

CONSTITUTION AND RULES

BUSINESS SOUTH INCORPORATED



Business South Inc
Otago Chamber & Southern Employers

THE SOCIETY

1 Name

1.1 The name of the society is “Business South Incorporated” (the **Society**).

2 Registered Office

2.1 The registered office of the Society will be situated in Dunedin.

3 Interpretation

3.1 In these rules of the Society (the **Rules**), unless context otherwise requires, the following expressions shall have the following meanings:

- (a) “Board” means the governance body of the Society.
- (b) “Commercial enterprise” is to be interpreted as any legitimate aspect of commercial activity and does not exclude not for profit enterprises and groups.
- (c) “Majority Vote” means a vote made by more than half of the Members.
- (d) “Member” means a member of the Society.
- (e) “Society General Meeting” means any Annual General Meeting, or any Special General Meeting, but not a Board Meeting.

4 Purposes of Society

4.1 The purposes of the Society are to (the **Purposes**):

- (a) effectively represent the interests of Members;
- (b) assist, promote and advance New Zealand commercial enterprise (both domestic and international) with a focus on Otago and Southland based businesses and employers;
- (c) to provide a regional organisation of businesses and employers;
- (d) advance the business community interest by advocating policy and supporting business to enable them to invest, thrive, employ and grow;
- (e) providing or facilitating employer and business advice, education, training, assistance and support;
- (f) represent and promote the interests of employers and business in all matters;
- (g) retain, engage and grow the Society’s membership;
- (h) offer quality and relevant services to Members and non-members;
- (i) support, promote, advance and encourage diversity, sustainability, good employer and business best practice safety; and
- (j) do all things as may be incidental to the attainment of any or all of the above purposes and to do all such other acts as the Board deems appropriate.

MEMBERSHIP

5 Types of Members

5.1 Membership may comprise different classes of membership as decided by the Board, including:

- (a) Ordinary Member; and
- (b) Life Member.

5.2 Subject to these Rules, the rights and responsibilities of each class of membership shall be as determined by the Board from time to time through bylaws.

5.3 The Society shall keep a register of Members which shall contain the name, postal and email addresses, occupation, industry classification and the date of their membership.

5.4 Each ordinary member may be represented at any Society General Meeting by one person duly appointed by the Member in writing for that purpose (the **Appointed Representative**). Any Appointed Representative shall exercise one vote only whether or not they have been appointed by more than one Member under the Rules.

6 Admission of Members

6.1 To become a Member, a natural or legal person (the **Applicant**) must:

- (a) complete an application form;
- (b) supply any other information the Board requires; and
- (c) pay the annual subscription and any entrance fee as determined under Rule 20 and other charges incurred for services or products of the Society.

6.2 The Board shall have complete discretion when it decides whether or not to allow the Applicant to become a Member (which may be delegated to the Chief Executive). The Board shall advise the Applicant of its decision, and that decision shall be final.

7 Member's Approved Representative

7.1 Where a Member is not a natural person, the Member must propose a natural person to represent the Member in writing. If approved by the Board that person will be the Member's approved representative (the **Approved Representative**).

7.2 Any Member having an Approved Representative may on written notice to the Board cancel the authority of such representative. Immediately upon receipt of such notice by the Board, such representative will cease to be entitled to exercise the rights and privileges of the Member.

7.3 Any Member entitled to appoint an Approved Representative may on written notice to the Board nominate another person to represent it in place of its existing representative. Upon the Board approving such person and the person agreeing to be bound by these Rules, such person will become the Approved Representative of that Member.

7.4 The Board may from time to time cancel its approval of any Approved Representative and request the Member to nominate another person for approval. Upon cancellation of the approval, the Approved Representative will cease to represent that Member.

8 Membership Brands

8.1 The following membership brands may be used by the Board:

- (a)** The Otago Chamber of Commerce; and
- (b)** Otago Southland Employers' Association.

