



Constitution of the Imported Motor Vehicle Industry Association Inc.

Adopted by unanimous consent at the Annual General Meeting of the Association held on 18 June 2024 in Auckland.

Approval and Adoption confirmed by:

Chairman

A handwritten signature in blue ink, consisting of a stylized 'S' shape with a horizontal line extending to the right, positioned above a horizontal line.

Chief Executive

A handwritten signature in black ink, featuring a large, stylized 'C' followed by several loops, positioned above a horizontal line.



Imported Motor Vehicle Industry Association Inc. Constitution

1. Name

The name of the society is the Imported Motor Vehicle Industry Association Inc. (referred to as the 'Society'). The Society may also operate and hold itself out under the trading name of "VIA".

2. Charitable Status

The Society is not and does not intend to be registered as a charitable entity under the Charities Act 2005.

3. Definitions

In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

- **Act:** The Incorporated Societies Act 2022 or any Act which replaces it.
- **Annual General Meeting:** A meeting of the Members of the Society held once per year (per Rule 6.1).
- **Association:** The Imported Motor Vehicle Industry Association Incorporated (VIA).
- **Authorised Representative:** A representative of a Member, appointed under Rule 5.7.
- **Board:** The Society's governing body.
- **CEO:** The Chief Executive Officer of the Association appointed by the Board.
- **Chairperson:** The Officer responsible for chairing General Meetings and Board meetings.
- **Council:** The Council as established under Rule 7.
- **General Meeting:** Either an Annual General Meeting or a Special General Meeting of the Members (per Rule 6).
- **IMVIA:** The Imported Motor Vehicle Industry Association Incorporated (VIA).
- **Member:** An entity engaged in the business of buying, importing, trading, selling, or leasing motor vehicles in New Zealand, or any business that supports these entities, and which is listed on the Association's register of members as a member of the Association.
- **Officer:** A natural person who is a member of the Board or occupying a position in the Society that allows them to exercise significant influence over the management or administration of the Society.
- **Register of Members:** The register of Members kept under this Constitution.
- **Special General Meeting:** Any General Meeting other than the Annual General Meeting (per Rule 6.2).

- **Subscriptions:** All subscriptions, fees, or levies payable by a Member for or in relation to membership of the Association.
- **Working Day:** As defined in the Legislation Act 2019. Examples of days that are not Working Days include but are not limited to the following: a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day.

4. Purposes

The primary purposes of the Society are to:

- Promote the interests of its members as set forth in the most recent strategy document;
- Promote the importation, sale, and trade in motor vehicles in New Zealand.

The Society must not operate for the purpose of or with the effect of distributing any gain, profit, surplus, dividend, or other similar financial benefit to any of its Members (whether in money or in kind).

But the Society will not operate for the financial gain of Members simply if the Society—

- engages in trade,
- pays a Member for matters that are incidental to the purposes of the Society, and the Member is a not-for-profit entity,
- distributes funds to a Member to further the purposes of the Society, and the Member—
- is a not-for-profit entity, and
- is affiliated or closely related to the Society, and
- has the same, or substantially the same, purposes as those of the Society.
- reimburses a Member for reasonable expenses legitimately incurred on behalf of the Society or while pursuing the Society's purposes,
- provides benefits to members of the public or of a class of the public and those persons include Members or their families,
- provides benefits to Members or their families to alleviate hardship,
- provides educational scholarships or grants to Members or their families,
- pays a Member a salary or wages or other payments for services to the Society on arm's length terms (terms reasonable in the circumstances if the parties were connected or related only by the transaction in question, each acting independently, and each acting in its own best interests; or are terms less favourable to the Member than those terms and the payment for services, or other transaction, does not include any share of a gain, profit, or surplus, percentage of revenue, or other reward in connection with any gain, profit, surplus, or revenue of the Society),
- provides a Member with incidental benefits (for example, trophies, prizes, or discounts on products or services) in accordance with the purposes of the Society.
- on removal of the Society from the Register of Incorporated Societies having its surplus assets distributed under subpart 5 of Part 5 of the Act to a Member that is a not-for-profit entity.

5. Membership

5.1 Minimum number

The **Society** shall maintain the minimum number of **Members** required by the **Act**.

