

NEW ZEALAND AIRLINE PILOTS'  
MUTUAL BENEFIT FUND



RULES



As at 13 December 2017

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## RULE 1 - GENERAL

- (a) **NAME:**  
The name of the Fund shall be the New Zealand Airline Pilots' Mutual Benefit Fund (hereinafter referred to as "The Fund"). The Fund retains its autonomy within the A.L.P.A. membership and is controlled by elected Trustees.
- (b) **OBJECTS:**  
The object of the Mutual Benefit Fund is to provide financial and other assistance and benefits to members of the Fund whose earning capacity as a Pilot has ceased due to loss of licence as defined in rule 1(d) below.
- (c) **NON PROFIT:**  
The Fund shall be non-profit making and its membership shall be voluntary and open to Pilots, who are desirous of becoming members and who are eligible to become members in accordance with these Rules. All assets and accumulated funds of the Fund shall be vested in the Trustees and shall belong to the members and shall be held and dealt with as provided in these Rules.
- (d) **DEFINITIONS:**  
Applicable Civil Aviation Act means, as the case may be, the Civil Aviation Act 1990 (NZ) or the Civil Aviation Act 1988 (Commonwealth of Australia), and includes any amendments to either of those Acts, and any rules or regulations made under them.

Award or Industrial Agreement includes an employment contract and an employment agreement, whether collective or individual.

Benefit means a payment made in accordance with the Rules of the Fund.

Capital Benefits means the total sum payment to which a member may be entitled by his/her own contributions and/or the contributions of his/her employer.

CASA means the Civil Aviation Safety Authority of Australia.

Claim means any claim by a member of entitlement (whether Discretionary or otherwise) to payment of a disability benefit pursuant to Rule 7 or a capital benefit pursuant to Rule 8; and includes any decision or Exercise of discretion by the Trustees in respect of any such claim pursuant to any provision of Rules 5, 6, 7 and 8.

Disability and Medical Disability each mean (subject if applicable to the exclusions provided for in Rule 6, and further subject to Rule 8(f)) the disability of a member as a result of illness, disease, injury or other medical cause.

Entitlement Date means the date on which the member first suffers loss of licence.

Financial Member means:

A person who is a member of the New Zealand Airline Pilots' Association Industrial Union of Workers' Inc (hereinafter referred to as the New Zealand Airline Pilots' Association) under the provisions of Rule 5(1)(a), (b) or (d) (but excluding any air traffic controller) and is not a member under Rule 12. Provided that in the case of any person who comes within Rule 5(1)(b)ii) or iii) or Rule 5(1)(d) of such Association's rules, continued membership of the Fund will be subject to obtaining the prior approval of the Trustees and to such conditions as they may impose.

Loss of Licence means:

- i) The revocation, withdrawal or suspension, whether permanently, temporarily or provisionally, of the Medical Certificate of a member; or
  - ii) The failure or refusal to issue to a member a Medical Certificate by way of renewal or replacement of a previously revoked, withdrawn, suspended or expired Medical Certificate; or
  - iii) The refusal to extend the Medical Certificate of a member beyond its expiry date; or
  - iv) The disqualification of the member from holding a Medical Certificate; or
  - v) The imposition or amendment by the Director of Civil Aviation, or, as the case may be, the Director of Aviation Medicine of CASA, any condition, restriction or endorsement in respect of any Medical Certificate issued to a member, in any case where the immediate effect (subject to any right of review or appeal) is to bring about a cessation (whether temporary or permanent) of the member's earning capacity as a Pilot.
- in each case, solely or primarily by reason of the member's medical disability;
- but (except where the Trustees in their discretion decide otherwise) excludes action taken in respect of the member's Medical Certificate pursuant to either Section 27I(3)(a) or Section 27I(11) of the Civil Aviation Act 1990, or any corresponding provisions in the Civil Aviation Act 1988 (Commonwealth of Australia).

Medical Certificate means the member's New Zealand or Australian medical certificate issued under the Applicable Civil Aviation Act.

Member means a pilot who is a financial member of the New Zealand Airline Pilots' Association and who is participating in the Fund and is a financial member of the Fund by virtue of his/her own contributions and/or the contributions of his/her employer.

Month means calendar month.

Mutual Benefit Fund or Fund means the New Zealand Airline Pilots' Mutual Benefit Fund.

Reinstatement of Licence means, in relation to a member who has suffered loss of licence:

- i) The reinstatement or restoration of the revoked, withdrawn, suspended or expired Medical Certificate of a member; or
- ii) The issue to the member of a Medical Certificate by way of renewal or replacement of a previously revoked, withdrawn, suspended or expired Medical Certificate; or
- iii) The revocation or withdrawal of any disqualification of the member from holding a Medical Certificate.
- iv) The revocation by notice or otherwise, of any condition, restriction or endorsement relating to a current Medical Certificate issued to the member which has or have brought about the member's loss of licence.

Trustee means a Trustee of the Fund appointed pursuant to these Rules.

(e) NOTIFICATIONS:

Wherever these Rules require a notification or notice to be given in writing, such notification or notice may be given by email.

RULE 2 - ELIGIBILITY

- (a) Membership of and right to participate in the Fund shall in the first instance be restricted to pilots who are financial members of the New Zealand Air Line Pilots' Association. Subject as follows:

No person over the age of sixty years shall be entitled to apply for membership unless such person has been a member and has ceased to be eligible by reason of his/her having taken leave without pay in which case such person shall be eligible to re-join the Fund at the discretion of the Trustees and upon such terms and conditions as the Trustees may impose.

- (b) Any applicant who has previously been a member of the Fund and whose membership has for any reason terminated shall only be eligible for renewed membership at the discretion of the Trustees and upon such terms and conditions as the Trustees may impose. Despite any other provision in these rules, such conditions may include a higher contribution rate than the then applicable rate that has been set under Rule 5(c), or a maximum Capital Benefit for which contributions may be received that is lower than the amount fixed under Rule 5(d), or a lesser rate of disability benefit than is prescribed by Rule 7(a), or any combination of those conditions. The Trustees may from time to time, after consultation with the member, review any condition imposed under this rule, and may remove or vary it in light of any changed circumstances.
- (c) A person who holds a medical certificate issued by CASA, but who does not also hold a New Zealand medical certificate, may be accepted for membership of the Fund provided that he or she:
- i) Is ordinarily resident in New Zealand; and
  - ii) In all other respects meets the requirements for membership under these rules.