(the **Membership Brands**)

8.2 The function and scope of the Membership Brands shall be set by the Board.

9 Advisory Groups

9.1 The Board may establish an advisory group in any city or town or designated geographical area (**Advisory Group**). For the avoidance of doubt, the purpose of an Advisory Group is for member activity and engagement, rather than the Society's governance.

9.2 The Board will set and provide each Advisory Group with terms of reference defining the role, function and, if appropriate, geographical area of the Advisory Group.

9.3 The Board will allocate a Membership Brand to each Advisory Group based on the functions of the Advisory Group.

9.4 An Advisory Group must hold meetings in accordance with the terms of reference of the Advisory Group.

9.5 An Advisory Group shall promote the purposes of the Society and shall do nothing to bring the Society into disrepute. An Advisory Group must not take any action that contravenes the Rules or a decision of the Board.

9.6 The Board may dissolve the operation of any Advisory Group, or merge the operations of any Advisory Groups, upon giving 28 days' notice to the Members of the affected Advisory Group or Advisory Groups.

9.7 For the avoidance of doubt, where there is a conflict between the Rules and the terms of reference of an Advisory Group, the Rules shall prevail. The Board may amend or revoke the terms of reference of an Advisory Group at any time.

10 Resignation and Termination of Membership

10.1 Any Member may resign by giving written notice to the Chief Executive.

10.2 A resigning Member shall cease to be a Member upon the receipt of their resignation but shall be liable for any subscription (or any other amount) owing on the date of receipt of their resignation.

10.3 If any Member breaches the Rules, acts unlawfully or in a manner inconsistent with the Purposes, or in a manner that is likely to bring the Society into disrepute, the Board may, in its sole and absolute discretion, by majority vote terminate that Member's membership by giving written notice which takes immediate effect upon receipt (a **Termination Notice**).

10.4 For the avoidance of doubt, a membership may be terminated for non-payment of any amount owing to the Society.

11 Obligations of Members

11.1 All Members shall promote the purposes of the Society and shall do nothing to bring, and shall do nothing likely to bring, the Society into disrepute. No Member may take any action that contravenes the Rules or a decision of the Board.

12 Life Membership

12.1 Life Membership may be conferred on any natural person in recognition of special services and contributions to the Society (**Life Membership**).

12.2 Life Membership will be recommended by the Board and will be ratified at any Society General Meeting.

12.3 Any conferment of a Life Membership will be made by a vote of not less than three-fourths of the Members present at any Society General Meeting.

12.4 There will be no more than two Life Memberships conferred in any one year.

12.5 A Member conferred with Life Membership will be entitled to all the privileges of the Society but will not be liable for any subscriptions in their capacity as an individual Life Member. For the avoidance of doubt, the business of a Life Member shall not automatically be granted membership status, and shall be required to pay all annual fees to obtain the benefits of membership.

12.6 Every person who has been accorded Life Membership status of The Otago Chamber of Commerce and/or Otago Southland Employers' Association will be deemed to be a Life Member of the Society.

GOVERNANCE OF THE SOCIETY

13 Board

13.1 The governance of the Society shall be vested in the Board (the **Board**).

13.2 The Board shall be composed of a minimum of eight and maximum of twelve Members (the **Board Members**) comprising up to three Co-opted Board Members.

13.3 Upon incorporation the founding Board shall be comprised of those Members appointed by the founding Members in writing and they shall hold office until the first Annual General Meeting. From the first Annual General Meeting onwards the Society shall operate a rotation process where it shall be obligatory that one third of the Board Members each year shall retire so that each Board Member retires by rotation every three years. Retiring Board Members may be re-elected. Those retiring under the rotation policy shall be those who have served longest on the Board but, for the first three years, shall be randomly selected by such mechanism as the Board determines.

13.4 Board Members shall hold office for a term of three years (the **Term**) except those Board members appointed or elected under clause 13.3.

13.5 A Member may serve any number of terms as a Board Member, but may not serve more than three consecutive terms and no more than 12 years in aggregate.