5.2 Eligibility

Membership of the Association is open to any entity engaged in the business of buying, importing, trading, selling, or leasing motor vehicles in New Zealand or any business ancillary to, or providing services to, any such business.

5.3 Classes of Membership

The Board may establish different classes of membership to differentiate between members regarding their liability for subscriptions and participation in The Council.

- Members may choose the class of membership they will participate in. If a Member chooses to change their membership level or class, the change will take effect at the next renewal of membership for that particular Member.
- Details of the membership participation in each class and the subscription liabilities associated with that class will be available to all members and produced annually at the AGM.
- When making changes to the membership classes the Board must give due consideration to the purpose of the Council and ensure any changes made will not materially undermine this purpose

Ordinary Membership is reserved for entities; however, natural persons may be awarded the following types of membership:

- **Life Member**
A Life Member is a person honoured for highly valued services to the Society elected as a Life Member by resolution of a General Meeting passed by a simple majority of those Members present and voting. A Life Member shall have all the rights and privileges of a Member and shall be subject to all the same duties as a Member except those of paying subscriptions and levies.
- **Honorary Member**
An Honorary Member is a person honoured for services to the Society or in an associated field elected as an Honorary Member by resolution of a General Meeting passed by a simple majority of those present and voting. An Honorary Member has no membership rights, privileges or duties.

5.4 Application Process

An applicant for membership must complete and sign any application form, supply any information, or attend an interview as required by the Board.

5.5 Rights and Obligations

Except as otherwise provided in these Rules, membership carries full rights of voting at General Meetings, rights to vote for or election to the Council, and participation in all benefits provided by the Association.

5.6 Liability for Subscriptions

Each Member must pay Subscriptions at the levels fixed by the Board from time to time and as due.

5.7 Members' Authorised Representatives

Every Member which is a company or other body corporate must always have a person (not being a body corporate) appointed as its authorised representative to attend all meetings of the Association and to exercise its voting and other rights under these Rules. The Authorised Representative must be a shareholder, director, partner, or officer of the Member or have some other direct association with the Member which is acceptable to the Board in its absolute discretion.

5.8 Register of Members

The Association will keep a register of Members as required by the Act. Members must notify the Association of any changes of address or other details, promptly following the change.

5.9 Ceasing to be a Member

A Member ceases to be a Member—

- by resignation from that Member's class of membership by written notice signed by that Member to the Board, or
- on termination of a Member's membership following a dispute resolution process under this Constitution, or
- on death (or if a body corporate on liquidation or deregistration or if a partnership on dissolution of the partnership), or
- by resolution of the Board where—
 - The Member has failed to pay a subscription levy or other amount due to the Society within 40 Working Days of the due date for payment.
 - In the opinion of the Board, the Member has brought the Society into disrepute.
- If the Member is a motor vehicle trader, the Member ceases to hold any licence or registration required under any applicable legislation regulating the sale or trade of motor vehicles.

When a Member's membership has been terminated, the Board shall promptly notify the former Member in writing.

5.10 Obligations once Membership has Ceased

A Member who has ceased to be a Member under this Constitution—

- remains liable to pay all subscriptions and other fees to the Society's next balance date,
- shall cease to hold himself or herself out as a Member of the Society, and
- shall return to the Society all material provided to Members by the Society (including any membership certificate, badges, handbooks, and manuals),
- shall cease to be entitled to any of the rights of a Society Member.

5.11 Becoming a Member Again

Any former Member may apply for re-admission in the manner prescribed for new applicants and may be re-admitted only by resolution of the Board. If a former Member's membership was terminated following a disciplinary or dispute resolution process, the applicant may be re-admitted only by a resolution passed at a General Meeting on the recommendation of the Board.

6. General Meetings

6.1 Annual General Meetings

An Annual General Meeting shall be held once a year on a date and at a location determined by the Board. General Meetings may be held in person, online, or a combination of both methods, ensuring each Member has a reasonable opportunity to participate.

6.2 Special General Meetings

Special General Meetings may be called at any time by the Board by resolution.

6.3 Notice

The Board shall give all Members at least 10 Working Days' written notice of any General Meeting.

6.4 Procedures

- Only financial Members may attend, speak, and vote at General Meetings.
- A quorum for General Meetings is 25% of eligible financial Members.
- Voting at a General Meeting shall be by voices, show of hands, or secret ballot as determined by the Chairperson or two or more Members present.