RULE 3 - APPLICATION FOR MEMBERSHIP

- (a) Application for membership of and participation in the Fund shall be in writing to the Trustees on such application form or in such electronic format as may from time to time be prescribed by the Trustees.
- (b) Where a member of the Fund desires to increase his/her contributions to the Fund so that he/she shall be entitled to participate in an increased Capital Benefit such members shall complete a new application form for the consideration of the Trustees and their approval before being permitted to make such increased contributions.
- (c) Where a member of the Fund who is already participating in such Fund desires to make contributions to the Fund which would entitle him/her to participate in a lower Capital Benefit it shall not be necessary for him/her to complete a new application form but he/she shall give to the Trustees notice in writing of his/her intention to vary his/her contributions not less than fourteen (14) days before the date when payment of the first instalment of an annual payment falls due.

#### RULE 4 - ACCEPTANCE OF MEMBERSHIP

- (a) All applicants for membership shall be considered by the Trustees at the meeting of the Trustees next following the lodging of the application and such applicant shall, subject to such satisfactory evidence of health as the Trustees may require, be approved provided the applicant is eligible under the provisions of Rule 2.
- (b) Subject to and conditional upon the acceptance by the Trustees of his/her application a member's participation in the Fund shall commence on the first day of the month after the date of receipt of a properly completed application. Such participation shall be subject to any medical exclusion or exclusions which the Trustees may attach in accordance with Rule 6.
- (c) Where an applicant for membership being an employee entitled to a loss of licence allowance from an employer pursuant to an Award, Industrial Agreement or Contract of Employment does not apply for membership of and participation in the Fund within twelve months of becoming eligible for membership of the New Zealand Airline Pilots Association, such applicant shall, at the sole discretion of the Trustees, be accepted for membership of and participate in the Fund on the basis of reduced benefits over the initial years of membership and participation as provided in Clause(e) of Rule 8 hereof.

#### RULE 5 - CONTRIBUTIONS TO THE FUND

- (a) The full amount of any allowance for loss of licence insurance made pursuant to any Award or Industrial Agreement by an employer shall be paid directly to the Fund unless the member at the discretion of the Trustees has been permitted to contribute from his/her own resources.
- (b) Subject to the maximum benefit for which a member is from time to time entitled to contribute a member may contribute to the Fund in excess of the amount for which he/she is entitled to an allowance from his/her employer.
- (c) Contributions to the Fund made by the employer and/or the member shall be applied at such rate as the Trustees may decide from time to time but provided that the rate shall not exceed \$15 per \$1,000.00. The Trustees may set a different contribution rate for members who hold a medical certificate issued by CASA.
- (d) The maximum Capital Benefit for which contributions shall be received will be determined by the Trustees. The Trustees may further from time to time vary the maximum amount of Capital Benefits. In no event shall a member be entitled to receive a Capital Benefit which exceeds five times the member's annual salary. In this rule annual salary means the greater of:
  - i) the member's gross annual salary as at the Entitlement Date, as specified in the collective agreement or employment contract that covers the member, or
  - ii) the member's gross salary over the 12 month period immediately before the Entitlement Date.
- (e) i) except as otherwise provided in these Rules a member is entitled to the full benefit of the sum for which he/she contributes and which is contributed on his/her behalf up to and including the age of sixty years.

- ii) a member on reaching the age of 59 years shall not be entitled to contribute in excess of his/her employer's contribution for any greater capital benefit than the average amount of additional cover for which he/she had contributed in the five years immediately preceding the year in which he/she attained the age of 59 years. In succeeding years after reaching the age of 55 he/she shall only be entitled to the following percentages of the total capital benefit contributed for:

Age	Capital Sum (to be on a daily pro-rata basis)
56	90%
57	80%
58	70%
59	60%
60	50%
61	40%
62	30%
63	20%
64	10%
65	Nil

Notwithstanding the above limitations in (i) and (ii), the Trustees shall be entitled to vary the age up to which members have a full entitlement or to contribute in excess of his/her employer's contribution. In the event of such age being increased or reduced, the limitations in Clause (e) (ii) shall be varied in a like manner.

(For information on current ages that apply under this sub-rule, you should contact the office of the Fund's Secretary. This note does not form part of these rules.)

- (f) An applicant eligible to join and participate in the Fund on the first day of April in any year may apply for membership at any time during the next succeeding period of twelve months and shall pay such proportion of the annual subscription as the Trustees may determine.
- (g) Contributions to the Fund shall be paid in such manner as shall be authorised or prescribed by the Trustees. During any period when a member's contribution is in arrears he/she shall not be entitled to any benefits relating to such contribution unless the Trustees shall have granted the member time for payment of such arrears.

A member, whose contributions have been in arrears for a period of not less than two months may, at the discretion of the Trustees and after a final demand giving not less than 14 days to bring contributions up to date has been made, be excluded from membership. Re-admission to the Fund after exclusion by the Trustees shall be at the discretion of the Trustees and upon such terms and conditions as they may determine.

- (h) Notwithstanding the provisions of Rule 5(d) imposing a limit on the maximum capital benefit for which a member is entitled to contribute or receive and the requirement for members to be members of the New Zealand Airline Pilots' Association, the following provisions at the discretion of the Trustees shall apply to any member who has been made redundant, other than voluntarily, and wishes to retain loss of licence cover:

- i) For a period of 24 months from the date of redundancy and either:
- a) whilst not in receipt of income from employment as a Pilot the member may remain a member of the Fund or re-join the Fund, or

- b) whilst in receipt over part or all of that period of income from overseas employment as a Pilot which is intended to be temporary employment only pending the obtaining of new employment as a Pilot by a New Zealand-based employer the member may re-join the Fund –  
subject to payment of contributions as such rate and for such minimum amount as the Trustees shall require.
- ii) During such period the member shall undergo such medical examinations as are necessary for him to hold the type of licence held at the date of redundancy.
- iii) In the event of loss of licence the member shall be entitled to receive the capital sum for which he has contributed during the period of redundancy.
- iv) Except as to the above provisions all other provisions of the Rules of the Fund shall apply.

