



RULES OF THE

NEW ZEALAND BEVERAGE

COUNCIL INCORPORATED

November 2020

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1. CONSTITUTION

- 1.1. The Council was originally constituted by resolution dated 6th July 2003.
- 1.2. These rules were adopted by resolution dated 6th July 2003.

2. NAME

- 2.1. The name of the Council is the New Zealand Beverage Council (Incorporated) (hereinafter called the "Council").

3. OBJECTS

- 3.1. The primary objects of the Council are:
 - 3.1.1 To promote, foster and advance, in a manner consistent with the public interest, the progress and development of those industries involved in and associated with the manufacture, bottling, importing and distribution of fruit juice and other non-alcoholic cold beverages (excluding non-flavoured milk) in New Zealand ("the industry").
 - 3.1.2 To do those things which are in the interests of the industry in New Zealand, such as the promotion of industry products, the conduct of industry conferences, the extension of consumer education in the use and benefit of industry products and the publication of matters of interest to Members of the Council or the public.
 - 3.1.3 To cooperate with and offer advice to national and local regulatory authorities in matters pertaining to the industry and to provide a single organisation with which such authorities may consult for discussion of matters of common or mutual interest.
 - 3.1.4 To keep Members of the Council informed in regard to legislation and commercial and technical developments in New Zealand, Australia and other geographical areas of interest, which are pertinent to the industry.
 - 3.1.5 To establish and maintain liaison with international organizations similar to the Council.
 - 3.1.6 To encourage, stimulate and aid research into matters relevant to the industry.
 - 3.1.7 To provide a positive networking environment for its Members and create opportunities for industry cooperation.
 - 3.1.8 Make and enforce a Code of Practice to promote high standards in the industry in New Zealand.
 - 3.1.9 Make policies and regulations to advance the attainment of any of the above objects.
 - 3.1.10 To perform all of the above within legal and regulatory constraints governing New Zealand.

4. POWERS

- 4.1 In addition to its statutory powers, the Council:
 - 4.1.1 May use such of its funds to pay the costs and expenses of furthering or carrying out its objects, and for that purpose may employ such people as may be expedient.
 - 4.1.2 May purchase, lease, hire or otherwise acquire, may exchange and may sell, lease or

otherwise dispose of property, rights or privileges to further or carry out its objects as may seem expedient but such powers shall not be exercised other than by resolution of a General Meeting of which proposed resolution at least ten clear days written notice was given by circulation to all Members of the Council

4.1.3 May invest in any investment in which a trustee might invest.

4.1.4 Shall have power to borrow or raise money by debenture, bonds, mortgage and other means with or without security but such borrowing powers shall not be exercised other than by resolution of a General Meeting of which proposed resolution at least ten clear days written notice was given by circulation to all Members of the Council.

4.2 Notwithstanding any other provision, the Council shall not expend any money;

4.2.1 other than to further purposes recognised by law; nor

4.2.2 for the sole personal or individual benefit of any Member or group of Members.

5. MEMBERSHIP

5.1 Any person or company engaged in the manufacture, bottling, importation, or distribution of non-alcoholic cold beverages (excluding non- flavoured milk) in New Zealand is eligible for membership of the Council as a "Manufacturer", subject to agreeing to be bound by the Code of Practice, Rules and Constitution of the Council, payment of the agreed membership fee and the unanimous approval of the Executive, or if not approved by the Executive, subject to the approval of three fourths of the voting Members present at any General Meeting of the Council.

5.2 Any person or company engaged in the processing of fruit or other horticultural products into juice or extracts for addition to fruit juice or other non-alcoholic beverage products in New Zealand is eligible for membership of the Council as a "Manufacturer", subject to agreeing to be bound by the Code of Practice, Rules and Constitution of the Council, payment of the agreed membership fee and the unanimous approval of the Executive, or if not approved by the Executive, subject to the approval of three fourths of the voting Members present at any General Meeting of the Council.