6.5 Written Resolution in Lieu of Meeting

The Society may pass a written resolution in lieu of a General Meeting.

A written resolution is as valid for the purposes of the Act and this Constitution as if it had been passed at a General Meeting if it is approved by no less than 75% of the eligible financial Members voting on the resolution.

A written resolution may consist of one or more documents in similar form (including letters, electronic mail, or other similar means of communication) each proposed by or on behalf of one or more Members.

A Member may give their approval to a written resolution by signing the resolution or giving approval to the resolution in any other manner permitted by the Constitution (for example, by electronic means).

6.6 Minutes

The Society must keep minutes of all General Meetings.

6.7 Annual General Meetings: Business

The business of an Annual General Meeting shall be to:

- Confirm the minutes of the last Annual General Meeting and any Special General Meetings held since;
- Adopt the annual report on the operations and affairs of the Society;
- Adopt the Board's report on the finances of the Society and the annual financial statements;
- Consider any motions of which prior notice has been given to Members;
- Consider any general business.

7. The Council

7.1 Purpose

The Council is established to provide industry participation and consultation on various matters, including Government interaction, submissions, and policy positions.

7.2 Composition

Entitlement to Membership of the Council will be determined by a member's class of membership as set by the Board.

7.3 Council Chairs

The Council will be chaired by the Chairperson of the Board or any other person nominated by the Chairperson of the Board.

7.4 Conformity to Rules

The conduct of meetings and other business of The Council will be governed by these rules.

7.5 Attendance as Observer

Attendance as an observer to Council meetings is a right for all members.

7.6 Meeting Time

The Council will ensure time at each meeting for non-Council members to raise concerns regarding the industry or the Association.

8. The Board

8.1 Composition

The Board will consist of at least 3 Officers and no more than 5 Officers.

8.2 Appointment

The Board is appointed by the Council. The Council selects eligible candidates from nominees put forward by Council members. The election of Board members shall be conducted as follows:

- Council members are invited to nominate a candidate for the Board.
- Once all nominations are received, Council votes on the candidates.

- Where there is one vacancy on the Board, the candidate receiving a majority of votes will be appointed to the Board. Where there is more than one vacancy, appointments will be made in descending order of votes received (from highest to lowest).
- Board members shall be elected during Annual General Meetings.
- If a vacancy in the position of any Officer occurs between Annual General Meetings, that vacancy shall be filled by resolution of the Board, and any such appointment must be ratified at the next Annual General Meeting.

8.3 Functions

The Society shall be managed by or under the direction or supervision of the Board.

8.4 Powers

The Board has all the powers necessary for managing the operation and affairs of the Society.

8.5 Sub-committees

The Board may appoint sub-committees consisting of such persons and for such purposes as it thinks fit. Sub-committees must not commit the Society to any financial expenditure without express authority from the Board.

8.6 Meetings

- The Board shall meet at least quarterly.
- A quorum for Board meetings is at least half the number of members of the Board.
- Board meetings may be held in person, online, or a combination of both methods.
- Minutes of Board meetings must be kept.

8.7 Conflicts of Interest

An Officer or member of a sub-committee who is interested in a matter must disclose details of the interest and may not vote or take part in decisions relating to the matter without consent from non-interested Board members.

9. Officers

9.1 Qualifications

Every Officer must be a natural person who has consented in writing to be an Officer of the Society and certifies that they are not disqualified from being elected or appointed or otherwise holding office as an Officer of the Society.

Officers must not be disqualified under section 47(3) of the Act from being appointed or holding office as an Officer of the Society, namely:

- a person who is under 16 years of age;
- a person who is an undischarged bankrupt;
- a person who is prohibited from being a director or promoter of or being concerned or taking part in the management of an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993 or any other similar legislation;

