

Rules

Forest Growers Levy Trust Incorporated

Table of contents

1	Name.....	1
2	Registered Office.....	1
3	Objects	1
4	Trust Board.....	2
5	Role, Powers, and Duties of the Board	4
6	Officers	6
7	Responsibility of Board Members	6
8	Conflicts of Interest.....	7
9	Membership.....	8
10	The Register of Members.....	8
11	Membership Role	9
12	Cessation of Membership.....	9
13	General Meetings	9
14	Alteration of Rules	10
15	Control of Funds and Borrowing	11
16	Common Seal.....	11
17	Winding Up	11
18	Interpretation	12

The Incorporated Societies Act 1908
Rules
of
Forest Growers Levy Trust Incorporated

1 Name

1.1 The name of the incorporated society is the Forest Growers Levy Trust Incorporated ('Trust').

2 Registered Office

2.1 The registered office of the Trust shall be at ForestWood Centre, Level 9, 93 The Terrace, Wellington, New Zealand, or at such other place as the Board shall determine from time to time and notify the Registrar.

3 Objects

3.1 In accordance with the objects of the Sponsors in facilitating the establishment of the Trust, the principal objects for which the Trust is established are:

- a To be the Industry Organisation responsible for the administration of any commodity levies imposed in relation to plantation forest growing in New Zealand; and
- b To be the organisation to collect, hold and disburse levy funds on behalf of the forest growing industry and in the interests of Actual and Potential Levy Payers and the forest growing industry as a whole, and in terms of the Act.

3.2 In order to pursue its principal objects, the Trust has the following incidental objects:

- a To facilitate the imposition of a levy on Actual and Potential Levy Payers and manage the collection process for any such levy.
- b To administer any funds raised in accordance with the Act and the Levy Order and carry out all of the attendant activities of an Industry Organisation, having regard to the views and interests of Actual and Potential Levy Payers and the forest growing industry as a whole.
- c To manage the continued imposition of a Levy Order and facilitate any referenda that may be required under the Act for this purpose, for so long as the Board believes that a Levy Order is in the interests of the forest growing industry as a whole.

4 Trust Board

4.1 The affairs of the Trust shall be managed by the Board.

4.2 All decisions of the Board pursuant to these Rules shall require the support of at least two thirds of the Board Members voting on the matter. Each Board Member shall have one vote. Whilst membership of the Board is intended to be broadly representative of the forest growing industry, in voting on any decision individual Board Members are required to act in a manner

each considers to be in the interests of Actual and Potential Levy Payers and the forest growing industry as a whole.

4.3 The Board shall consist of seven persons comprising:

- a Two persons elected by Forest Owners each having less than 1,000 hectares of plantation forest. Voting shall be counted on the basis of one vote per Forest Owner.
- b Four persons elected by Forest Owners each having more than 1,000 hectares of plantation forest. Voting shall be counted in proportion to the voter's Forest Production for the previous year.
- c One person appointed by the six persons elected in accordance with Rules 4.3a and 4.3b.

4.4 The following provisions apply to Board membership:

- a An elected Board Member shall be elected for a four year term, subject to Rule 4.5. An elected Board Member may serve an unlimited number of terms.
- b A Board Member appointed in accordance with Rule 4.3c shall be appointed for a term as determined by a majority vote of the elected Board Members at the time of appointment. Any such Board Member shall be eligible for reappointment for a further term or terms at the discretion of the elected Board Members.
- c An election shall be held every calendar year where such election is required in one or both of the following circumstances:
 - i to address any vacancy occurring due to an expiry of a Board Member's term under Rule 4.4a;
 - ii to address any vacancy occurring amongst the elected Board Members arising pursuant to Rule 4.9 (regardless of whether or not such vacancy has been filled by an interim appointment by the Board), such replacement Board Member being elected for a term determined in accordance with Rule 4.5b.
- d The rotation policy for elected Board Members is that no less frequently than every second year, the positions of one Board Member elected under Rule 4.3a and two Board Members elected under Rule 4.3b shall come up for election.
- e Each election shall be conducted so as to maintain the same balance of Board membership as provided in Rule 4.3.