#### RULE 6 - EXCLUSIONS

- (a) Entitlement under the Fund shall be continuing for the duration of membership of the Fund and no exclusion shall attach to a member's entitlement in respect of an illness or injury occurring during but not prior to the period of membership. Except that, in accordance with Rule 3 where a member applies for an increase in capital sum and such application has been approved by the Trustees, the Trustees may at their discretion apply such an exclusion on the increased amount of capital sum applied for only.
- (b) Where on the recommendation of the Medical Advisers to the fund, the details disclosed on the application form justify further enquiry and/or the attachment of an exclusion, the applicant member shall be requested to forward such additional details as are required and may be requested to provide authority for the medical adviser or the Trustees to obtain such details from the appropriate personal physician or any physician employed or retained by the employer of such member.

Following such enquiries an exclusion may attach to the benefits in the Fund to which the member is entitled until removed by the Trustees following the Trustees being satisfied with such further and additional details as may be supplied.

- (c) A member shall be advised in writing of any possible temporary or permanent exclusion, inserted in accordance with Clause (b) of this Rule, within 60 days of the meeting of Trustees at which his/her application for membership and participation was approved or such longer period as is required by the Trustees to investigate and make a decision on the application, and within one month from the date of such advice being forwarded to such member he/she shall have the right to elect by notice in writing to the Trustees to withdraw from the Fund or to withdraw from an application for additional cover in which case he/she shall be entitled to the refund without deduction of any payment he/she may have made in excess of the contribution to which he/she is entitled from his/her employer under an award or industrial agreement. In the event of the member failing to give such notice he/she shall be deemed to have accepted membership subject to the exclusions or conditions imposed by the Trustees.
- (d) Where as a result of any disclosure on the application form advice from the applicant member's personal physician or further medical specialist advice is required by the Medical Advisers to the Fund the costs associated therewith shall be borne by the Fund.

- (e) The Fund shall not be liable to make payments by way of benefits to a member where the member's loss of licence occurs as a consequence of the happening of any of the following events:
- i) War in which the member is a conscripted or volunteer participant.
  - ii) Intentional self-injury, suicide or attempted suicide (whether felonious or not), assault provoked by the member, duelling or fighting (other than in bona fide self-defence).
  - iii) Injury occurring as a result of the member being less capable than usual of taking care of himself whilst under the influence of alcohol or drugs (other than a medical prescription).
  - iv) Any criminal act of the member for which a member has been convicted and as a result of or during the commission of which he/she has suffered injury.
  - v) Exclusions attaching to individual application except that the Trustees in their discretion may authorise benefit payments up to the limits specified in Rule 8 (f).
  - vi) A condition of pregnancy but not including a disabling condition arising therefrom.

Notwithstanding the above exclusion, the Trustees may in their discretion authorise benefit payments up to the limits prescribed in Rule 8 (f).

- (f) Where, as at the entitlement date, a member is carrying out duties for their employer for which a medical certificate is not required to be held, such member will not be entitled to any benefits under these rules unless either:
- i) The member has previously applied for, and the Trustees have approved, continuing entitlements under the Fund (which may be subject to conditions, including a condition as to the level of cover that may be held or a condition as to the level of salary for the purpose of calculating any disability benefit payments) pending the member resuming flying duties; or
  - ii) The Trustees are satisfied that the duties for which a medical certificate is not required to be held are carried out only occasionally and are incidental to the member's primary occupation as an airline pilot.

#### RULE 7 - DISABILITY BENEFITS

- (a) Subject to Rules 6 and 8(f), in the event of Loss of Licence by a Member, benefit payments may at the discretion of the Trustees be made from the Fund to the extent of 90% per month of the member's net earnings, less other disability income. The Member's net earnings will be based on his or her monthly pre-disability earnings, calculated as at the entitlement date.
- (b) Such benefit payments shall commence with effect from a date to be specified by the Trustees being not earlier than the date that immediately follows the expiry of the waiting period and shall continue until:
- i) The reinstatement of the Member's licence, or
  - ii) The Member's death,

- iii) Where the Trustees at any time after 12 months from the entitlement date, after consulting with the Fund's Medical Advisers, are satisfied that the Member's loss of licence is permanent and resolve to pay to the Member his or her Capital Benefit pursuant to Rule 8(b),
- (c) The Trustees may at their absolute discretion, in any case where they are satisfied that the Member or the Member's dependents (or both) will suffer undue hardship in the absence of such payment, make payments to the Member as provided in clause (a) hereof at any time following loss of licence by the Member, without having regard to the provisions of clause (b).
- (d) Where a Member suffers Loss of Licence following the reinstatement of a previously revoked, withdrawn or suspended Medical Certificate, and such Loss of Licence is the result of the same sickness or injury that led to the previous revocation, withdrawal or suspension of the Member's Medical Certificate, the Trustees may treat the periods of Loss of Licence as being continuous for the purposes of calculating either the 12 month period referred to in clause (b)iii) hereof or the 27 month (or longer) period referred to in clause (b)iv).
- (e) No payment from the Fund shall be made to any Member pursuant to clauses (a), (b) or (c) of this Rule where salary has been or will be paid by his/her employer without any deduction from such member's sick leave credits unless the Trustees in their discretion decide to pay all or part of a monthly disability benefit to a member who is carrying out ground duties for his/her employer pursuant to a work rehabilitation programme which has the objective of enabling the Member to return to flying duties within the reasonably near future or the Trustees in their discretion consider that in failing to make such payment undue hardship would result to the Member and/or his/her dependents. Despite the foregoing, the Trustees shall, in the case of any Member who is entitled to paid sick leave from his or her employer, pay that Member a Disability Benefit corresponding to the difference between his or her entitlement to such paid sick leave and the amount that he or she would otherwise be entitled to receive pursuant to clause (a) hereof until the entitlement to the paid sick leave has expired.
- (f) The Trustees shall not make any payment pursuant to this Rule unless and until the Member shall have provided to the Trustees' satisfaction a statement in writing signed by a New Zealand Civil Aviation Authority approved medical examiner or CASA's Office of Aviation Medicine verifying that the Member's Loss of Licence has occurred by reason of the Member's disability. Both the commencement and continuance of such payments shall be conditional upon satisfactory evidence being provided to show that the Member is taking or has undertaken to take all reasonable steps to have his/her disability rectified. The Trustees may at their discretion meet or contribute towards the cost (including any incidental expenses) of any rehabilitation assessment report or medically or psychologically approved rehabilitation programme, but no member shall have the right to claim against the Fund for the cost of any such report or programme. The Trustees may in their discretion deduct the costs of any such approved rehabilitation programme from the member's capital benefit.
- (g) For the purposes of this Rule:
- i) "Monthly pre-disability earnings" means the greater of:
- The Member's net earnings during the month immediately before the Loss of Licence; or
  - The monthly average of the Member's net earnings during the 12 month period immediately before the Loss of Licence;

