

**Rules of**  
**WeCreate Incorporated**  
**May 2015, amended May 2023**  
***(Rules)***

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2023 Amendments passed at WeCreate AGM held 30 May 2023.

## Section 1: WeCreate

### Name, Rules, registered office and Purposes

1. The **name** of this incorporated society is WeCreate Incorporated (**WeCreate**).
2. These rules (**Rules**) contain the powers of WeCreate, including via the Working Group or other Group, and are in addition to, and not in substitution for, all other powers conferred by law.
3. WeCreate was originally constituted by resolution dated 15 November 1983 under its former name, the Copyright Council of New Zealand Incorporated (number 233923).
4. The **registered office** of WeCreate is 4b 33 Mackelvie Street, Grey Lynn, Auckland 1021.
5. The purposes (**Purposes**) of WeCreate are to:
  - (a) grow New Zealand's creative sector, locally and internationally;
  - (b) be the unified voice of the New Zealand creative sector;
  - (c) grow authority, networks, export, innovation, skills and knowledge of and in the creative sector of New Zealand; and
  - (b) do anything necessary or helpful to further the above Purposes.

## Section 2: Membership

### Different classes, voting rights, admission, Register, cessation and obligations

6. Membership may comprise different classes of members as decided by WeCreate (in each case a **Member**). Members will be entities or organisations whose own memberships or businesses are concerned with both copyright and the growth of the creative sector as outlined in the Purposes.
7. Classes of Members include:
  - (a) **Financial Members**; and
  - (b) **Non-Financial Members**.
8. WeCreate has also elected to establish a non-Membership class known, on adoption of these Rules, as **Friends**.
9. Financial Members have the all the rights and responsibilities set out in these Rules. Friends and Non-Financial Members have those rights and responsibilities as specified as applicable to them only.
10. Financial Members are Members who contribute financially to WeCreate through payment of annual subscriptions or fees (**Member Fees**).
11. Financial Members, whatever the quantum of their respective Member Fees, are entitled to 1 vote at any Meeting. A Financial Member will not be eligible to vote at any Meeting if that Financial Member has failed to pay its applicable Member Fees for more than 90 days without other provision being made.
12. Any Financial Member may from time to time appoint a person by Written Notice as its delegate to WeCreate (**Delegate**). Such Delegate will then be entitled to attend and vote at Meetings until the Chair receives Written Notice of the revocation from the relevant Financial Member of such appointment.
13. If a Delegate is either a Chair or a member of the Working Group, they will cease to hold such position if Written Notice is provided by the relevant Financial Member to WeCreate that the Delegate ceases to represent that Financial Member.
14. WeCreate may at any time and from time to time also appoint any additional person or entity to WeCreate as a Non-Financial Member.
15. Non-Financial Members are entitled to attend any Meeting, speak on matters raised at any Meeting but not to vote at a Meeting. Non-Financial Members will cease to be such upon Written Notice from the Working Group to the relevant Non-Financial Member.
16. Friends will contribute financially to WeCreate, be noted as such on its website at [www.wecreate.org.nz](http://www.wecreate.org.nz) and be provided with certain updates and benefits as determined by and agreed with the Working Group.

17. Friends are not, however, entitled to attend (although may be invited) or vote at any Meeting but may, subject to the provisions of these Rules, apply to become a Member at any time.
18. To become a Member, a person or entity (**Applicant**) will:
  - (a) apply in writing to the Chair; and
  - (b) supply any other information the Working Group then requires.
19. The Working Group may interview the Applicant when it considers any application to be a Member.
20. The Working Group will have regard to both the Purposes and the definition of Members as detailed in these Rules when deciding whether or not to allow the Applicant to become a Member. The decision of the Working Group is final.
21. The Working Group will advise the Applicant of its decision and, in the case of Financial Members, the amount of Member Fees it is to pay. This decision will be final.
22. In addition, the Working Group will provide any new Member with a copy of these Rules and any by-laws passed at such time.
23. The Working Group will keep a register of Members (**Register**), which will contain the names, email addresses and telephone numbers of all Members, the type of Member, and the dates at which a person or entity became a Member.
24. If a Member's contact details change, that Member will be responsible to provide the new details to the Chair for entry in the Register.
25. Each Member will provide such other details as the Working Group reasonably requires.
26. Members will have reasonable access to the Register.
27. Any Member may resign from WeCreate by giving Written Notice to the Chair.
28. Members may also have their membership terminated in the following way:
  - (a) if the Working Group is of the view that a Member is:
    - (i) in breach of the Rules; or
    - (ii) in the case where such Member is a Financial Member, fails to pay their applicable Member Fees for more than 90 days without other provision being made; or
    - (iii) acts in a manner inconsistent with the Purposes; or
    - (iv) disrupts the activities of WeCreate, or
    - (v) brings WeCreate into disrepute; or