4.5 The following exceptions apply to Rule 4.4a:

- a At the 2015 election, one half of the elected Board Members shall retire in order to give effect to the rotation policy contemplated at Rule 4.4d, as determined by agreement or in the absence of agreement, by lot. Such retirees shall be eligible for re-election. The retirements and elections shall occur to maintain the same balance of Board membership as provided for in Rule 4.3. For the avoidance of doubt, those Board Members who are elected at the 2015 election shall be elected for a four year term under Rule 4.4a.
- b A Board Member elected to fill a vacancy occurring by virtue of another Board Member's resignation, removal from office, death, or disability, shall be elected for a term as determined by the Board that best reflects the rotation policy contemplated at Rule 4.4d.

- 4.6 Subject to Rules 4.3, 4.4, 4.5, and 4.7, all on-going elections and the processes for nominating candidates will be conducted at such time and in such manner as determined from time to time by the Board.
- 4.7 Nominations for election to the Board shall be called by public notice and through industry communications at least three weeks before the date determined for the commencement of the election and the names of candidates and voting arrangements shall be announced by public notice and through industry communications at least two weeks before the conclusion of the election.
- 4.8 The Board Members shall appoint one of their number to act as Chair, who shall have no special voting or other powers by virtue of that office, other than the power to call and chair meetings in accordance with these Rules.
- 4.9 Should a vacancy arise on the Board through the resignation, removal from office, death, or disability of a Board Member, the remaining Board Members may continue to act notwithstanding that vacancy, and may appoint a replacement Board Member or Board Members as they see fit, to hold office on an interim basis until the next election. The Board must ensure the replacement of such Board Member in accordance with Rule 4.4cii.
- 4.10 If a person ceases to be a Board Member, that person must within one month of ceasing to hold office, give to the Board all Trust documents and property in his or her possession.
- 4.11 The Board may meet personally or by telephone, electronic or other linked form of joint communication. The Chair shall be responsible for calling meetings at such time and place as the Chair sees fit, although any two Board Members shall have the power to require the Chair to call a meeting.
- 4.12 The quorum necessary to hold a meeting of the Board shall be a minimum of four Board Members, comprising at least one member elected pursuant to Rule 4.3a and two members elected pursuant to Rule 4.3b.
- 4.13 Subject to these Rules, the procedure of any meeting of the Board shall be determined by the Board as it thinks fit.

5 Role, Powers, and Duties of the Board

- 5.1 Subject to the Rules, the role of the Board is:
- a to administer, manage, and control the Trust;
 - b to carry out the objects of the Trust;
 - c in collecting, holding, and applying levy funds, to act as trustees for the benefit of, and having regard to the interests of, the forest growing industry as a whole;
 - d to provide an enduring governance structure to administer the imposition, collection, and management of any commodity levy imposed on Actual and Potential Levy Payers;
 - e ahead of any referendum under the Act, to review the composition of the Board required under Rule 4.3 to ensure that the Board appropriately represents the forest growing industry, and, if the Board considers it necessary, recommend any changes to the Board composition to Members;

- f to enhance the prospects of successful referenda under the Act, if consistent with Rule 3.2c;
- g to decide the times and dates for any General Meetings, and set the agenda for General Meetings.

5.2 The Board has all of the powers of a natural person in pursuing the Trust's objects and administering the Trust, including the power to delegate any of its powers to any person, except to the extent to which the Board's power is limited by the Rules, the Act, or the Incorporated Societies Act 1908. This power includes the power to delegate all or any of the day to day administration of the Trust, including, but not limited to, any secretariat administration, levy imposition and collection arrangements, and the preparation of the Annual Work Programme.

