute may be professionally represented. The decision of the Chairperson shall be final and binding and shall not be amenable to further appeal or review.

## **8.0 PATRON**

8.1. The Executive may appoint one or more persons to be the Patron or Patrons of the Institute.

## **9.0 OFFICERS**

9.1. The Officers of the Institute shall consist of a President, Vice-president, a Treasurer, a Secretary (and/or a Secretary/Treasurer to cover both positions) and an Administrator. Other than President and Vice-President, Office-holder duties may be reallocated at any time during their Executive term.

## **10.0 THE PRESIDENT AND VICE PRESIDENTS**

10.1. The duties of the President shall be to preside at all meetings of the Institute and of its Executive, to preserve order, to give an impartial report upon votes, and to perform such other duties incidental to the office.

10.2. The Vice-Presidents shall assist the President, and if the President is absent, the Vice-Presidents shall act in the President's stead and, while so acting, have all the powers of the President.

10.3. The presiding officer shall have a deliberative vote and a casting vote.

## **11.0 THE SECRETARY**

11.1. The duties of the Secretary shall include:

11.1.1. keeping the records of the Institute, including a register of members and the dates their memberships commenced;

11.1.2. keeping the minutes of all Institute and Executive meetings;

11.1.3. (together with the Treasurer) preparing an Annual Report on the business and proceedings of the Institute during the preceding twelve months for presentation to the members at the Annual General Meeting;

11.1.4. retaining custody of the Seal of the Institute (if used);.

## **12.0 THE TREASURER**

12.1. The duties of the Treasurer shall include:

12.1.1. keeping all the Institute's Books of Account and other financial records;

- 12.1.2. receiving and duly recording all monies payable to the Institute and lodging them to the credit of the Institute's Bank Account;
- 12.1.3. paying out from the Institute's Bank Account and recording all monies payable by the Institute;
- 12.1.4. providing the Executive on a monthly basis with a written income and expenditure report, together with a copy of the most recent bank statement;
- 12.1.5. (together with the Secretary) preparing an Annual Report on the business and proceedings of the Institute during the preceding twelve months for presentation to members at the Annual General Meeting;
- 12.1.6. preparing accounts for presentation to the Annual General Meeting of the Institute;
- 12.1.7. preparing accounts for presentation to Executive meetings.
- 12.1.8. recovering debts due to the Institute;

## **13.0 THE ADMINISTRATOR**

- 13.1. The duties of the Administrator shall include:
  - 13.1.1. Assisting Officers and Executive Members with taskings;
  - 13.1.2. Coordinating complaints;
  - 13.1.3. Supporting with marketing and advertising activities;
  - 13.1.4. Coordinating Training & Development opportunities;
  - 13.1.5. Providing reporting as required
  - 13.1.6. Applying for funding applications
  - 13.1.7. Any project tasks assigned by the Executive Committee
  - 13.1.8. Any other such reasonable taskings as delegated by the Executive Committee

## **14.0 AUDITOR**

- 14.1. At any time considered necessary, the Executive may appoint an Auditor who shall be a member of the New Zealand Society of Accountants. The Auditor shall be paid such remuneration as the Executive may decide.

## **15.0 NOMINATIONS FOR OFFICE**

- 15.1. The Secretary shall call for nominations for Officer positions no later than twenty-eight (28) days before the date of the Annual General Meeting. The call will be made by Notices sent by electronic means (or by post if requested) to every current member of the Institute. Nominations shall close fourteen (14) days before the Annual General Meeting. Immediately after the closure date for nominations, if an election is required, it shall be conducted in accordance with the procedure specified in Rule(s) 20.0. Unless the Executive, in its sole discretion, decides otherwise, no late nominations will be accepted.

## 16.0 ELECTION OF OFFICERS

- 16.1. The Officers and Executive members shall:
- 16.1.1. Be elected for a three-year term of office;
  - 16.1.2. On the expiry of their three-year term of office, Officers and Executive Members will be elected by those members attending the Annual General Meeting; and
  - 16.1.3. subject to the provisions of Rule 17, hold office until their successors are elected, or until they die or resign, whichever first occurs; and
  - 16.1.4. be eligible for re-election.