13.6 Only Members (or Approved Representatives) of the Society may be Board Members.

13.7 No Member may hold a position on the Board if the annual subscription of that Member, or the Member that individual represents, is in arrears.

14 Nomination of Board Members

- 14.1** The Board shall establish a nomination committee for the purpose of receiving nominations from Members and putting forward potential candidates for vacancies on the Board (the **Nomination Committee**).
- 14.2** Membership of the Nomination Committee shall consist of any of the elected Board Members who are not seeking re-nomination to the Board together with one co-opted member appointed by the Board (being a person who is not seeking re-nomination). The co-opted member of the Nomination Committee can be an external, independent person who may or may not be a Member of the Society.
- 14.3** The Nomination Committee may interview potential candidates, conduct such other investigations, and obtain such information as shall be necessary to satisfy itself as to the suitability of each potential candidate to hold office as a Board Member. After completing such investigations, the Nomination Committee shall provide to the Board for noting a list of nominated candidates to be the subject of a vote of the Members of the Society by an appropriately supervised electronic poll of all eligible Members.
- 14.4** Subject to these Rules and any bylaws made by the Board, the Nomination Committee may regulate its own practices.

15 Co-opted Board Members

- 15.1** The Board may co-opt up to three Members (or Approved Representatives) to serve as a Board Member (**Co-opted Board Member**) by a majority vote of the Board Members.
- 15.2** A Co-opted Board Member shall hold office until the following Annual General Meeting of the Society.
- 15.3** In order to be eligible for co-option a person or the Member they represent must have been a Member for at least 12 months. However, the Board can waive this requirement.
- 15.4** One of the three Co-opted Board Member positions may be used to support, encourage and facilitate director development.

16 Chair of the Society and Other Officers

- 16.1** The Chair of the Society shall be elected from amongst the Board Members by a majority vote of the Board held at a meeting of the Board to be held as soon as practicable following an Annual General Meeting of the Society and/or at such other meeting of the Board held for the purposes of (or purposes which include) this clause 16.
- 16.2** The Board may remove a Chair of the Society by a three-fourths majority vote at any time the Board determines at its discretion.
- 16.3** Any vacancy that may occur in the office of Chair shall be elected from amongst the remaining Board Members by a majority of a meeting of the Board.
- 16.4** Subject to Rule 16.1, a Board Member elected to the office of Chair shall hold office until the successor to that office is duly elected in accordance with Rules 16.1 or 16.3 above. If the required majority is not obtained to appoint a Chair then an interim acting Chair may be appointed by the majority of the Board on the terms set out by the Board.

17 Cessation of Board Membership

17.1 Persons cease to be a Board Member when:

- (a) they cease to be a Member (or Authorised Representative);
- (b) they resign by giving no less than 28 days' written notice to the Board;
- (c) they fail to attend three consecutive Board meetings without having leave of absence or reason considered adequate by the Board;
- (d) they are removed by Majority Vote of a Society General Meeting;
- (e) their Term expires;
- (f) they are adjudicated bankrupt;
- (g) they become mentally incapable under the Protection of Personal Property Rights Act 1988;
- (h) they are disqualified from being appointed or holding office as a director of a company under the Companies Act 1993; or
- (i) they initiate legal proceedings of any description against the Society.

17.2 Where a Board Member resigns, dies, or a Board position becomes otherwise vacant as contemplated by Rule 17.1 above, the Board may directly appoint a new Board Member to serve the remainder of the outgoing Board Member's term.

17.3 If a person ceases to be a Board Member, that person must within one month give to the Chief Executive all Society documents and property in their possession or control.