- (vi) does or does not do anything else which the Working Group, acting reasonably, determines is detrimental in any way to WeCreate;

then, the Working Group may give Written Notice of this to the relevant Member (**Working Group's Notice**).

- (b) The Working Group's Notice will:
  - (i) explain how the Member is causing an issue per the provisions of sub clause (a) above; and
  - (ii) state what the Member must do in order to remedy the situation; or
  - (iii) state that the Member must write to the Working Group giving reasons why the Working Group should not terminate the Member's membership; and
  - (iv) state that if, within 14 days of the Member receiving the Working Group's Notice, the Working Group is not satisfied, the Working Group may, in its absolute and unfettered discretion by Majority Vote, immediately terminate the Member's membership of WeCreate; and
  - (v) state that, if the Working Group terminates the Member's membership, the Member may appeal to WeCreate.
- (c) 14 days after the Member receives the Working Group's Notice, the Working Group may, in its absolute and unfettered discretion by Majority Vote, terminate the Member's membership by giving the Member Written notice (**Termination Notice**), which will take immediate effect.
- (d) The Termination Notice must state that the Member may appeal to WeCreate at a SM by giving Written Notice to the Chair (**Member's Notice**) within 14 days of the Member's receipt of the Termination Notice.
- (e) If the Member gives the Member's Notice to the Chair, the Member will have the right to be fairly heard at a SM held within 28 days following the Member's Notice.
- (f) If the Member chooses, the Member may provide the Chair with a written explanation of the events as the Member sees them (**Member's Explanation**), and the Member may require the Chair to give the Member's Explanation to every other Member within 7 days of the Chair receiving the Member's Explanation.
- (g) When the Member is heard at the relevant SM, WeCreate may question both the Member (in receipt of the Termination Notice) and the Working Group Members.
- (h) WeCreate will then by Majority Vote decide whether to let the termination stand, or whether to reinstate the Member. The decision will be final.

29. All Members (and the members of the Working Group) will promote the Purposes of WeCreate and will do nothing to bring WeCreate into disrepute of any kind or in any way disrupt the activities of WeCreate.

### Section 3: Meetings of WeCreate

#### **AGM, SM, notice, information, business, voting, dissolution, adjournment and Motions**

30. The annual general meeting (**AGM**) will be held once every year no later than 5 months after WeCreate's balance date.
31. The Working Group will determine when and where WeCreate will meet for the AGM within those dates.
32. Special meetings (**SM**) may be called by the Working Group or if the Chair or Working Group receives a Written Notice requesting the same and such Written Notice is signed by at least 33% of the Members. A SM must be called if a Member's Notice is given under clause 28(d).
33. The Chair will:
- (a) give all Members at least 14 days Written Notice of the business to be conducted at any Meeting; and
  - (b) in the case of an AGM, provide appropriate:
    - (i) reports on the WeCreate's operations and of the annual financial statements of WeCreate (**Annual Financial Statements**) as approved by the Working Group;
    - (ii) subject to the provisions of clause 49 below, a list of nominees for the positions of Chair and the Working Group or other Group, and summary information about those nominees (if it has been provided); and
    - (iii) notice of any Motions and the Working Group's recommendations about those Motions; and
  - (c) in the case of a SM, provide appropriate notice and information of any Motions and the Working Group's recommendations about those Motions.
34. If the Chair has sent a notice to all Members in good faith, the relevant Meeting and its business will not be invalidated simply because one or more Members did not receive the notice.
35. No Meeting may be held unless a Quorum is present but Members may Attend by any Means.
36. All Meetings will be chaired by the Chair. If the Chair is absent, WeCreate will elect another member of the Working Group to Chair that meeting.