5.3 Any person or company engaged in the supply of ingredients for addition to non-alcoholic beverage products in New Zealand (including flavour houses that supply principal formulation ingredients and importers of fruit juice and fruit juice concentrates), is eligible for membership of the Council as a "Supplier", subject to agreeing to be bound by the Code of Practice, Rules and Constitution of the Council, payment of the agreed membership fee and the unanimous approval of the Executive, or if not approved by the Executive, subject to the approval of three fourths of the voting Members present at any General Meeting of the Council.

5.4 Any person or company engaged in the provision of packaging, professional services or other advisory functions to the industry is eligible for membership of the Council as a "Supplier", subject to agreeing to be bound by the Code of Practice, Rules and Constitution of the Council, payment of the agreed membership fee and the unanimous approval of the Executive, or if not approved by the Executive, subject to the approval of three fourths of the voting Members present at any General Meeting of the Council.

5.5 A Member whose membership has been terminated is eligible for reinstatement to the Council subject to the approval of three-fourths of the regular Members entitled to vote present at any General Meeting of the Council and provided they agree to be bound by the Code of Practice, Rules of the Council and upon payment of any monies owed to the Council.

5.6 Where a Member is an incorporated company, it will nominate a representative to act on its behalf as a Member of the Council by notice in writing to the Executive Officer. The Member may change any such nomination from time to time by further notice in writing. No Member shall be entitled to have more than one representative.

- 5.7 The Executive Officer shall keep a membership register recording the names, addresses, email and telephone/facsimile numbers of all Members. All Members shall advise the Executive Officer of any change of name, address, email or telephone/facsimile number.
- 5.8 All Members shall promote the interests and the objects of the Council and shall do nothing to bring the Council into disrepute.

6. SUBSCRIPTION

- 6.1 The annual subscriptions payable by Members shall be determined at the Annual Meeting and shall be payable in advance.
- 6.2 Every Member shall in addition to all other sums payable by him forthwith pay to the Council all and every sum or sums of money (or further subscriptions and/or levies) which shall at any time by resolution in General Meeting be levied upon Members and which the Council shall consider necessary or expedient for the purpose of furthering the interests of the Council and its Members.
- 6.3 Any Member who retires from the Council or for any other reason ceases to be a Member, shall not be entitled to any refund of subscription or any part thereof.
- 6.4 Any Member failing to pay the annual subscription or any levy within one month of the date the same was due shall be considered as unfinancial and shall without being released from the obligation of payment have no membership rights and shall not be entitled to participate in any Council activity until all arrears are paid and shall be deemed to have ceased to be a Member until all arrears are paid in full.

7 MEMBERSHIP CESSATION AND DISCIPLINE

- 7.1 Any Member may resign from the Council by written notice to the Executive Officer, and on receipt by the Executive Officer such resignation shall take immediate effect.
- 7.2 Membership of the Council shall be terminated in the case of any Member who is determined by the Executive to have discontinued the activities which previously rendered him eligible for membership of the Council, provided that thirty days written notice by mail of the intended consideration by the Executive of such matter shall have been given to the Member concerned and such Member afforded the opportunity orally or in writing, to make submissions on his behalf in relation to the matter.
- 7.3 The Executive may determine that a Member shall be expelled or suspended for a specified period from membership of the Council where such Member has, upon due investigation, found to have acted in manner inconsistent with the Code of Practice and the Rules of the Council or has wilfully refused or neglected to comply with the Code of Practice or Rules of the Council or where a Member or any person acting on behalf of a Member, shall have knowingly made or published false or fraudulent statements concerning the Council or its officers or employees or where a Member shall have failed to pay his annual subscription or any other sum properly payable to the Council for a period of three months after the due date for payment.
- 7.4 The following procedures shall be observed by the Executive in making a determination under Rule 7.3:
- 7.4.1 The Member concerned shall be given at least 30 days written notice by mail of the alleged offence or default and shall have been afforded the opportunity to present orally or in writing any explanation.
- 7.4.2 Any determination of the Executive shall be by a majority of at least two thirds of those persons comprising the Executive and entitled to vote.