## 17.0 REMOVAL OF OFFICERS

- 17.1. Subject to Rule 17.2 or any Rule, an Officer or member of the Executive may be removed from office or suspended only pursuant to a resolution passed at an Annual or Special General meeting of the Institute.
- 17.2. An officer or member of the Executive may be suspended from office by a unanimous motion passed by the rest of the Executive – pending the Annual or Special General Meeting (referred to in Rule 17.1) being convened.

## 18.0 CASUAL VACANCIES

- 18.1. Whenever a casual vacancy occurs in the Executive membership, either for an Officer position or other membership, the Executive shall have the power to appoint such person as it alone thinks fit to fill the vacancy.
- 18.2. Any person appointed to fill a casual vacancy in accordance with Rule 18.1 shall, subject to Rules 9 and 17, hold the office or position only for the unexpired period of their predecessor's term. Such a person shall be eligible for re-election.

## 19.0 FUNCTIONS AND POWERS OF THE EXECUTIVE

- 19.1. Function:
- 19.1.1. The Executive shall consist of the Officers and no less than two or more than six ordinary members. Subject to the provisions of paragraph 19.1.2, the Executive shall manage the day-to-day business and affairs of the Institute and shall have control of its funds and of their application and investment.
  - 19.1.2. The Executive is empowered to delegate any of its functions to a sub-committee of the Executive in order to investigate or manage any matter and may co-opt experts or other members onto that sub-committee for the purpose of the sub-committee; however, any recommendations from the sub-committee must be referred back to the Executive for a decision.

19.2. Powers:

19.2.1. The Executive shall have and may exercise all the powers of the Institute which are not required by the Incorporated Societies Act 1908 or any replacement or amendments or by these Rules to be exercised by an Annual or Special General Meeting of the Institute or by ballot of all its members. The Executive shall obey all such lawful instructions and shall do all such things as may be given or required to be done by a General Meeting of the Institute.

19.3. Quorum:

19.3.1. Five of its members (including officers) shall form a quorum of the Executive. If a quorum is not present within 30 minutes after the time for which the meeting is called, the meeting shall stand adjourned for no longer than fourteen (14) days and, notwithstanding that there may be no quorum present at the adjourned meeting, those Executive members present may carry on business regardless.

19.3.2. A meeting of the Executive may be conducted in person, by telephone, or digitally, or otherwise subject to ensuring that all participants can communicate with one another contemporaneously.

19.4. Decisions reached without meetings:

19.4.1. If, in the opinion of the President, it is unnecessary to convene a meeting of the Executive to decide any matters, any executive member may obtain the decision of the Executive by letter, telephone, email, or any other means of communication. Any decision so reached shall be treated for all purposes as if it had been reached at a duly convened meeting of the Executive.

19.5. Deputies:

19.5.1. With prior permission of the President or of the Secretary, any Officer or member of the Executive may appoint (in writing) a member of the Institute to attend and vote at any one meeting of the Executive as their Deputy.

19.6. Calling of meetings:

19.6.1. Meetings of the Executive may be called at any time by the President or the Secretary or by a written requisition of any two members of the Executive.

## 20.0 GENERAL MEETINGS

### General Rules

20.1. Notice:

20.1.1. Not less than fourteen (14) days' notice of any General Meeting shall be given to members by the



Secretary or delegated Officer. The notice shall specify the general nature of the business intended to be transacted at the meeting. This shall not apply to Special Meetings or Annual General Meetings.

20.2. Failure to call meeting:

20.2.1. If the Secretary fails to call a meeting within seven (7) days after being required to do so by the Executive or by a written requisition signed by any four members of the Institute, any two Officers or members of the Executive or any four members of the Institute may call such a meeting which shall be deemed to have been validly called.

20.3. Chairperson:

20.3.1. The meeting shall be chaired by the President, or failing the President by a Vice-President, or failing a Vice-President, then by an executive member delegated by the President or Vice-President or a chairperson selected by the persons present at the meeting.