5.3 Subject to the Rules, the duties of the Board include:

- a Fixing the annual levy rate;
- b Collecting and applying the levy in accordance with the Levy Order;
- c Monitoring the process for the collection of data, the collection of levies and for invoicing, including monitoring the performance of any person to which these functions are delegated;
- d Ensuring that the Annual Work Programme is appropriately carried out;
- e Ensuring that the report prepared each year in accordance with the Act is available to all forestry industry participants;
- f Arranging for the preparation of the Annual Work Programme and approving the Annual Work Programme,

in each case acting in a manner consistent with the Levy Order and any Trust principles as developed from time to time.

5.4 No private pecuniary gain may be derived from the Trust (by way of distribution from the Trust of its assets or otherwise) by any Board Member or person with any control (as referred to in section CW 42 of the Income Tax Act 2007) over the activities of the Trust in that no such person may direct or divert to their own benefit or advantage an amount derived from the activities of the Trust or the Levy Order, except that where it is considered appropriate by the Board Members:

- a any Board Member, or committee member or employee of the Trust may be entitled to be reimbursed out of the assets of the Trust for any expenses properly incurred in connection with the affairs of the Trust;
- b the Trust may pay reasonable and proper remuneration to any officer or servant of the Trust (whether a Board Member or not) in return for services actually rendered to the Trust;
- c any Board Member may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Board Member or by any firm or entity of which that Board Member is a member, employee or associate in connection with the affairs of the Trust; and

d any Board Member may retain any remuneration properly payable to that Board Member by any company or undertaking with which the Trust may be in any way concerned or involved for which that Board Member has acted in any capacity whatsoever, notwithstanding that that Board Member's connection with that company or undertaking is in any way attributable to that Board Member's connection with the Trust.

5.5 No remuneration shall be paid to or in respect of any Board Member under Rule 5.4b or 5.4c without the prior approval of at least two-thirds of the remaining Board Members. The presumption (which may be rebutted) is that the Board Members will not be remunerated, unless contributing at a level usually expected of a person occupying the position of chair.

6 Officers

6.1 The officers of the Trust are those persons who are elected or appointed to the Board in accordance with these Rules.

6.2 Any officer of the Trust who has failed or neglected to carry out his or her duties in a satisfactory manner (of which the Board after due inquiry shall be the sole judge), may be removed from office by a resolution of the Board, with that officer being ineligible to vote on the matter.

7 Responsibility of Board Members

7.1 No Board Member shall be liable for any loss other than those attributable to that Board Member's own dishonesty or to the wilful commission by the Board Member of any act known by that Board Member to be a breach of trust. No Board Member will be bound to take or be liable for failing to take, any proceedings against a co-Board Member for breach or alleged breach of trust.

7.2 Each of the Board Members and every person acting on behalf of the Board Members shall be indemnified out of the funds of the Trust for any personal liability incurred in respect of the exercise or attempted exercise of the trusts, powers and discretions vested in the Board Members pursuant to these Rules and in respect of any matter or thing done or omitted to be done in any way relating to the Trust (provided such liability is not attributable to his or her own dishonesty or to the wilful commission or omission by him or her of an act known by him or her to be a breach of duties owed to the Trust).

8 Conflicts of Interest

8.1 Subject clause 8.2, a Board Member will be treated as being interested in a transaction to which the Trust is a party or a matter requiring a decision of the Board if the Board Member:

a is a party to, or will derive a material financial benefit from that transaction or matter;

b has a material financial interest in another party to the transaction or in the matter;

c is a partner, director, officer or trustee of another party to the transaction or matter, or of a person who will or may derive a material financial benefit from the transaction or matter;

d is the parent, child or spouse of another party to the transaction or matter, or of a person who will or may derive a material financial benefit from the transaction or matter; or