- ii) “Net earnings” means after tax salary received from the Member’s occupation as an airline pilot or airline pilot seconded to ground instructional duties.
- iii) “Other disability income” means any periodic payments that the Member receives, or is entitled to receive, for any sickness or injury from any private salary continuance insurance or from any other fund constituted along lines similar to the Fund or by way of accident compensation payments under the Injury Prevention, Rehabilitation and Compensation Act 2001 or any corresponding legislation or other legislation that provides compensation for workplace disabilities.
- iv) “Rehabilitation” means a process of active change and support, which is generally post-operative or follows other major treatment, and which has the goal of restoring the member’s vocational rehabilitation thereby enabling a return to flying duties.
- v) “Waiting period” means:
  - (A) In the case of a member who has an annual entitlement to at least 20 days paid sick leave under his or her employment agreement, the period from the Entitlement date to the date that the member’s entitlement to paid sick leave (including any entitlement to accumulated paid sick leave) is exhausted;
  - (B) In the case of all other members, the greater of:
    - one month from the Entitlement date, or
    - the period from the Entitlement date to the date that the member’s entitlement to paid sick leave (including any entitlement to accumulated paid sick leave) is exhausted.
- (h) Each member who is in receipt of a disability benefit is under a responsibility to use his or her best efforts to achieve vocational rehabilitation and the reinstatement of their licence, unless such objectives are impracticable in the member’s particular circumstances. In any case where a member is unable to establish to the reasonable satisfaction of the Trustees that he or she is complying with such responsibility, the Trustees may suspend payments of the disability benefit until such time as the member is able to persuade the trustees either:
  - i) that the member is complying with that responsibility, or
  - ii) that it is impracticable for the member to so comply by reason of the member's particular circumstances.
- (i) In any case where a claim has been accepted the Trustees may in their discretion contribute to the costs of any activity, programme or other form of assistance that has been requested by the member, and which the Trustees reasonably consider is likely to assist the member.

This may include assistance after Reinstatement of Licence. Any such contributions towards approved rehabilitation programmes will be limited to a maximum in aggregate of 1% of the value of the member’s capital benefit and may in the trustees’ discretion be deducted from the capital benefit or (as the case may be) any future capital benefit to which the member may become entitled.

- (j) The commencement and continuance of disability benefits will be conditional on the member providing such authorisations relating to access to, or disclosure of, medical or

other health-related information as may be reasonably required in respect of that member to enable:

- i) the Trustees, their medical advisers, their case managers and the Fund's office staff to perform their respective functions and services effectively, or
  - ii) professional advisers to provide advice or reports to the Trustees, or
  - iii) claim-related information to be obtained from any insurer with which a member has disability cover, or
  - iv) the member's vocational rehabilitation to be progressed.
- (k) (a) Where a member who is in receipt of disability benefits receives other income the member is obliged to disclose the amount and source of that other income to the Trustees without delay.
- (b) If the other income is, or averages, more than 20 per cent of the member's monthly disability benefit the Trustees may in their discretion deduct the amount of the other income from the disability benefit.
- (c) In the event that the member ceases to receive that other income the member may apply to the Trustees for reinstatement of the member's full monthly disability benefit entitlement in respect of future payments of the benefit.
- (d) In this sub rule "other income" means gross salary, wages, or other periodic earnings, whether derived by the member from employment, contracting work, any business or from any other source, but does not include salary paid to the member under rule 7(e).

#### RULE 8 - CAPITAL BENEFITS

- (a) Except in a case to which Rule 8(b) applies, where a member who has suffered loss of licence has been in receipt of disability payments for a continuous period of 50 months, or such lesser period as the Trustees may in their discretion determine, and has not then achieved reinstatement of licence, the balance of the Capital Benefit to which the member is then entitled shall be paid to him or her. The amount of the member's Capital Benefit entitlement shall be calculated as at the member's entitlement date, without regard to any contributions which may have been made after the entitlement date.
- (ab) Where an application for membership is approved by the Trustees on or after 1 December 2017, that member shall be entitled to the percentages of the capital benefit for which contributions are received for each 12 months of membership as follows:
- first 12 months, 20 per cent
  - second 12 months, 40 per cent
  - third 12 months, 60 per cent
  - fourth 12 months, 80 per cent
  - following 48 months of membership, 100 per cent.

The foregoing reduced percentages of capital benefit will not affect the level of a member's entitlement to monthly disability benefits as calculated under rule 7(a). For avoidance of doubt, the applicable percentage will be determined as at the entitlement date, irrespective of the length of time that a member remains on claim.