7.4.3 Any Member may by notice in writing lodged with the Executive Officer at least twenty four hours before the time for holding the meeting at which the resolution is to be considered elect to have the question dealt with by the Council in General Meeting and in that event an Extraordinary General Meeting of the Council shall be called for the purpose and if at such meeting a resolution shall be passed by a majority of two thirds of those present and voting (such a vote to be taken by ballot) the Member shall be suspended or expelled.

7.5 Any Member who resigns or is expelled or suspended shall cease to hold himself out as a Member of the Council but shall remain liable to pay all subscriptions and levies to the end of the financial year.

8. ELECTION OF OFFICERS AND EXECUTIVE

8.1 The number of officers of the Council shall, until otherwise determined by the Council in General Meeting be not less than six (6) and not more than twelve (12) including the two (2) Co-Chairs.

8.2 To be eligible for election or appointment as an officer of the Council, a person must be a financial Member of the Council or the representative of a financial incorporated company Member.

8.2.1.1 The officers shall together make up the Executive of the Council.

8.3 The following officers shall be elected annually:

8.3.1 Two (2) Co-Chairs and no less than four (4) and no more than ten (10) other executive members.

8.3.2 The Executive shall be made-up of no less than three (3) Manufacturing members.

8.4 The election of officers under rule 8.3 shall be conducted as follows:

8.4.1 Any Member of the Council shall be at liberty to nominate an eligible person to serve as an officer of the Council.

8.4.2 The nomination shall be in writing signed by the nominating Member and accompanied by the written consent of the nominee. The nomination shall be lodged with the Executive Officer at least 14 days before the date of the Annual General Meeting at which the election is to take place.

8.4.3 A list of the candidates' names in alphabetical order, with the nominating Members names, shall be posted in a conspicuous place at the premises at which the meeting is held, immediately preceding such meeting, and as well shall be given to each Member of the Council at least seven days prior to the date of such meeting.

8.4.4 Balloting lists shall be prepared (if necessary) containing the names of the candidates only, and each Member present at the Annual Meeting shall be entitled to vote for any number of such candidates not exceeding the number of vacancies.

8.4.5 If there are insufficient nominations received under rule 8.4.2 nominations may be accepted from the floor at the Annual General Meeting.

8.4.6 In the event of any vote being tied the tie shall be resolved by the incoming Executive.

8.4.7 The Co-Chair positions shall be elected by the incoming Executive no more than seven (7) days after the Annual General Meeting. Individuals from the

Executive may nominate themselves or others for Co-Chair.

8.4.8 In the absence of any nominations for the position(s) of Co-Chair, the incoming Executive will appointment two (2) members of the elected council as Co-Chair for a one-year period.

8.5 No Co-Chair shall serve more than 2 consecutive years at a time.

8.6 The Executive shall appoint a new Co-Chair from the existing Executive to assume the role of acting Co-Chair in the event of a Co-Chair resigning his or her role during the elected term of office.

8.7 If the position of any Executive member becomes vacant between Annual General Meetings that vacancy shall be filled by the Executive.

9. MANAGEMENT BY THE EXECUTIVE

9.1 From the end of each Annual General Meeting until the end of the next, the Council shall be administered, managed and controlled by the Executive, which shall be accountable to the Members for the implementation of the policies of the Council as approved by any General Meeting.

9.2 Subject to these Rules and the resolution of any General Meeting, the Executive may exercise all the Council's powers, other than those required by statute or by these Rules to be exercised by the Council in General Meeting.

9.3 The Executive shall meet quarterly or at such intervals deemed appropriate by the Executive at such times and places and in such manner as it may determine and otherwise where and as convened by the Co-Chairs or Executive Officer.

9.4 All Executive meetings shall be chaired by one of the Co-Chairs, or in the absence of both Co-Chairs, by some other executive member elected for the purpose by the meeting and any such person shall have a deliberative and casting vote.

9.5 The quorum for the Executive Meeting is at least three (3) of the *Manufacturing* members of the Executive.

9.6 The Executive from time to time:

9.6.1 Shall prepare and adopt and may amend a Code of Practice to promote high standards in the industry and regulate the conduct of Members.