37. Subject to clause 38 following, on any given Motion at a Meeting, the Chair will, in good faith, determine whether to vote by:
- (a) voices; or
  - (b) a show of hands; or
  - (c) secret ballot.
38. If any Member demands a secret ballot before a vote by voices or a show of hands has begun, voting must be by secret ballot.
39. The **business** of an AGM will include:
- (a) receiving and passing minutes of the previous Meeting/s of WeCreate (which at the first AGM where these Rules are adopted will be the minutes of WeCreate as previously called the Copyright Council of New Zealand Incorporated;
  - (b) receiving the Chair's report on the business of WeCreate;
  - (c) receiving the Working Group's report on the finances of WeCreate and the Annual Financial Statements;
  - (d) selection of the members of the Working Group;
  - (e) creation and selection of any other Group, which in the case of the AGM at which these Rules are adopted, will include the Group known as the *Strategic Council*;
  - (f) considering and attending to any Motions received; and
  - (g) any other general or other business required to be attended to.
40. The Chair will not have a casting vote. If a deadlock arises, the Meeting will be adjourned and another called by the Chair giving at least 28 days Written Notice of a SM.
41. If within half an hour after the time appointed for a Meeting a Quorum is not present the Meeting, if convened upon requisition of the Financial Members, will be dissolved. In any other case, it shall stand adjourned to a day, time and place determined by the Chair, and if at such adjourned meeting a Quorum is once again not present the Meeting will be dissolved without further adjournments.
42. The Chair may also, with the consent of at least 33% of the Financial Members, adjourn the same from time to time and from place to place but no business will be transacted at any adjourned Meeting other than the business left unfinished at the Meeting from which the adjournment took place.
43. Any Financial Member may request that a motion be voted on (***Motion***) at a particular Meeting, by giving Written Notice to the Chair at least 28 days before the relevant Meeting. The Member may also provide information in support of the Motion (***Member's Information***).

44. Subject to clause 45 following, the Working Group may, in its absolute discretion, decide whether or not WeCreate will vote on the Motion.
45. If the Motion is signed by at least 10 % of eligible Financial Members:
  - (a) it must be voted on at the Meeting chosen by the relevant Financial Member; and
  - (b) the Working Group will give the Member's Information to all Members at least 14 days before the relevant Meeting chosen by the Member; or
  - (c) if the Working Group fails to do this, the Member has the right to raise the Motion at the following Meeting.
46. The Working Group may also decide to put forward a Motion to vote on (**Working Group Motions**) which will be suitably notified and reasonable information provided.

#### **Section Four: Management of WeCreate by the Chair and Working Group**

##### **Appointment, cessation, nominations, vacancies, responsibilities and meetings of the Working Group**

47. WeCreate will have a chairperson (**Chair**) and managing working group (**Working Group**).
48. WeCreate may also appoint on a one-off or ad-hoc basis additional Groups to carry out specific requirements of WeCreate to meet its Purposes.
49. Upon the adoption of these Rules and until voted otherwise:
  - (a) the Chair of WeCreate will be Paula Browning who will also be a member of the Working Group;
  - (b) the remainder of the Working Group will comprise Kristin Bowman, Sandy Gildea and Vicky Blood; and
  - (c) subject to the provisions of clause 51 below, both the Chair and the members of the Working Group will hold such positions for a period of 2 years from the time of adoption of these Rules (**Initial Term**) and may be re-elected. This is to provide continuity through the current stage of restructuring and repositioning of WeCreate.
50. Post adoption of these Rules, WeCreate will then appoint the Chair and members of the Working Group or any other Group as detailed below.
51. At a Meeting, the Members may decide by Majority Vote:
  - (a) who will be appointed Chair;
  - (b) who will be appointed to the Working Group or any other Group;