- a person who is disqualified from being a member of the governing body of a charitable entity under section 16(2) of the Charities Act 2005;
- a person who has been convicted of any of the following and has been sentenced for the offence within the last 7 years:
 - an offence under subpart 6 of Part 4 of the Act;
 - a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961);
 - an offence under section 143B of the Tax Administration Act 1994;
 - an offence in a country other than New Zealand that is substantially similar to an offence specified in subparagraphs (1) to (3);
- a money laundering offence or an offence relating to the financing of terrorism, whether in New Zealand or elsewhere;
- a person subject to:
 - a banning order under subpart 7 of Part 4 of the Act;
 - an order under section 108 of the Credit Contracts and Consumer Finance Act 2003;
 - a forfeiture order under the Criminal Proceeds (Recovery) Act 2009;
 - a property order made under the Protection of Personal and Property Rights Act 1988 or whose property is managed by a trustee corporation under section 32 of that Act;
- a person who is subject to an order that is substantially similar to an order referred to in paragraph (6) under a law of a country, state, or territory outside New Zealand that is a country, state, or territory prescribed by the regulations (if any) of the Act.

9.2 Duties

At all times, each Officer shall:

- act in good faith and in what he or she believes to be the best interests of the Society;
- exercise all powers for a proper purpose;
- not act or agree to the Society acting in a manner that contravenes the Act or this Constitution;
- when exercising powers or performing duties as an Officer, exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances taking into account, but without limitation:
 - the nature of the Society;
 - the nature of the decision; and
 - the position of the Officer and the nature of the responsibilities undertaken by him or her;
- not agree to the activities of the Society being carried on in a manner likely to create a substantial risk of serious loss to the Society or to the Society's creditors;
- not agree to the Society incurring an obligation unless he or she believes at that time on reasonable grounds that the Society will be able to perform the obligation when it is required to do so.

9.3 Election or Appointment

Officers shall be elected during Annual General Meetings or appointed by resolution of the Board.

9.4 Term

The term of office for Officers is 3 years, with no Officer serving more than 1 consecutive term.

9.5 Removal

An Officer may be removed by resolution of the Board or the Society where, in the opinion of the Board or the Society—

- The Officer elected to the Board has been absent from 3 Board meetings without leave of absence from the Board.
- The Officer has brought the Society into disrepute.
- The Officer has failed to disclose a conflict of interest.

9.6 Ceasing to Hold Office

An Officer ceases to hold office when they resign (by notice in writing to the Board), are removed, die, or otherwise vacate office in accordance with section 50(1) of the Act. Each Officer shall, within 10 Working Days of submitting a resignation or ceasing to hold office, deliver to the Board all books, papers, and other property of the Society held by such former Officer.

10. Finances

10.1 Control and Management

The funds and property of the Society shall be controlled, invested, and disposed of by the Board.

10.2 Balance Date

The Society's financial year shall commence on 1 April and end on 31 March.

10.3 Subscriptions and Fees

The annual subscription and any other fees for membership for the current financial year shall be set by the Board and any changes notified to the membership at least one month prior to the start of the financial year.

10.4 Financial Statements

The Board will cause financial statements to be prepared for tabling at each Annual General Meeting.

10.5 Banking and Payments

- All funds received by the Association must be banked within 5 Working Days of receipt.
- All accounts shall be paid by online methods or other negotiable instrument signed by authorised signatories.

10.6 Review

The financial statements of the Association will be reviewed by a Chartered Accountant appointed at the Annual General Meeting.

11. Contact Person

The Society shall have at least one but no more than three contact person(s) whom the Registrar can contact when needed. The Society's contact person must be:

- At least 18 years of age, and
- Ordinarily resident in New Zealand.

A contact person can be appointed by the Board or elected by the Members at a General Meeting. Each contact person's name must be provided to the Registrar of Incorporated Societies along with their contact details, including:

- A physical address or an electronic address, and
- A telephone number.

Any change in that contact person or that person's name or contact details shall be advised to the Registrar of Incorporated Societies within 20 Working Days of that change occurring or the Society becoming aware of the change.

12. Register of Members and Access to Information

12.1 Register of Members

The Society shall keep an up-to-date Register of Members. For each current Member, the information contained in the Register of Members shall include:

- Their name,
- The date on which they became a Member (if there is no record of the date they joined, this date will be recorded as 'Unknown'),
- Their contact details including:
 - A physical address or an electronic address, and
 - A telephone number.

The register will also include each Member's:

- email address (if any),
- occupation,
- whether the Member is financial or unfinancial.

Every current Member shall promptly advise the Society of any change of the Member's contact details.