- e is otherwise directly or indirectly interested in the transaction or matter, other than in the capacity of a Board Member of the Trust,

with 'transaction' for this purpose including the Board's performance of its functions under these Rules.
- 8.2 Notwithstanding clause 8.1, a Board Member shall not be regarded as being interested in a transaction or matter referred to in that clause 8.1:
- a if the Board Member's interest is so remote or insignificant that it cannot reasonably be regarded as being likely to influence the Board Member in carrying out the Board Member's responsibilities under these Rules; or
 - b if the Board Member's interest is an interest in common with the general public or forest growing industry in general.
- 8.3 As soon as a Board Member becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust or other matter under consideration, the Board Member must disclose to their co-Board Members at a meeting of the Board:
- a if the monetary value of the Board Member's interest is able to be quantified, the nature and monetary value of that interest; or
 - b if the monetary value of the Board Member's interest cannot be quantified, the nature and extent of that interest.
- 8.4 A disclosure of interest by a Board Member must be recorded in the minute book of the Trust.
- 8.5 Any Board Member who is personally interested in any transaction entered into or to be entered into by the Trust or matter requiring a decision of the Board in terms of clause 8.1, may not:
- a vote on a matter relating to the transaction or matter;
 - b take any part in the deliberations relating to the transaction or matter,
- without the express agreement of every other Board Member, and then only if the other Board Members are satisfied that neither the Board Member, nor any person related to the Board Member in terms of paragraphs c or d of clause 8.1, will derive any private pecuniary profit or gain from the transaction or matter, other than a private pecuniary gain expressly permitted under these Rules.
- 8.6 In any case where it is unclear as to whether or not a Board Member has an interest in any matter being deliberated or to be voted on by the Board, the Chairperson shall have sole power to decide whether or not such an interest exists for the purposes of this Rule. In the event that the Chair of the Board has a conflict of interest the deputy chair shall determine the future participation, or otherwise, of the Chair in the matter under consideration.
- 8.7 Subject to clauses 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, and 5.4:
- a each Board Member may act as a Board member and still contract or otherwise deal with Board Members on the Board in his or her personal capacity or in any other capacity as if he or she has not been appointed as a Board Member; and

b the right to continue to act as a Board Member will apply even though a Board Member's interest or duty in a particular matter may conflict with any duty the Board Member may have in respect of the Trust.

8.8 The Board Members, in determining all reimbursements, remuneration and charges payable in terms of this clause, shall ensure that the restrictions imposed by clause 5.4 of these Rules are strictly observed.

9 Membership

9.1 There must be a minimum of 15 Members at all times, although a Member who is a corporate body shall count as three Members for this purpose (but not for any other purpose except as provided for at Rule 13.3).

9.2 Any Actual or Potential Levy Payer may become a Member on entering into an agreement with the Board to that effect, on such terms as the Board determines.

9.3 The Board shall exercise its discretion with respect to entering into agreements with potential Members under Rule 9.2 having regard to the objective of ensuring that the Trust's membership is broadly representative of the plantation forest growing industry, to the extent the Board considers that doing so is reasonably practicable and efficient. The Board shall otherwise have absolute discretion as to whether or not to enter into an agreement with any Actual or Potential Levy Payer to become a Member, subject to Rule 9.1.

10 The Register of Members

10.1 The Board shall keep a register of Members, which shall contain the names, the postal and email addresses and telephone numbers of all Members, and the dates at which they became Members.

10.2 If a Member's contact details change, that Member shall provide the new contact details to the Board, and until given written notification of a change the Board shall be entitled to rely upon the contact details last notified to it in writing.

10.3 Each Member shall provide such other details as the Board requires.

11 Membership Role

11.1 All Members shall promote the objects of the Trust and shall do nothing to bring the Trust into disrepute.

12 Cessation of Membership

12.1 Any Member ceasing to qualify for membership in accordance with these Rules shall be struck off the register of members by the Board.

12.2 Any Member may resign from his or her membership by giving written notice to the Board. Every such notice, unless otherwise expressed in such notice, shall take effect immediately.

12.3 The Board may resolve to terminate the membership of any Member by notice for any reason, including when:

- a Such Member has brought the name of the Trust or any part of its membership into disrepute;
- b Such Member has publicly spoken or acted contrary to the objects of the Trust;
- c The Board believes on reasonable grounds that such membership has been obtained by deceit or fraud; or
- d Such Member has breached any agreement reached with the Board, where the Board reasonably determines that breach is material.