- (c) how large the Working Group or any other Group will be;
  - (d) how long each person will be a member of the Working Group or any other Group (**Term**).
52. Persons **cease** to be the Chair, members of the Working Group or any other Group when:
- (a) they resign by giving Written Notice to the remainder of the Working Group; or
  - (b) they are removed by a Majority Vote of WeCreate at any Meeting; or
  - (c) their Term expires; or
  - (d) they are notified by Written Notice as being removed from their position of Delegate for a particular Financial Member (refer clause 13 above)
53. If a person ceases to be the Chair, a member of the Working Group or any other Group, that person must within 1 month of such cessation give to the Working Group all documents and property belonging to WeCreate.
54. **Nominations** for the Chair and for members of both the Working Group or any other Group (if applicable at the relevant time) will be called for at least 28 days before the relevant AGM.
55. Each candidate will be proposed and seconded in writing by at least 2 Members and the completed nomination provided by Written Notice to the Working Group.
56. Nominations will close at 5pm on the 5th day before the AGM.
57. A retiring Chair or members of the Working Group or any other Group will be eligible for re-election.
58. If more than one nomination is received for any particular office then a vote will be put to Members at the AGM to determine which of those persons nominated for any such position shall fill that office. Voting in such instances will be conducted as follows:
- (a) each Member will vote for their preferred candidate. In the event that one nominee has a clear majority of all votes cast (i.e. in excess of 50% of those votes cast) then that person will be declared to be elected to the relevant office;
  - (b) if no nominee has a clear majority of all votes cast (i.e. no nominee receives in excess of 50% of the votes cast) then Members will be required to recast their votes provided that the lowest polling nominee from the first round of voting will be excluded from the list of nominees for that second round of voting;
  - (c) if, following the second round of voting, a nominee has a clear majority of all votes cast (i.e. in excess of 50% of the votes cast) then that person will be declared to be elected to the relevant office;

- (d) if, following the second round of voting, no nominee has a clear majority of all votes cast (i.e. no nominee receives in excess of 50% of the votes cast) then Members will be required to recast their votes again provided that the lowest polling nominee from the second round of voting will be excluded from the list of nominees for that third round of voting; and
  - (e) the procedures outlined above will continue until one nominee receives a clear majority of votes cast in a particular round of voting at which point that person will be declared to be elected to the relevant office.
59. If only 1 nomination is received for any particular office the person so nominated will be declared at the AGM to be elected to that office.
60. In the event that no nominations are received for any position of office then nominations for such position will be called from among those present and eligible to vote at the AGM. In the event more than one or only one nomination is received for a position of office at the AGM then the procedures set out in clauses 58 and 59 above will apply, as appropriate.
61. If the position of the Chair becomes **vacant** between AGMs, the Working Group may appoint another member of the Working Group to fill that vacancy until the next AGM.
62. If the position of any member of the Working Group or any other Group becomes vacant between AGMs, the Working Group may appoint another Member to fill that vacancy until the next AGM.
63. If the Chair or member of the Working Group or any other Group is absent from 3 consecutive Meetings without leave of absence from the remainder of the Working Group then, the remainder of the Working Group may declare that person's position to be vacant.
64. The Working Group may **second** a person who is not a Member to be a member of the Working Group or any other Group for a period of time if specific expertise is required. Such appointment will be for a period no longer than the appointment of the then current members of the Working Group or other Group, as applicable.
65. Subject to these Rules, the **responsibilities of the Chair** are to:
- (a) use all reasonable endeavours to ensure that the Rules are followed by the Members and both the members of either the Working Group or any other Group;
  - (b) convene Meetings and other meetings for the Working Group or any other Group;
  - (c) set the agenda for Meetings;
  - (d) determine whether a Quorum is present for both Meetings and meetings of the Working Group;
  - (e) chair Meetings, deciding who may speak and when;