18 Role of the Board

18.1 Subject to the Rules of the Society, the role of the Board is to:

- (a) provide good governance and effective control of the Society;
- (b) ensure the purposes of the Society are carried out, and use money or other assets to do that;
- (c) oversee the management of the Society's financial affairs, including approving the annual financial statements for presentation to the Members at the Annual General Meetings;
- (d) set accounting policies in line with generally accepted accounting practice;
- (e) make policies, terms of reference and bylaws;
- (f) appoint a Chief Executive of the Society;
- (g) delegate the general management and administration of the Society to the Chief Executive;
- (h) seek to procure that Members follow the Rules;

- (i) decide if a person becomes a Member, and whether a person ceases being a Member;
- (j) set Membership fees, including subscriptions and levies;
- (k) oversee the Society's compliance with Health and Safety obligations;
- (l) decide the procedures for dealing with complaints;
- (m) decide the times and dates for Board Meetings, and set the agenda;
- (n) appoint or establish such committees as it deems appropriate;
- (o) determine the regulatory and policy position of the Society; and
- (p) perform such other functions as may be necessary or desirable to give effect to these Rules.

18.2 The Board may exercise all of the powers of the Society, unless the Board's power is limited by the Rules, or by a Majority Vote of the Society.

18.3 Decisions of the Board bind the Society, unless the Board's power is limited by these Rules or by a Majority Vote of a Society General Meeting.

18.4 Statements of policy, terms of reference and bylaws, under Rule 18.1(e):

- (a) must be in writing;
- (b) must be signed by the Chair;
- (c) must not be inconsistent with the Rules;
- (d) may from time to time be amended or revoked by the Board; and
- (e) as amended from time to time, or revoked, is the policy of the Society on the relevant subject matter.

19 Board Meetings

19.1 Board meetings may be held in person, or using technology, or other formats that gives each Board Member reasonable opportunity to participate as the Board may decide.

19.2 A Board Meeting may be held if more than half of the Board Members attend.

19.3 The Chair shall chair Board Meetings, or if the Chair is absent, the Board shall elect a Board Member to chair that meeting.

19.4 The Board shall endeavour to make all decisions by consensus. However, if consensus is not reached on any matter that is put to the vote, such matter shall be decided by a majority vote. In the event of an equal vote, the Chair shall have a casting vote, that is, a second vote.

19.5 Only Board Members present at a Board Meeting may vote at that Board Meeting.

19.6 Subject to these Rules, the Board may regulate its own practices.

19.7 Correct minutes will be kept of the proceedings of the Board.

MONEY AND OTHER ASSETS OF THE SOCIETY

20 Joining Fees, Subscriptions and Levies

20.1 The Board may by resolution determine any entrance fees, annual subscriptions, and levy (if any) to be paid by each Member. All annual subscriptions will be due and payable on the first day of the financial year or such other date as may be determined by the Board. All subscriptions are non-refundable and non-transferable.

20.2 The Board may delegate to the Chief Executive the authority to determine subscriptions, and fees or charges for services and products not covered by annual subscriptions.

20.3 If any Member does not pay a subscription or levy by the date set by the Board or the Society, the Chief Executive may give written notice that, unless the arrears are paid by a nominated date, the Membership will be terminated. After that date, the former Member shall (without being released from the obligation of payment of any sums due to the Society) have no membership rights and shall not be entitled to participate in any Society activity. For the avoidance of doubt, any fees or costs of any description that the Society incurs as a result of pursuing a Member or former Member (as the case may be) for payment of obligations due to the Society shall be recoverable from that Member or former Member.

21 Additional Powers

21.1 Subject to these Rules, the Society will have all the powers of a natural person, and without limitation may:

- (a)** use money and other assets if:
 - (i)** it is for a purpose of the Society;
 - (ii)** it is not for the sole personal or individual benefit of any Member; and
 - (iii)** that use has been approved by either the Board or by Majority Vote at any Society General Meeting;
- (b)** employ people for the purposes of the Society;
- (c)** borrow money and provide security for that if authorised by the Board or by Majority Vote at any Society General Meeting.

22 Chief Executive

22.1 Pursuant to Rule 21.1(b) above, the Society may employ a Chief Executive upon the terms and conditions decided by the Board. The Chief Executive will report to the Board through the Chair.