13 General Meetings

- 13.1 The Board has the power to call general meetings of Members.
- 13.2 The Board must give at least 14 working days' notice to all Members of a General Meeting.
- 13.3 All Members may attend and vote at General Meetings. The quorum necessary for any General Meeting shall be ten Members present in person or by proxy, with corporate bodies counting as three Members for the purpose of determining a quorum. Subject to Rule 14.1, all matters put to a General Meeting shall be determined by a majority vote of the Members present, with Members having regard to the views and interests of Actual and Potential Levy Payers as a whole, as expressed to them in writing on any matter.
- 13.4 Any Actual Levy Payer may attend a General Meeting provided that 2 business days' notice is given to the Trust of the Actual Levy Payer's intention to attend a General Meeting, and, for the avoidance of doubt, an Actual Levy Payer attending a General Meeting shall not be entitled to vote at that General Meeting unless that Actual Levy Payer is a current Member.
- 13.5 All General Meetings shall be chaired by the Chair of the Board, or by the Chair's nominated deputy in the absence of the Chair. If the Chair or the Chair's deputy is absent from any General Meeting, the Board Members present shall elect one of the officers to chair the General Meeting.
- 13.6 On any given motion at a General Meeting, the chair of the meeting shall in good faith determine whether to vote by: voices, show of hands, or secret ballot.
- 13.7 However, if three or more Members demand a secret ballot before a vote by voices or show of hands has begun, voting must be by secret ballot.
- 13.8 Any Member who is not able to attend a General Meeting may appoint a proxy to exercise that Member's voting rights, with any proxy needing to be in writing and lodged with the Chair prior to the commencement of the meeting.
- 13.9 Subject to these Rules, the procedure of any General Meeting shall be determined by the Board as it thinks fit.

14 Alteration of Rules

- 14.1 Subject to the provisions of the Incorporated Societies Act 1908, and the prior written approval of the Sponsors (who shall have regard to any views communicated to them by Actual and Potential Levy Payers before determining whether or not to grant such approval),

these Rules may be amended, rescinded or added to by a resolution passed by a majority of at least two-thirds of all valid votes cast by Members present in person or by proxy at a General Meeting called for such purpose, provided that no amendment may be made that would:

- a enable any assets of the Trust to be applied for the private pecuniary gain of any person in breach of Rule 5.4;
- b enable any assets of the Trust to be applied for the private pecuniary gain of any person on a winding up of the Trust;
- c undermine the restrictions set out in this Rule 14.1.

14.2 At least 14 days before a General Meeting at which any rule change is to be considered, the Board shall give to all Members written notice of the proposed motion, the reasons for the proposal, and any recommendation the Board may have. The proposed motion and content of that notice shall be publicised to Actual and Potential Levy Payers at the same time, on such basis as the Board considers appropriate.

14.3 When a Rule change is approved by a General Meeting, no change shall take effect until the Board has filed the changes with the Registrar.

15 Control of Funds and Borrowing

15.1 The funds of the Trust shall be devoted solely to the furtherance of the objects of the Trust set out at Rule 3.

15.2 Subject as aforesaid, all funds received by or on behalf of the Trust shall be under the control of the Board which shall provide for the opening of a bank account, the method of operating it, and the investment of funds not immediately required.

15.3 The Board shall have the power to borrow on behalf of the Trust in order to adequately fund the activities of the Trust pending the receipt of levies pursuant to the initial round of levy payments.

16 Common Seal

16.1 The Board shall provide a common seal for the Trust and may from time to time replace it with a new one.

16.2 Any person may be nominated by the Board to have custody of the common seal, which shall only be used with the authority of the Board.

16.3 Every document to which the common seal is affixed shall be signed by the Chair or the Chair's duly appointed alternative for this purpose and countersigned by another Board Member.