9.6.2 May make and amend policies and regulations for the conduct and control of the Council.

9.6.3 No such Code of Practice, policies or regulations shall be inconsistent with these Rules. Copies of the Code of Practice, policies or regulations shall be provided at no cost to any Member on request.

9.7 The Co- Chairs shall in addition to all other duties described in these Rules, generally oversee and direct the affairs and business of the Council.

9.8 Other than prescribed by statute or these Rules, the Executive may regulate its proceedings, as it thinks fit.

9.9 Subject to statute, these Rules and the resolutions of General Meetings, the decisions of the Executive on the interpretation of these Rules and all matters dealt with by it in accordance with these Rules and on matters not provided for in these Rules shall be final and binding on all Members.

9.10 The Executive may employ any person or company to administer or manage the affairs of the Council.

- 9.11 The Executive shall appoint a Treasurer, who may be an elected member of the Executive or the Executive Officer.
- 9.12 The Executive may delegate any of its powers and/or functions to committees consisting of such Member or Members of the Council as they think fit. Any committee so formed shall in the exercise of the powers so delegated, conform to any regulation that may be imposed by the Executive. The Executive may at any time revoke, withdraw, alter or vary all or any of the powers given hereunder. All members of such committees shall have one vote.

10. COMMITTEES

- 10.1 The Council may establish committees to manage the specific interests for the categories of fruit juice, bottled water, and other beverages.
- 10.2 The Council may establish further committees covering Technical, Industry Compliance, Marketing & Public Relations, Membership and Events, as well as other committees as deemed necessary by the membership or the Executive from time to time.
- 10.3 Committees established by the Council must have a Terms of Reference for participating members to set out working arrangements, outline purpose, membership and meeting schedule.
- 10.4 The Executive will appoint a Chairperson for each of these committees as necessary, with membership of the committee established by invitation of personnel from Members. In certain instances, and as deemed appropriate by the Executive, the Chairperson and/or members of a committee may be derived from organizations outside of the Council.
- 10.5 Committees of the Council in General Meeting may adopt a set of rules for its operations, provided that no such rule may be inconsistent with any Rule prescribed by these Rules.
- 10.6 Committees shall meet at least once a year in General Meeting and more frequently as deemed necessary by the Chairperson of the committee or the Co-Chairs.
- 10.7 The Chairperson of the committee shall keep informed the Council Executive through its Co-Chairs of all pertinent matters covered by the committee.
- 10.8 The administrative responsibility for all committees shall be vested in the Executive and discharged through the Co-Chairs.

11. EXECUTIVE OFFICER

- 11.1 The Executive shall appoint an Executive Officer and/or secretariat for such term, at such remuneration and upon such conditions, as it thinks fit.
- 11.2 The Executive Officer shall record the minutes of all General Meetings, Executive Meetings and all such minutes, when confirmed by the next such meeting and signed by the chairperson of that meeting, shall be prima facie evidence that the meeting was duly called, and shall prima facie be a true and correct record of what occurred at that meeting.
- 11.3 The Executive Officer shall hold the Council's records, documents and books.
- 11.4 The Executive Officer shall deal with and answer correspondence and perform other duties as may be required by the Executive.

12. REGISTERED OFFICE

- 12.1 The registered office of the Council shall be at such place as the Executive from time to time determines.

13. FINANCE

- 13.1 The Treasurer shall keep such books of account as may be necessary to provide a true record of the Council's financial position, report on the Council's financial position to each Executive meeting and present an annual statement of accounts (income and expenditure account and balance sheet) to the Annual General Meeting together with a budget for the next financial year.
- 13.2 The Executive shall maintain bank accounts in the name of the Council, and all cheques and withdrawals shall be signed by two members of the Executive or the Executive Officer and counter signed by a member of the Executive.
- 13.3 All money received on account of the Council shall be banked within seven days of receipt.
- 13.4 All accounts paid or for payment shall be submitted to the Executive for approval of payment.
- 13.5 The Council's financial year shall commence on 1 July of each year and end on 30 June of the following year.
- 13.6 The Annual General Meeting each year shall appoint an auditor (who is a member of the New Zealand Society of Chartered Accountants and not a Member of the Council) to audit the annual accounts of the Council and provide a certificate of correctness of the same and if such auditor is unable to act the Executive shall appoint a replacement auditor.