22.2 The Chief Executive will act as secretary and treasurer to the Society.

22.3 The Chief Executive will, unless the Board otherwise directs, be responsible for the general management and administration of the Society and the implementation of all matters, including matters of operational policy as may from time to time be laid down by the Board.

22.4 The Chief Executive will not be a Board Member but will use all reasonable endeavours to attend Board meetings as an ex officio member but without voting rights.

23 Financial Year

23.1 The financial year of the Society will be determined from time to time by the Board.

24 Independent Review of the Financial Statements

24.1 The Society shall appoint a reviewer (**Reviewer**) to review the annual financial statements of the Society in accordance with standards set for a review from time to time. The Reviewer must be a suitably qualified person and preferably be a member of the Chartered Accountants Australia and New Zealand, and must not be a Board Member, or an employee of the Society. If the Society appoints a Reviewer who is unable to act for some reason, the Board shall appoint another Reviewer as a replacement.

24.2 The Board is responsible to provide the Reviewer with:

- (a) access to all information of which the Board is aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;
- (b) additional information that the Reviewer may request from the Board for the purpose of the review; and
- (c) reasonable access to persons within the Society from whom the Reviewer determines it necessary to obtain evidence.

CONDUCT OF MEETINGS

25 Society General Meetings

25.1 A Society General Meeting is either an Annual General Meeting or a Special General Meeting.

25.2 All Society General Meetings, other than the Annual General Meeting, may be held in person, or using technology, or other formats that gives each Member reasonable opportunity to participate as the Board may decide.

25.3 The Annual General Meeting shall be held once every year as soon as practicable but no later than seven months after the end of the Financial Year. The Board shall determine when and where the Society shall meet within those dates.

25.4 Special General Meetings may be called by the Board. The Board must call a Special General Meeting if the Chief Executive receives a written request signed by at least 100 Members.

25.5 The Chief Executive shall:

- (a) give all Members at least 14 days' written notice of the business to be conducted at any Society General Meeting; and
- (b) additionally, for Annual General Meetings the Chief Executive will provide with the above notice:
 - (i) a copy of the Chair's Report on the Society's operations and of the Annual Financial Statements as approved by the Board; and
 - (ii) notice of any motions to be put to the Society General Meeting and the Board's recommendations about those motions.

- 25.6** If the Chief Executive has sent a notice under Rule 25.5 in good faith, the meeting and its business will not be invalidated simply because one or more Members do not receive the notice.
- 25.7** No Society General Meeting may be held unless at least 10 Members attend (this will constitute a quorum).
- 25.8** All eligible Members may attend and vote at Society General Meetings. Each eligible Member will be entitled to one vote and, unless the Rules specify otherwise, voting will be determined by a Majority Vote of the Members present. The Member's Approved Representative will exercise all voting rights, or will nominate an alternate representative, to be provided to the Chief Executive no later than 24 hours prior to the meeting. A Member is not eligible to vote if the annual subscription of that Member, or the Member that individual represents, are in arrears.
- 25.9** All Society General Meetings shall be chaired by the Chair. If the Chair is absent, the Society shall elect another Board Member to Chair that meeting. Any person chairing a Society General Meeting has a second, casting vote in the case of an equal vote.
- 25.10** On any given motion at a Society General Meeting, the Chair shall in good faith determine whether to vote by:
- (a) voices;
 - (b) show of hands; or
 - (c) secret ballot.
- However, if any Member demands a secret ballot before a vote by voices or show of hands has begun, voting must be by secret ballot. If a secret ballot is held, the Chair will have a casting, that is, second vote in addition to the regular vote which the Chair is entitled to cast.
- 25.11** A Society General Meeting can authorise future items of its business to be determined by an appropriately supervised electronic poll of all eligible Members, subject to giving reasonable notice and 14 days for responses.
- 25.12** The business of an Annual General Meeting shall be:
- (a) receiving any minutes of the previous Society's Meeting(s);
 - (b) the Chair's report on the business of the Society;
 - (c) consider the Annual Report and Financial Statements;
 - (d) appoint an Reviewer for the ensuing year;
 - (e) announce Members elected to the Board;
 - (f) consider motions proposed by the Board or;
 - (g) consider any other matters required to be determined under these Rules; and
 - (h) consider any other general business.