20.4. Proxies:

20.4.1. Voting by proxy at any General Meeting shall not be permitted.

20.5. Quorum:

20.5.1. Five (5) members shall constitute a quorum at any General Meeting. If a quorum is not present within 30 minutes after the time for which the meeting is called, the meeting shall stand adjourned for fourteen (14) days at the same place and time and, notwithstanding that there may be no quorum present at the adjourned meeting, those members present may carry on business regardless.

20.6. Manner of Voting:

20.6.1. Voting shall be by affirmation (whether in person or via electronic means); provided that if before or immediately after such affirmation a member present requests that any issue before the meeting be decided by a secret ballot of members present, such ballot shall thereupon be taken under the direction of the President.

20.7. Postal / Email Vote:

20.7.1. An electronic or posted vote on any question or issue shall be taken if a request for one is made in accordance with Rule 19.6 or if the Executive requires such a vote to be taken.

20.8. Ballot Procedure

20.8.1. Whenever a secret vote or an electronic vote is required, the President shall forthwith appoint a Returning Officer and shall immediately notify the Returning Officer (in writing in the case of postal/e-mail

ballots) of the question to be decided.

20.8.2. The Returning Officer shall, as soon as a possible cause to be delivered, or in the case of an electronic ballot, forwarded, to each member entitled to vote, a ballot paper showing clearly the names of the candidates for election or the question to be voted on, as the case may be, and stating the method of voting, and in the case of an electronic vote the fixed time within which the ballot paper is to be returned via the specified process.

20.8.3. Within three (3) working days of the expiry of the fixed time, the Returning Officer shall count the votes and all informal ballot papers. In the case of an election of Officers and other members of the Executive, the Returning Officer shall ascertain the number of votes received by each candidate at the election and shall declare those candidates, not exceeding in number the vacancies to be filled, who have received the highest number of votes to be duly elected. In other cases, The Returning Officer shall declare the state of the voting, and the question shall be deemed to be carried or lost according to such voting.

20.8.4. If there is an equality of votes in an election, the Returning Officer shall determine the election by lot.

20.8.5. If there is an equality of votes on any question, the Returning Officer shall so report to the Chairperson of the meeting, who shall then exercise their casting vote.

20.8.6. All secret and postal/e-mail ballots shall be counted so as to ensure the secrecy of voting.

20.8.7. Any accidental omission on the part of the Returning Officer to forward a voting paper to any member entitled to vote and/or to receive a voting paper shall not invalidate the ballot.

20.8.8. All ballot papers, envelopes, lists, and other documents used in connection with or relevant to an election for any office shall be kept at the registered office of the Institute for a period of one year after the completion of the election; whereupon they shall be destroyed by the Secretary if they have not by then received any notice of a formal challenge to the election result. If they have by then received notice of any such formal challenge, the Secretary shall keep such items at the Institute's registered office until the outcome of the challenge becomes apparent.

## **21.0 ANNUAL GENERAL MEETING**

### **21.1. Frequency and times, etc.:**

21.1.1. Only one Annual General Meeting shall be held each year on such date at such time and place as the Executive shall determine, but in any event, no later than four (4) months after the end of the Institute's

last previous financial year. All other General Meetings shall be Special General Meetings.

21.2. Secretary to call Annual General Meeting:

21.2.1. The Secretary shall call the Annual General Meeting each year when required to do so by the Executive.

21.3. Business of the Annual General Meeting:

21.3.1. To receive, consider, and (if thought fit) adopt the Annual Report of the Executive;

21.3.2. To receive, consider, and (if thought fit) adopt the Accounts of the Institute;

21.3.3. To elect Officers and members of the Executive for the ensuing term;

21.3.4. To consider such other questions or issues for which due notice has been given; and

21.3.5. To consider any other consequential issues or matters, and any other issues or matters which the Chairperson, at their sole discretion, allows to be raised.

## 22.0 SPECIAL GENERAL MEETINGS

22.1. Calling of Special General Meetings

22.1.1. If the Executive resolves that a Special General Meeting shall be called, it shall be the duty of the Secretary to immediately call such a meeting in accordance with the Rule 20.1.

22.1.2. In the event of a failure by the Secretary to comply with that duty, the alternative provisions of Rule 20.2 shall become applicable.