14. EXECUTION OF DOCUMENTS

- 14.1 The Common Seal of the Council shall be retained by the Executive Officer.
- 14.2 Documents shall be executed by the Council pursuant to a resolution of the Executive:
 - 14.2.1 By affixing the Common Seal, if any, witnessed by the Co-Chairs and countersigned by some other member of the Executive, or
 - 14.2.2 By the Co-Chairs and some other member of the Executive signing on behalf of the Council.

15. GENERAL MEETINGS

- 15.1 The Annual General Meeting shall be held within six (6) months of the financial balance date in each year.
- 15.2 Special General Meetings may be called by the Executive or by written request of any five Members of the Council.
- 15.3 At least 14 days before any General Meeting the Executive Officer shall post to all Members a written notice of the business to be conducted at the meeting (including in the case of Annual General Meetings' copies of the Annual Report, Statement of Accounts, a list of nominees and notice of any motions and the Executive's recommendations in respect thereof) and the failure for any reason of any Member to receive such notice shall not invalidate the meeting or its proceedings.
- 15.4 The quorum for General Meetings is not less than a quarter of all voting Members.

- 15.5 All General Meetings shall be chaired by the Co-Chairs or in the absence of both by some other Executive member for the purpose by the meeting and any such chairperson shall have a deliberative and casting vote.
- 15.6 Voting shall be by a show of hands of those Members present. Only financial Members shall be entitled to vote.
- 15.7 Should a Member not be able to attend any meeting of the Council they may appoint a proxy by advising the Executive Officer in writing of his/her inability to attend and naming the proxy to vote on their behalf at that meeting.
- 15.8 The business of the Annual General Meeting shall be:
 - 15.8.1 Minutes of the previous General Meeting(s).
 - 15.8.2 Annual report of the Executive.
 - 15.8.3 Statement of Accounts.
 - 15.8.4 Election of Officers under Rule 8.
 - 15.8.5 Motions of which notice has been given.
 - 15.8.6 Approval of a budget for the next financial year including membership subscription and any other levies.
 - 15.8.7 General business.
- 15.9 Any Member wishing to give notice of any motion for consideration at any General meeting shall forward written notice of the same to the Executive Officer not less than 28 days before the date of the meeting. The Executive may consider all such notices of motion and provide recommendations to Members in respect thereof.

16. ALTERATION OF RULES

- 16.1 These Rules may be amended or replaced by resolution of any General Meeting passed by a two thirds majority of those Members present and voting.
- 16.2 Any proposed motion to amend or replace these Rules shall be signed by at least eight (8) Members and given in writing to the Executive Officer at least 28 days before the General Meeting at which the motion is to be considered and accompanied by a written explanation of the reasons for the proposal.
- 16.3 At least 14 days before the General Meeting at which any such proposal is to be considered the Executive Officer shall post written notice of the proposed motion, of the reasons for the proposal, and of any recommendations from the Executive in respect thereof to all Members.

17. WINDING UP

- 17.1 The Council may be wound up under the provisions of the Incorporated Societies Act 1908.
- 17.2 If the Council is wound up, the surplus assets after payment of all debts costs and liabilities shall be disposed of for such purposes in New Zealand as may be determined in accordance with that statute or resolution but no distribution shall be made to any Member.

18. INDEMNITY

- 18.1 Every officer and Member of this Council shall be indemnified out of the fund of the

Council against (and it shall be the duty of the Council to pay out of the funds available), any costs, losses or expenses which any such officer or Member may incur or become liable to, by reason of any contract entered into or act or thing done by him, in any way discharging his duty, while acting under and in accordance with the instructions of the Council.