- (b) Where the Trustees acting pursuant to Rule 7(b) iii) have determined that the member's loss of licence is permanent, the Trustees shall pay forthwith to the member concerned the balance of the Capital Benefits to which the member is then entitled, calculated in accordance with Clause (a) hereof.
- (c) Any member making application for benefits from the Fund will, if required by the Trustees to do so, submit to an independent medical examination at the expense of the Trustees for the purpose of ascertaining the nature of the disability in question, the subject matter of his/her application.
- (d)
  - i) Any member who has received or applied for a benefit from the Fund shall, at the request of the Trustees made in writing at any time before receipt by the member of a Capital Benefit payment pursuant to this Rule, submit to an independent examination at the expense of the Trustees by a registered medical practitioner for the purpose of ascertaining whether or not the member's disability may have improved so as to permit reinstatement of the member's licence.
  - ii) If the Trustees upon receipt of the results of the independent medical examination of the member are satisfied that the member is able, or could by undergoing further treatment or taking further action which it would be reasonable in the circumstance for him or her to undergo or take to achieve reinstatement of the member's licence, the Trustees may at their discretion (after seeking comment from the member as to the Trustees' proposed course of action) suspend future payments to the member from the Fund, unless and until the member shall have undergone such further treatment or taken such further steps (as the case may be) as the Trustees shall have specified to the member.
  - iii) In the event of the member having undergone the further medical treatment or taken the further action (as the case may be) and having nonetheless failed to secure reinstatement of licence, the Trustees shall forthwith pay to the member all benefits (if any) payment of which was suspended by the Trustees and shall for the future reinstate all such benefits (if any) to which the member is or may become entitled pursuant to these Rules.
  - iv) The Trustees may at their discretion contribute such sum or sums toward the cost of any further treatment or further action which the member may be required to undergo pursuant to Sub-clause (ii) hereof. No member shall have the right to claim against the Fund for the cost of surgery or other medical treatment or examination.
- (e) Where an applicant has been accepted for membership in accordance with Rule 4(c) hereof the Capital Benefits available to him/her shall be as follows:
  - i) During the first year of participation - 7/10th of the capital sum to which he/she would otherwise be entitled under these Rules.
  - ii) During the second year of participation - 8/10th of the capital sum to which he/she would otherwise be entitled under these Rules.
  - iii) During the third year of participation - 9/10th of the capital sum to which he/she would otherwise be entitled under these Rules.
- (f) Where the disability which results in the member's loss of licence is the subject of an individual exclusion, the Trustees in their discretion may authorise payment of disability benefits up to the following maximum capital sum:

- i) During the first year of membership - 7/10th of the capital sum to which he/she would otherwise be entitled under these rules.
  - ii) During the second year of membership - 8/10th of the capital sum to which he/she would otherwise be entitled under these rules.
  - iii) During the third and subsequent years of membership - 9/10th of the capital sum to which he/ she would otherwise be entitled under these rules.
- (g) The Trustees will monitor the MBF's financial position on an ongoing basis. Despite any other rule, where the total benefits either estimated to be paid or actually paid to members during a financial year exceed ninety percent of the Fund's gross income for that financial year, then the Trustees may reduce the amounts that would otherwise have been payable by way of disability benefits and capital benefits during that and, if necessary, the following financial year by up to ten percent.
  - (h) The Trustees in their discretion may decide not to apply Rule 8(g) if in their opinion the overall financial strength of the Fund is satisfactory.
  - (i) Despite the withholding of Disability Benefits from a member under Rule 7(f) such member or (as the case may be) the member's estate shall, if the member in all other respects qualifies for payment of a Capital Benefit under any of Rule 7(b)ii) or (iii) or (iv), be entitled to be paid a Capital Benefit accordingly.
  - (j) Where a member who is in good financial standing loses his or her medical certificate, but has not established an entitlement to disability benefits, the Trustees may in their discretion authorise an ex gratia payment or payments to that member if the trustees are satisfied that that is justified on compassionate grounds or by reason of undue hardship to the member or to his or her dependants. Any such payments will not exceed 2 percent in aggregate of the member's capital benefit. If the member eventually establishes an entitlement to benefits, the Trustees may deduct the payment(s) from future instalments of disability benefit or from the member's capital benefit.

#### RULE 9 - DEATH BENEFIT

When a member of the Fund has had a claim accepted by the Trustees and whose licence has not been reinstated by the time his/her death, then the Trustees may pay the Capital Benefit to which the member was entitled or part thereof as the Trustees may determine to the partner and/or children or child or other dependent of the member or to a Trust established for such person in such shares or proportion as the Trustees in their absolute discretion determine.

#### RULE 10 - NOTIFICATION OF DISABILITY

- (a) In the event of any member suffering any illness or injury which results in loss of licence the member shall within 90 days of such event give notice in writing to the Trustees at the offices of the Fund, and shall state the reasons for the loss of licence as these are known to the Member.
- (b) The Trustees shall, if they so desire, be at liberty at the expense of the Fund, to appeal against such suspension, or cancellation in the name of the member and to employ their own solicitors to conduct such an appeal and the member shall give all possible assistance and information

to the Trustees and to their Solicitors in and about the preparations and conduct of such appeal.

- (c) In the event of any member making a fraudulent claim or in making his/her claim being guilty of concealment non-disclosure or incomplete disclosure of any material fact he/she shall not be entitled to any benefit under the Fund and his/her membership of the Fund shall forthwith be terminated and he/she shall not be entitled to a refund or repayment of any contribution made by him/her to the Fund. Any material non-disclosure in an application for membership shall similarly disentitle the member to any benefit or refund from the Fund. Any material non-disclosure in an application for additional cover shall disentitle the member to the additional cover and to any refund for that additional cover.

#### RULE 11 - TERMINATION OF MEMBERSHIP

- (a) Voluntary:  
Provided he/she is not in receipt of a loss of licence allowance from his/her employer a member may voluntarily withdraw from membership of the Fund by notifying the Trustees in writing of his/her intention so to do specifying a date in advance from which he/she desires to withdraw. Such notification may be given at any time and membership shall cease in accordance with such notice. The Trustees may at their discretion repay to the member from the Fund such portion of the then current contribution as represents the period from the date of withdrawal to the end of the then current year of the Fund.
- (b) Automatic:  
Membership of the Fund shall be terminated upon the happening of any of the following:
- i) If the member is declared to be an un-financial member of the New Zealand Airline Pilots' Association.
  - ii) If the member has reached the age of sixty-five years or such age as the age of entitlement ceases under Rule 5(e)ii).
  - iii) If the member has received payment of the full Capital Benefits due to him/her under these Rules.
  - iv) If the member ceases to be a "member" as defined in Rule 1 (d), unless prior to the date of ceasing to qualify for membership approval in writing has been given by the Trustees for the member to retain membership.
  - v) If a member is excluded under Rule 5 (g).
  - vi) If, in the opinion of the Trustees, a member who holds a medical certificate issued by CASA (but who does not also hold a New Zealand-issued medical certificate) ceases to be ordinarily resident in New Zealand.
- (c) Termination of membership for cause:  
Membership may be terminated by the Trustees following due inquiry and after giving the member an opportunity to be heard:
- i) in circumstances covered by rule 10(c);
  - ii) for material misrepresentation or concealment in the member's application for membership;

- iii) for non-disclosure or concealment of the amount or source of other income that the member is obliged to disclose by reason of rule 7(k);
- iv) for any act of dishonesty towards the Fund which has caused, or was calculated to cause, financial loss to the Fund.