26 Motions and matters for resolution

- 26.1** Any Member may request that a motion be voted on (**Member's Motion**) at a particular Society General Meeting, by giving written notice to the Chief Executive at least 10 days before that meeting. The Member may also provide information in support of the motion (**Member's Information**). The Board may in its absolute discretion decide whether or not the Society will vote on the motion. However, if the Member's Motion is signed by at least 100 eligible Members:
- (a) it must be voted on at the Society General Meeting; and
 - (b) the Chief Executive must give the Member's Information to all Members at least 3 days before the Society General Meeting.
- 26.2** The Board may also decide to put forward motions for the Society to vote on (**Committee Motions**) and must be communicated to Members as per Rule 25.
- 26.3** The Board may resolve to allow for matters of resolution to be put to Members through an appropriately supervised electronic poll, rather than be decided at a Society General Meeting, other than those matters set aside for Annual General Meetings under Rule 25, subject to giving reasonable notice and 14 days for responses.

COMMON SEAL

27 Common seal

- 27.1** The Board shall provide a common seal for the Society which may contain reference to a Membership Brand of the Society and may from time to time replace it with a new one.
- 27.2** The Chief Executive shall have custody of the common seal and will be affixed to all necessary documents in the presence of at least one Board Member and the Chief Executive, or alternatively by two Board Members.
- 27.3** Notwithstanding Rule 27.2, where the seal is required to be affixed to trade documentation, the Chief Executive may delegate the use of the seal to any employee of the Society and they may affix the seal to such trade documentation as appropriate.
- 27.4** The seal may be altered at any Society General Meeting.
- 27.5** The Chief Executive will maintain a register recording the use of the seal and will report the use of the seal (except where the seal is used for trade documentation purposes in the ordinary course of business) to meetings of the Board.

RULES OF THE SOCIETY

28 Copy of the Rules

- 28.1** Every Member will be entitled to a copy of the Rules of the Society upon request.

29 Altering the Rules

- 29.1** The Board may add to or vary the Rules in order to bring them into compliance with regulation and legislation and shall notify all members of such any change made under this clause.
- 29.2** Otherwise provided for in clause 29.1, the Society may add to or amend the Rules by a motion passed by a two-thirds majority of all eligible Members voting through an appropriately supervised

electronic poll, subject to giving appropriate notice and 14 days for responses. The notice put to the Society may include the Board's recommendations about these rule alterations or at a Society General Meeting.

30 Winding up

30.1 The Society may be put into liquidation by resolutions passed by a three-fourths majority of the Members attending a Society General Meeting called pursuant to Section 24 of the Incorporated Societies Act 1908 or an appropriately supervised electronic poll subject to giving reasonable notice and 14 days for responses.

30.2 On the liquidation of the Society or on its dissolution by the Registrar of Incorporated Societies:

- (a) the Society's debts, costs and liabilities shall be paid;
- (b) no distribution may be made to any Member; and
- (c) any surplus money and other assets shall be distributed to any business support Society or organisations operating within the lower South Island with similar objects to the Society, as determined by the Board.

GENERAL

31 Bylaws to govern the Society

- (a) The Board may from time-to-time make, alter or rescind bylaws for the general management of the Society, so long as these are not inconsistent with the Rules or to the provisions of law. All such bylaws shall be binding on Members of the Society.

32 Notices

- (a) Any notice shall be valid and be deemed to be received upon the sending of such a notice by email if received on a working day between 9.00 a.m. and 5.00 p.m. or it shall be deemed received on the next working day or after seven (7) working days if posted to any Member's nominated postal addresses.

33 Limitation of Liability

- (a) No Member will be liable for an obligation of the Society by reason only of being a Member.

34 No claim to property

- (a) Membership will not confer upon a Member any entitlement or claim to the property of the Society.