- (f) oversee the operation of WeCreate by the Working Group and any co-opted Members or other persons for any particular purpose or role; and
  - (g) provide a report on the operations of WeCreate at each AGM.
66. Subject to these Rules, **the roles and responsibilities of the Working Group** are to:
- (a) administer, manage, and control WeCreate;
  - (b) carry out the Purposes of WeCreate and Use Money or Other Assets to do that;
  - (c) manage WeCreate's financial affairs; set Member Fees and collect the same; set accounting policies in line with generally accepted accounting practice; arrange the preparation of the Annual Financial Statements and then their Review; present the Annual Financial Statements with a report at the AGM each year and then file in at the Register for Incorporated Societies;
  - (d) keep minutes of any Meetings of both WeCreate and the Working Group;
  - (e) keep the Register;
  - (f) delegate responsibility and co-opt Members where necessary;
  - (g) decide the procedures for dealing with complaints;
  - (h) make, but always by acting reasonably, any by-laws for WeCreate;
  - (i) hold WeCreate's records, documents and books;
  - (j) receive and reply to correspondence received by WeCreate;
  - (k) advise the Registrar of Incorporated Societies of any changes to these Rules; and
  - (l) do any other things reasonably and necessarily required to meet the Purposes of WeCreate provided the same is within these Rules and consistent with the Purposes.
67. Subject to these Rules, the Working Group may otherwise regulate its own practices.
68. Decisions of the Working Group bind WeCreate, unless the Working Group's power is limited by these Rules or by a Majority Vote of WeCreate.
69. The Chair will also chair the meetings of the Working Group, or if the Chair is absent, the Working Group will elect a Working Group Member to chair that meeting.
70. The meetings of the Working Group can be Attended by Any Means.
71. Decisions of the Working Group shall be by majority decision.
72. There will be no casting vote at a meeting of the Working Group so if a **deadlock** ensues then the Working Group will need to work through the same expeditiously or

WeCreate at Meeting will appoint another person to the Working Group to break the deadlock.

### **Section 5: Money and Other Assets: Use of money, employ and borrow, balance date and Reviewer**

73. The organisation does not have the purpose of making a profit for a proprietor, member, or shareholder and prohibits a distribution of property in any form to a member proprietor or shareholder; and has a constitution that prohibits a distribution of property in any form to a member, proprietor, or shareholder.

No member of the organisation or any person associated with a member, shall participate in or materially influence any decision made by the organisation, in respect of the payment to or on behalf of that member or associated person of any income, benefit, or advantage whatsoever. Any such income shall be reasonable and relative to that which would be paid in an arm's length transaction (being open market value).

The Working Group may only **Use Money and Other Assets** if:

- (a) it is for the Purposes of WeCreate; and
  - (b) that Use has been approved by either a Majority Vote of the Working Group of WeCreate at Meeting.
74. The Working Group also has the ability to, but always acting reasonably and with reference to the Purposes:
- (a) employ people;
  - (b) rent, lease, purchase, sell or borrow Other Assets; and
  - (c) do such other things as a trustee would be able to do.
75. The financial year of WeCreate begins on 1 January of every year and ends on 31 December of the same year.
76. The Working Group will appoint an accountant to review the Annual Financial Statements (**Reviewer**).
77. The Reviewer will conduct an examination with the objective of providing a report that nothing has come to the Reviewer's attention to cause the Reviewer to believe that the financial information is not presented in accordance with WeCreate's accounting policies.
78. The Reviewer must be a suitably qualified person, preferably a member of the New Zealand Institute of Chartered Accountants, and must not be a member of the Working Group of any other Group or an employee of WeCreate.
79. If WeCreate appoints a Reviewer who is unable to act for some reason, the Working Group will appoint another Reviewer as a replacement.

80. The Working Group is responsible to provide the Reviewer with:
- (a) access to all information of which the Working Group is aware of that is relevant to the preparation of the Annual Financial Statements such as records, documentation and other matters;
  - (b) additional information that the Reviewer may request from the Working Group for the purpose of the review; and
  - (c) reasonable access to persons within WeCreate from whom the Reviewer determines it necessary to obtain information.