The Society shall also keep a record of the former Members of the Society. For each Member who ceased to be a Member within the previous 7 years, the Society will record:

- The former Member's name, and
- The date the former Member ceased to be a Member.

12.2 Access to Information for Members

A Member may at any time make a written request to the Society for information held by the Society. The request must specify the information sought in sufficient detail to enable the information to be identified.

The Society must, within a reasonable time after receiving a request:

- provide the information, or

- agree to provide the information within a specified period, or
- agree to provide the information within a specified period if the Member pays a reasonable charge to the Society (which must be specified and explained) to meet the cost of providing the information, or
- provide the information with certain portions redacted for the reasons noted below,
- refuse to provide the information, specifying the reasons for the refusal.

Without limiting the reasons for which the Society may refuse to provide the information, the Society may refuse to provide the information if:

- withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons,
- the disclosure of the information would or would be likely to prejudice the commercial position of the Society or of any of its Members,
- the disclosure of the information would or would be likely to prejudice the financial or commercial position of any other person, whether or not a Member of the Society,
- the request for the information is frivolous or vexatious, or
- the information requested is trivial.

13. Registered Office

The registered office of the Society shall be at such place in New Zealand as the Board from time to time determines.

Changes to the registered office shall be notified to the Registrar of Incorporated Societies—

- at least 5 working days before the change of address for the registered office is due to take effect, and
- in a form and as required by the **Act**.

14. Dispute Resolution

14.1 Dispute

A dispute may arise out of, or relate to, the Constitution, the operation of the Society, or the behaviour of Members, including disputes between:

- Members, or
- the Society and a Member.

14.2 Process for Resolving Disputes

The Society will use its best endeavours to resolve disputes fairly and efficiently using the following process:

14.3 Notice of Dispute

A Member or Officer may make a complaint by giving notice in writing to the Board. The notice must specify the nature of the dispute, the facts giving rise to the dispute, and the resolution sought.

14.4 Investigation

On receipt of the notice, the Board shall promptly appoint one or more members of the Board (the Investigator) to investigate the complaint and, if appropriate, attempt to resolve the dispute by mediation or other suitable means.

The Investigator shall:

- collect such information and conduct such interviews as necessary to determine the facts of the dispute,
- use their best endeavours to resolve the dispute within 20 Working Days of their appointment, and
- report to the Board on the outcome of the investigation and any resolution reached.

14.5 Decision

If the dispute cannot be resolved by the Investigator within 20 Working Days, the Board shall consider the Investigator's report and determine the dispute. The decision of the Board shall be final and binding on the parties to the dispute.

14.6 Natural Justice

Any Member who is the subject of a dispute or disciplinary process must be:

- informed of the allegations against them,
- provided with an opportunity to respond to the allegations before a decision is made, and
- notified of the decision and the reasons for the decision.

14.7 Record of Dispute

The Society shall keep a record of all disputes and the resolution of each dispute. The record shall include:

- the notice of dispute,
- the Investigator's report,
- the decision of the Board, and
- any action taken to implement the decision.

14.8 Confidentiality

The Society shall keep confidential all information relating to a dispute, including the notice of dispute, the Investigator's report, the decision of the Board, and any action taken to implement the decision. This information may be disclosed only to the parties to the dispute and to any person involved in the resolution of the dispute.

15. Surplus Assets on Winding Up

If the Society is wound up, or its incorporation is cancelled, or it is otherwise removed from the Register of Incorporated Societies, any surplus assets after payment of the Society's liabilities and expenses shall be distributed to another not-for-profit entity (or entities) in New Zealand that has similar purposes to the Society and prohibits the distribution of income, benefit, or advantage to its

members, as determined by the Members at a General Meeting or, if the Society is unable to make such a decision, as determined by the High Court of New Zealand.

16. Amendments to the Constitution

16.1 Procedure

The Society may amend or replace this Constitution at a General Meeting by a resolution passed by a two-thirds majority of those Members present and voting.

16.2 Notice

Notice of any proposed amendment must be given to the Board at least 30 Working Days before the General Meeting at which the resolution is to be considered.

16.3 Effect

Amendments take effect from the date of registration with the Registrar of Incorporated Societies.

17. Bylaws

The Board may make and amend bylaws and policies for the conduct and control of Society activities, provided they are not inconsistent with this Constitution or the Act.