22.2. Business of Special General Meeting

22.2.1. Except with the express consent of the Chairperson, no business other than that specified in the Noticed of the meeting shall be undertaken at any Special Meeting.

22.3. Powers of a Special General Meeting

22.3.1. Subject to Rule 22.2, a Special General Meeting shall have and may exercise all the powers of the Institute, other than those required by the Incorporated Societies Act 1908 (or amendment) or by these Rules to be exercised by an Annual General Meeting.

## 23.0 FINANCE

23.1. Membership Subscriptions:

23.1.1. All ordinary members shall pay by way of annual subscription such sum as may be fixed by the Executive.

23.2. Levies:

23.2.1. After giving not less than 14 days' notice of its intention so to do by appropriate written means to members, the Executive shall have the right to make a levy on Institute members in order to meet extraordinary expenses.

23.3. Investment:

23.3.1. Subject to it previously obtaining, in each case, proper professional advice, the Executive may invest surplus funds coming into the hands of the Institute in any manner allowed by law, in the Institute's name.

23.4. Bank Account:

23.4.1. All banking documents (other than deposit receipts, which shall be signed by the Treasurer or some other person duly authorised to do so by the Executive) shall require the signatures of any two of the President, the Secretary/Treasurer (or the Treasurer, and the Secretary) and/or any other Executive members decided by the Executive.

23.5. Inspection of Records:

23.5.1. Any person who is or within the two years immediately preceding the application has been a member of the Institute and who has a reasonable interest in the activities or the funds of the Institute, may apply to the Secretary for permission to inspect without fee the Institute's books, accounts and its register of members at its registered office. Such permission shall not be unreasonably or arbitrarily withheld, provided that the time sought for the making of the inspection is not unreasonable or clearly inconvenient.

23.6. Accounts

23.6.1. The Institute shall keep full true, and complete accounts of all its receipts, payments, financial affairs, dealings, and transactions.

23.6.2. A copy of the Institute's accounts shall be forwarded to the Registrar of Incorporated Societies no later than one (1) month after the Annual General Meeting.

23.6.3. All accounting records shall be kept for seven (7) years from the date of the last entry.

## 24.0 CONSTITUTIONAL MATTERS

24.1. Rule Changes:

24.1.1. These Rules may be altered, added to or rescinded by the Institute in accordance with the provisions of Section 21 of the Incorporated Societies Act 1908 and any Amendments or replacements. Notice of a proposed alteration, addition or modification of all or any of these Rules shall be given in the same

manner as for a General Meeting.

24.2. Adoption of Rule changes:

24.2.1. Subject to the provisions of Section 21 of the Incorporated Societies Act 1908 and any Amendments or replacements and of these Rules, any new Rule or amendment or repeal an existing Rule or Rules shall be adopted by a majority vote at an Annual or Special General Meeting of the Institute.

24.3. Inception of new Rules:

24.3.1. No new or amended Rule shall come into force until it is duly registered by the Registrar of Incorporated Societies.

## 25.0 EXECUTION OF DOCUMENTS

25.1. The execution of documents shall be in the manner authorised or prescribed by the Executive.

## 26.0 LIQUIDATION

26.1. The following provisions of the Incorporated Societies Act 1908 and any Amendments or replacements apply to the Institute:

26.1.1. Section 24 (Members may resolve to put society into liquidation);

26.1.2. Section 25 (High Court may put society into liquidation);

26.1.3. Section 28 (Dissolution by Registrar)

## 27.0 DIVISION OF SURPLUS ASSETS ON WINDING UP

27.1. On the liquidation of the Institute or its dissolution by the Registrar, all surplus assets after the payment of all costs, debts, and liabilities shall, subject to any trust affecting the same, be disposed of by selling and converting into money those that do not then consist of money and by paying the proceeds of such sale and conversion together with the Institute's ready money to a duly registered charitable body decided at a Special General Meeting of the membership.

## 28.0 REPRESENTATION

28.1. The Institute may be represented by any person or persons duly authorised by the Institute in General Meeting or by a resolution of the Executive.