**Section 6: Other Additional Matters: Common seal, change of Rules, winding up, by-laws, definitions and interpretation**

81. The Working Group will provide a **common seal** for WeCreate and may from time to time replace it with a new one.
82. The Chair will have custody of the common seal, which will only be used by the authority of the Working Group.
83. Every document to which the common seal is affixed will be signed by the Chair and countersigned by a member of the Working Group.
84. WeCreate may **alter or replace these Rules** at a Meeting by a resolution passed by 75% of those Members present and voting. No addition to or alteration of the objects, personal benefit clause or the winding up clause shall be made which affect the organisations tax-exempt status or not-for-profit status. The provisions and effect of this clause shall not be removed from this document and shall be included and implied into any document replacing this document.
85. At least 14 days before the Meeting at which any Rule change is to be considered, the Chair will give to all Members written notice of the proposed Motion, the reasons for the proposal, and any recommendations the Working Group has.
86. When a Rule change is approved by a Meeting, no Rule change will take effect until the Working Group has filed the changes with the Registrar of Incorporated Societies.
87. The Working Group may from time-to-time make, alter or rescind **by-laws** for the general management of WeCreate, so long as these are not repugnant to these Rules or to the provisions of any law.
88. All such by-laws will be binding on all Members of WeCreate.
89. A copy of the by-laws for the time being, will be available for inspection by any Member on request to the Chair.
90. If WeCreate is **wound up**:
- (a) WeCreate's debts, costs and liabilities will be paid;

- (b) Surplus Money and Other Assets of WeCreate may be disposed of:
  - (i) by resolution; or
  - (ii) according to the provisions in the Incorporated Societies Act 1908; but
- (c) no distribution may be made to any Member.

91. In these Rules:

- (a) any **capitalised terms** defined within the body of any clause will have the meaning given to that term throughout these Rules;
- (b) **Attend by any Means** means in person, audio, or audio and visual, communication by means of which all Members participating in the Meeting or any members of a Working Group participating in a meeting of the Working Group can simultaneously hear each other throughout the relevant Meeting or meeting of the Working Group;
- (c) **Majority Vote** means, in relating to Members voting, a vote made by more than half of the Members who are present at a Meeting and who are entitled to vote and voting at that Meeting upon a resolution put to that Meeting and, in relation to members of the Working Group, the same;
- (d) **Meeting** means a Meeting of the Members of WeCreate, being an AGM or SM. Meetings of the Working Group are specifically referenced as such;
- (e) **Money or Other Assets** means any real or personal property or any interest in the same, owned or controlled to any extent by WeCreate;
- (f) **Quorum** means, in relation to any Meeting, such number of Members present in person or by proxy who between them collectively hold at least 50% of the total number of votes held by all Members at the date of the Meeting;
- (g) **Proxy** means the giving of a Member's vote to another Member to vote for the former Member at a Meeting. Such proxy must be provided in writing in the form proscribed by the Working Group no later than 24 hours before the time of the relevant Meeting. In the event of any disagreement over the form or validity of any proxy form then the Chair's decision will be determinative and final;
- (h) **Use Money or Other Assets** means to use, handle, invest, transfer, give, apply, expend, dispose of, or in any other way deal with, Money or Other Assets;
- (i) **Written Notice** means communication by electronic means (including email, and website posting) as per the contact details appearing in the Register and in the manner agreed by WeCreate at the time of the Meeting adopting these Rules, being:
  - (i) in relation to general business of WeCreate, including Meetings, then via the Basecamp portal created for such purpose; and

- (ii) for all other purposes, via the website – [www.wecreate.org.nz](http://www.wecreate.org.nz) or such other means as the Working Group reasonably determines; and

such Written Notices will be deemed to be given and received at the time of posting by or for an on behalf of the Chair or Working Group;

(j) In **interpretation**, it is assumed that:

- (i) where a masculine is used, the feminine is included;
- (ii) where the singular is used, plural forms of the noun are also inferred; and
- (iii) headings are a matter of reference and not a part of these Rules; and
- (iv) “days” means calendar days.