#### RULE 12 - ARBITRATION OF DISPUTES

- (a) All disputes arising out of any claim or other matter under these rules are submitted to arbitration.
- (b) The place of arbitration shall be Wellington, New Zealand, unless the parties agree in writing to some other place.
- (c) The number of arbitrators shall be one.
- (d) The arbitrator shall be nominated by the President of the Wellington Branch of the New Zealand Law Society at the time the arbitration proceedings are commenced.
- (e) No arbitral proceedings may be commenced unless the party who intends to commence them has given written notice requiring the appointment of an arbitrator to the other party within 12 months of the decision of the Trustees or other matter that has given rise to the dispute.
- (f) The provisions of Schedule 2 to the Arbitration Act 1996 shall not apply to the arbitration with the exception of:
  - i) clause 5 (which relates to appeals to the High Court on issues of law);
  - ii) clause 7 ( which relates to the Court's power to extend time).

#### RULE 13 - TRUSTEES

- (a) Appointment:

The number of Trustees of the Fund shall not be less than seven or more than ten.
- (b) Term of Appointment:
  - i) Of the Trustees so appointed at least one, but up to two Trustees shall be appointed for a maximum period of five years but after the expiry of such period shall be eligible for reappointment. Such Trustees shall be persons other than financial members of the New Zealand Airline Pilots' Association. The replacement or reappointment of any such Trustee shall be made at an annual meeting of the members of the Fund as is hereinafter provided and any such person so appointed shall at the date of appointment be a person other than a financial member of the New Zealand Airline Pilots' Association.
  - ii) Up to two Trustees shall be appointed from persons nominated by employers of members of the Fund. Any employer of members may, not less than 14 days before an Annual General Meeting, nominate one person to be appointed as Trustee. In the event of nominations of more than two persons being received the Trustees shall be elected from those nominated by the members of the Fund at the Annual General Meeting.

- iii) At least four, but up to six Trustees shall be elected by ballot in accordance with rule 13(m). Such Trustees shall be financial members of the New Zealand Airline Pilots' Association and elected by members of such Association.
- (c) **Rotation of Trustees:**  
Of the Pilot Trustees elected pursuant to Rule 13(b) iii), the Trustee with the longest length of service shall retire each year and if there be more than one with equal service the Trustee who so retires shall be determined by lot. A ballot for the election of a Trustee to replace the Pilot Trustee so retiring shall be conducted not less than 14 days before an Annual General Meeting and the results will be announced by the returning officer at the Annual General Meeting. The retiring Pilot Trustee shall be eligible for re-election. The ballot will be conducted in accordance with Rule 13(m).
- (d) **Vacancy:**  
In the event of the office of any Trustee being vacant then the continuing Trustees shall have the power to appoint a Trustee and such Trustee so appointed shall hold office until the next annual meeting of the members when he/she shall resign but may be eligible either for reappointment or (as the case may be) for re-election under Rule 13(m). Any Trustee so appointed shall be qualified as provided in Rule 13(b).
- (e) **Removal:**  
A Trustee may be removed from office by a majority vote of the members of the Fund present at any annual or special meeting of the members. In the event of any Trustee being removed from office as aforesaid such general or special meeting as the case may be shall thereupon arrange for a Trustee to be appointed or (as appropriate) elected by ballot in his/her place.
- (f) **Meetings:**  
Meetings of the Trustees shall be held at least once in every three months. Special meetings may be called at any time by the Chairman and the Chairman shall call a special meeting upon being requested in writing so to do by any two Trustees.
- (g) **Notice:**  
Notice of meetings shall be given in writing to all Trustees not less than 14 days before the day appointed for such meeting.
- (h) **Quorum:**  
Five Trustees present at any meeting shall constitute a quorum provided that three of such Trustees are financial members of The New Zealand Air Line Pilots' Association.
- (i) **Power to Act by Majority:**  
Any trusts and powers exercisable by the Trustees are exercisable by a majority of them present in person or by proxy under Rule 13 (k) (xiii), and any act or decision of the majority shall take effect as if it had been the unanimous act or decision of the Trustees.
- (j) **Chairman:**  
Each year the Trustees shall elect as Chairman one of their number, who shall be a financial member of The New Zealand Air Line Pilots' Association. The Chairman shall serve in that capacity for one year and shall have a casting vote for the purposes of Rule 13 (i).

At any meeting from which the Chairman shall be absent, the Trustees present shall elect one of their number, who is a financial member of The New Zealand Air Line Pilots' Association, to act as Chairman at that meeting and the person so elected shall also have a casting vote at that meeting.