16.4 Deeds may be entered into on behalf of the Trust by execution under seal in accordance with the above provisions, or by any two Board Members with the express authority of the Board. Any other form of contract may be entered into by any Board Member acting under delegated authority of the Board.

17 Winding Up

- 17.1 The Trust may be wound up by the Board following a resolution to that effect by members if at any time there is no operative Levy Order in place.
- 17.2 If the Trust is wound up or dissolved:
- a The Society's debts, costs and liabilities shall be paid;
 - b No distribution may be made to any Member or Board Member;
 - c The surplus money and other assets after payment of all liabilities shall be paid, applied, transferred or appropriated towards the objects and purposes of the Trust or for any charitable purpose consistent with the objects and purposes of the Trust, as may be determined by the Board, or in default of such determination as may be directed by the High Court of New Zealand.

18 Interpretation

- 18.1 In the interpretation of these Rules, unless the context otherwise requires:

'Act' means the Commodity Levies Act 1990

'Annual Work Programme' means the programme that describes and prioritises the activities to be funded each year by the Trust through the payment of levy funds

'Appendix' means the appendix to these Rules

'Board' means the Board Members collectively, who are elected or appointed from time to time as such pursuant to these Rules

'Board Member' means the officers for the time being of the Trust, acting in a trusteeship capacity

'Chair' means the Chair of the Board appointed by the Board Members in accordance with Rule 5.8

'Forest Owner' means a person having legal ownership of a Qualifying Forest of four or more hectares

'Forest Production' means the sum of the cubic metres recovered by a forest owner of forest material upon which the levy is assessed. For levy purposes one cubic metre (JAS, 2D,3D or other cubic metre measurement), equals one tonne

'General Meeting' means a general meeting of Members called by the Board under Rule 13.1

'Industry Organisation' has the same meaning as defined in the Act, which for the purposes of the Rules means a body corporate to which a levy is payable under a Levy Order

'Levy Order' means the Commodity Levies (Harvested Wood Material) Order 2013 and any replacement levy orders that may be made under the Act pursuant to which a levy on harvested wood material is payable to the Trust

'Member' means subject to Rule 12 (cessation of membership), any person approved as a Member in accordance with Rule 7

'NZFFA' means the New Zealand Farm Forestry Association

'NZFOA' means the New Zealand Forest Owners Association

'Actual or Potential Levy Payer' has the meaning as defined under section 2 of the Act. For this purpose, the persons primarily responsible for paying the levy shall be deemed to mean any forest grower with four or more hectares of Qualifying Forest, and includes any other forest grower with an interest in the Levy that the FGLT Board is satisfied is similar in nature to the interest of a forest grower with four or more hectares of Qualifying Forest

'Qualifying Forest' means a forest which has a Stand or Stands of trees of 10 years or more in age (or planted before 1 March 2003, for the purposes of determining eligibility to participate in the election of Board members) totalling at least four hectares in size. This definition of Qualifying Forest shall apply for the duration of any Levy Order, except that every year the applicable planting date will advance a year, and measure from the first of January so that in 2014, by way of example, a Qualifying Forest will be a forest which has a Stand or Stands of trees planted before 1 January 2004, and so on

'Registrar' means the Registrar of Incorporated Societies

'Rules' means these rules, as amended from time to time

'Sponsors' means NZFFA and NZFOA

'Stand' means a contiguous area that contains a number of trees that are relatively homogenous and have a common set of characteristics, normally managed as a single unit. This definition applies to all species, wildings, and regeneration of a planted stand of trees grown for eventual harvest, but excludes Christmas trees and trees grown specifically for domestic firewood

'Trust' means the Forest Growers Levy Trust Incorporated

- 18.2 **Person:** The word 'person' wherever used in these Rules shall include any incorporated or unincorporated body.
- 18.3 **Board to determine:** Should a question at any time arise which is not provided for in these Rules, or should any doubt exist as to the interpretation of these Rules, or should any other matter arise pertaining to the Trust, its property or interests, the Board shall determine the matter, whose decision shall be final.