- (k) Trustees Powers and Duties:  
The Trustees shall control the administration of the Fund and shall in addition to any other powers and duties expressed or implied under these Rules or the Trustee Act 1956 and any subsequent amendments:
- i) Examine all applications for membership of the Fund, and
  - ii) Authorise the acceptance of a member into the Fund, and stipulate any conditions or exclusions appertaining thereto.
  - iii) Examine all claims made on the Fund.
  - iv) Examine all notifications of disability made.
  - v) Authorise all payments that are to be made on claims, either as monthly benefits or capital benefits.
  - vi) Authorise and supervise the investment of monies in the Fund.
  - vii) Ensure that financial members are kept informed as to the Rules of the Fund and any changes made thereto.
  - viii) Take advice from members of the official Stock Exchange in New Zealand or elsewhere as to the investment of funds and to employ such brokers to buy and sell investments on the Fund's behalf.
  - ix) To keep the records of the application claims and correspondence in relation to the Fund and to keep and record minutes of all meetings of the Trustees.
  - x) To do all such acts and things as may be necessary for the carrying out of the objects of the Fund.
  - xi) To engage such professional or financial advisors as the Trustees consider necessary to carry out the objects of the Fund and to maintain its financial stability.
  - xii) As the Trustees see fit, to engage in and to expend monies belonging to the Fund on any course of action including litigation (whether carried on by the Trustees personally or not) intended to advance the members' collective interests in relation to the medical certification of pilots.
  - xiii) To expend monies on the administration of the Fund, including the lease or purchase of premises and office equipment, the employment of staff or the engagement of contractors, and the establishment of such corporate structure as may appear best suited in the trustees' opinion to achieve the efficient administration of the Fund.
  - xiv) It shall be the duty of every Trustee to attend in person, or by proxy every meeting of Trustees. A Trustee may only appoint another Trustee as a proxy. Every instrument by way of proxy shall be in the following form:

## NEW ZEALAND AIRLINE PILOTS' MUTUAL BENEFIT FUND

I ..... being a Trustee of the NZALPMBF hereby appoint ..... or failing him ..... both of whom are also Trustees of the NZALPA MBF, as a proxy to vote for me on my behalf at the Trustees' meeting of the ..... 20 ..... or at any adjournment or postponement thereof.

Signed this ..... 20 .....

Unless otherwise instructed the proxy votes as he thinks fit. A faxed proxy shall be acceptable but will be required to be followed by a signed proxy within 7 days.

- (l) i) All Trustees are forbidden from having any financial interest in the fund, other than as a contributing pilot member. Any Trustees holding any financial interest at the time of appointment (other than as allowed herein) must relinquish that interest within 6 months of appointment as Trustee.
- ii) Subject to Rule 20, no member Trustee may make or seek to make any financial gain or advantage as a result of his/her position as Trustee to the Fund.
- iii) A trustee who is a claimant on the Fund shall stand down from his or her duties as a trustee and as a director in any corporate entity established for the administration of the Fund while in receipt of disability benefits. Where the duration of the trustee's disability exceeds six months from the Entitlement Date a vacancy shall be deemed to have arisen under Rule 13(d) in respect of the office of that trustee.
- (m) i) When the election of Trustees is required, the Secretary shall call for nominations by notice posted to every financial member at his or her address shown in the books of the Fund or sent by email to such personal email address as the Member may have provided to the Secretary of the Fund.
- ii) Nominations shall be signed by the nominator, seconder and nominee, with full names to be printed in a legible way alongside or below the respective signatures.
- iii) Nominees for election as Trustees must prepare a "statement to voters" or not more than 500 words as to the reasons the nominee wishes to be a Trustee. Included in this statement to voters shall be a declaration of any current financial interest in the Fund, other than as a contributing pilot.
- iv) The ballot will be conducted not less than 14 days before the Annual General Meeting. Voting for trustees will be conducted by email. This will be deemed to have been received at the time of actual receipt or, if that occurs during days or hours when the office of the Fund is closed, then as soon as it reopens.
- v) When a ballot is required to be held for the election of Trustees, then the Trustees shall:
  - 1. Appoint a returning officer who shall be responsible for the conduct of the ballot.

2. Upon collecting the ballot papers or receiving them by email, the returning officer shall tally the results and declare the candidate with the highest valid votes cast to be elected.
- vi) The successful candidate will take office as a Trustee with immediate effect.
  - vii) Despite anything in these rules, where the number of nominations received coincides with the number of vacancies the provisions of this sub rule (m)iii) to vi) (both inclusive) shall be inapplicable, and the Secretary shall declare the nominee or nominees duly appointed as Trustees with immediate effect.

#### RULE 14 - INDEMNITY

Every Trustee and other person holding office for the time being under the Fund shall be indemnified out of the assets of the Fund from all liability losses and expenses incurred by them or any of them in the carrying out or about the discharge of their respective duties, as a result of their negligence default breach of duty breach of trust or arising in any other way or manner, unless such liability loss or expense is incurred as a result of criminal negligence or deliberate default breach of duty breach of trust or other criminal or deliberate way or manner.

#### RULE 15 - RESIGNATION OF TRUSTEE

A Trustee may resign his/her period of office by notification in writing to the Chairman of the Trustees of the Fund.

#### RULE 16 - ACCOUNTS AND AUDIT

The Trustees shall cause proper books of account to be kept in relation to the transactions of the Fund. A balance sheet shall be prepared as at the 31st March each year together with supporting accounts for the preceding twelve months ending on that date. Such accounts shall be subject to annual audit by the Auditors appointed to the Fund.

#### RULE 17 - INVESTMENT OF FUNDS

The Trustees shall invest monies belonging to the Fund prudently.

- (a) The Trustees will formulate a statement of investment policy objectives ("SIPO"). The Trustees will review the SIPO at least annually and may update its objectives and its other terms in light of changing investment market conditions and the Fund's projected financial needs from time to time.
- (b) The SIPO should aim to have a reasonably diversified investment portfolio, which may include a mix of cash investments (such as bank term deposits) and income funds (which may include non NZD assets) in such proportions as the Trustees consider will best meet the ongoing and reasonably foreseeable financial needs of the Fund. For avoidance of doubt, the Trustees may also purchase buildings.
- (c) The Trustees may appoint and delegate to a reputable fund manager or fund managers the power to make decisions on the investment of some or all of the Fund's assets in accordance with the SIPO that the trustees formulate.
- (d) The powers of any fund manager(s) appointed under paragraph (c) of this rule will be subject to such limitations as the Trustees may specify in the SIPO.

- (e) The performance of the fund manager(s) will be regularly monitored by the Trustees who may use the assistance of a suitably qualified professional advisor.
- (f) The Trustees' powers under this rule will not entitle them to engage in any business or to apply any funds for speculative purposes.

#### RULE 18 - BORROWING POWERS

The Trustees shall have power to borrow upon the security of the assets of the Fund at any time and from time to time such amount or amounts as may at their discretion be reasonably necessary for the payments of amounts due to members or for the management and operation of the said Fund or for such purposes as the Trustees consider expedient for the carrying out of the objects of the Fund. Any sum or sums so borrowed may be borrowed with or without security from any Bank or other lending institution or from any individual and the Trustees are hereby empowered to execute any documents which may be required for the carrying out of the powers and objects of the Rule.

#### RULE 19 - BANK ACCOUNT AND CHEQUES

The Trustees shall cause a Bank Account to be opened at a registered bank selected by them and shall cause to be paid to such account all contributions and other monies received by them in the course of their duties. The account shall be styled "The New Zealand Air Line Pilots' Mutual Benefit Fund Account". Payments made from such account shall ordinarily be made online through the internet and authorised by at least two persons as the Trustees may from time to time determine.

#### RULE 20 - EXPENSES OF THE FUND

The Trustees may enter into an arrangement whereby all charges and expenses in relation to the control and management of the Fund shall be borne by the New Zealand Air Line Pilots' Association and the Trustees shall from the Fund pay to the New Zealand Air Line Pilots' Association an annual sum sufficient and necessary to repay the New Zealand Air Line Pilots' Association for the provision of office accommodation, clerical staff, telephone and other usual administrative expenses.

#### RULE 21 - ANNUAL MEETINGS

- (a) Annual Meetings of the Members of the Fund shall be held at such time that may be decided by the Trustees, providing that it shall be within fifteen months of the last preceding Annual General Meeting.
- (b) The venue for such meetings shall be at such places as may be determined by the Trustees from time to time.
- (c) All members of the Fund shall be notified in writing at least fourteen (14) days in advance of such Annual Meeting. The Notification shall specify the time of commencement, the venue of the meeting and shall contain an agenda to be settled by the Trustees of all matters to be discussed at such Annual Meeting and shall make provision in such Agenda for discussion to take place on matters of general business.

- (d) The business of the Annual General Meeting shall be to receive and consider the Balance Sheets, Profit and Loss Accounts and report of the Auditor to elect an Auditor, to declare the election of Trustees pursuant to the postal ballot and to transact any other business which ought, in the opinion of a majority of the members of the Fund personally present, to be transacted at such meeting.
- (e) The Chairman of the Annual Meeting shall be the Chairman of the Trustees but in the event of his/her absence the Trustees shall from their number prior to the commencement of the meeting elect one of such number to act as Chairman of such meeting.
- (f) The Chairman may with the consent of the members present adjourn the Annual Meeting from time to time and from place to place.
- (g) Subject to the approval of the Annual General Meeting such adjourned meeting may deal with any new business left unfinished at the meeting at which the adjournment took place.

#### RULE 22 - SPECIAL MEETINGS

- (a) Special Meetings of the members of the Fund may be called at any time at the direction of the Chairman of the Trustees or upon requisition made in writing signed by not less than 20 members of the Fund.
- (b) Any requisition for a Special Meeting shall specify the subject of the required meeting and shall be lodged with the Trustees at the office of the Fund.
- (c) Should the special meeting not be organised within 30 days of the lodgement of such requisition the requisitionists may themselves organise a special meeting to be held within 28 days after such lodgement.
- (d) Notification of any special meeting must be given fourteen (14) days in advance by notice sent by ordinary post addressed to each member of the Fund at his address shown in the books of the Fund.

#### RULE 23 - QUORUM

Ten financial members of the Mutual Benefit Fund shall constitute a quorum for the transaction of business at any General or Special Meeting of members of the Fund.

#### RULE 24 - AMENDMENT OF RULES

- (a) The Objects and Rules of the Fund shall not be altered amended added to or repealed except by resolution passed by an electronic ballot among the members of the Fund.
- (b) Not less than 14 days' notice in writing of any proposed alteration, amendment, addition to or repeal of the objects or rules of the Fund shall be given to the members and no such alteration shall be effective unless agreed to by 75 percent of the members of the Fund voting on such resolution.
- (c) No alteration to the Objects or Rules of the Fund shall be made or be effective which reduces or purports to take away any benefit to which a member has become entitled unless such

member or members so affected shall have prior to the passing of such resolution consented to the proposed alterations.

#### RULE 25 - DISSOLUTION

- (a) The Fund may at any time be dissolved by a resolution passed by not less than 75 percent majority vote of the members of the Fund. Voting on any such resolution shall be by secret ballot and the minimum elapsed time from the initiation of the ballot to the closure of the ballot shall be 42 days.
- (b) Upon the dissolution of the Fund its assets shall be realised by the Trustees either by public auction, private contract or by such means and on such terms and conditions as the Trustees in their absolute discretion consider advisable. From the realisation of the said assets all debts and liabilities of the Fund including the costs of realisation and winding up thereof shall be paid and subject thereto any remaining assets shall be divided amongst the members of the fund at the date of dissolution of the Fund in proportion to the total amount of contributions paid by each member including such amounts paid by their employer to the Fund. We the undersigned hereby agree to become members of the New Zealand Airline Pilots' Mutual Benefit Fund on the terms set out in the Rules hereinbefore appearing. We agree to be bound by such Rules and to the admission of additional members who shall be similarly bound by the Rules.

#### RULE 26 – TRANSITIONAL

– Relating to Certain Amendments to Rules 7 and 8 in 2017

Despite the deletion of Rule 7(b)iv) and the amendments to Rule 8(a) that were voted on in or about November 2017, the said Rule 7(b)iv) and the former version of Rule 8(a) will remain in force in respect of any member who had been on claim for 27 months or longer as at the date that voting on that deletion and amendment closed.

DATED at Wellington this 10th day of November 1972.

D.J. Barnston J. Wilson  
E.P.M. Dowd J.R. Murray  
D.R.A. Eden L.M. Page  
J.C. Priest B.D. Dunn  
A.T. King A.L. Baggott

We the undersigned hereby agree to accept appointment as Trustees of the New Zealand Airline Pilots' Mutual Benefit Fund on the terms appearing in the Rules attached hereto.

J. Chamley  
J. Irvine  
P. Kelway  
H. Murray

A. Price  
R. Ritchie  
P. Ryder-Lewis  
C. Woodhams