

POWERS OF CHARGING (AMENDMENT NO. 2) BYELAW (NO. X of 2022)

Purpose

The purpose of this byelaw is to amend certain provisions of the Powers of Charging Byelaw (No.12 of 1990) to (1) incorporate provisions previously contained in the Membership (Entrance Fees and Annual Subscriptions) Byelaw (No. 9 of 1987) and the Membership Central Fund & Subscriptions (Miscellaneous Provisions) Byelaw (No. 16 of 1993) which this byelaw revokes, and (2) update various references and provisions.

In relation to the provisions of the Membership (Entrance Fees and Annual Subscriptions) Byelaw (No. 9 of 1987) that are incorporated by this byelaw into the Powers of Charging Byelaw (No.12 of 1990), these have been amended to (1) remove certain arcane consequences for non-payment of annual subscriptions and entrance fees, (2) combine provisions relating to consequences of non-payment and other miscellaneous provisions so that they apply equally to (i) annual subscriptions and entrance fees, and (ii) charges, levies and fees, (3) extend the powers of the Council to obtain information to apply to all members of the Lloyd's community rather than just members of the Society, and (4) update various out-of-date references and provisions.

In relation to the provisions of the the Membership Central Fund & Subscriptions (Misc. Provisions) Byelaw (No. 16 of 1993) that are incorporated by this byelaw into the Powers of Charging Byelaw (No.12 of 1990), these have been amended to (1) update the model meeting arrangements for members that could be required in circumstances where the Council seeks to increase the level of annual subscriptions or contributions to the Central Fund and/or New Central Fund beyond a level previously capped via an undertaking of the Council, and (2) update various out-of-date references and provisions.

This byelaw also amends the Definitions Byelaw (No. 7 of 2005) by adding definitions for the terms 'auction', 'Central Fund' and 'member of the Lloyd's community'.

Notes

Words and terms shown in italics have the meaning set out in the Definitions Byelaw (No. 7 of 2005).

This Byelaw was made by the Council on [day month year] in exercise of its powers under sections 6(2) and 6(3) of Lloyd's Act 1982 and paragraph (7), (21), (22), (24) and (25) of Schedule 2 thereof and may be referred to as the Powers of Charging (Amendment No.2) Byelaw (No. [X] of 2022).

These notes, the note setting out the purpose of this Byelaw and the headings are for guidance only and do not form part of the Byelaw.

Amendments to the Powers of Charging Byelaw

1. The Powers of Charging Byelaw (No.12 of 1990) is amended by deleting the text struck out and by inserting the text underlined as shown at Appendix 1.

Amendments to the Definitions Byelaw

2. Paragraph 1 of the Definitions Byelaw (No. 7 of 2005) is amended as follows –

- (a) by inserting after the definition of “approved transfer agreement” –

““auction” has the meaning given to it in paragraph 2(1) of the Auction Byelaw (No. 14 of 1997);”;

- (b) by inserting after the definition of “central file” –

““Central Fund” means the fund held, managed and applied by the *Society* pursuant to the Central Fund Byelaw (No. 4 of 1996);”;

- (c) by inserting after the definition of “member” –

““member of the Lloyd’s community” has the meaning given in section 14(2) of Lloyd’s Act 1982;”.

Revocation of Byelaws

3. The following byelaws are revoked:
 - (a) Membership (Entrance Fees and Annual Subscriptions) Byelaw (No. 9 of 1987);
 - (b) Membership Central Fund & Subscriptions (Misc. Provisions) Byelaw (No. 16 of 1993).

Commencement and application

4. This byelaw shall come into force on [DATE].

Appendix 1 – Amendments to the Powers of Charging Byelaw

POWERS OF CHARGING BYELAW

Commencement

This byelaw commenced on 6 December 1990.

Amendments

This byelaw was amended by
Powers of Charging (Amendment) Byelaw (No. 21 of 1998)
Powers of Charging (Amendment No. 2) Byelaw (No. [x] of 2022).

Explanatory Note

(This note does not form part of the byelaw)

This byelaw allows the Council to charge from time to time in respect of the provision of services, the carrying out of functions under Lloyd's Acts, byelaws and regulations and the furthering of the objects of the Society.

The byelaw also provides for the payment of entrance fees and annual subscriptions to be paid by underwriting agents and members of the Society.

The byelaw requires, as a condition of underwriting insurance business at Lloyd's, that members pay such charges, levies, fees, entrance fees and annual subscriptions as prescribed from time to time by the Council. In addition, the Council may charge interest on late payments.

In addition, the byelaw authorises the Council to enter into agreements and undertakings capping members' subscriptions and contributions to the New Central Fund. In the event that the Council wishes to increase the level of annual subscriptions or contributions to the New Central Fund above the level of any such cap, the byelaw provides a special general meeting mechanism through which, if the agreement or undertaking so provides, approval must be obtained from a majority of the members liable to pay the increased subscription or contribution. The byelaw makes provision for the holding and conduct of such meetings.

Words and terms shown in italics have the meaning set out in the Definitions Byelaw (no.7 of 2005).

This byelaw may be referred to as the Powers of Charging Byelaw (No.12 of 1990).

The Council of Lloyd's in exercise of its powers under section 6(2) of, and paragraph (4) of Schedule 2 to, Lloyd's Act 1982 by special resolution hereby makes the following byelaw.

1. General interpretation

In this byelaw:

- (a) “approved run-off company” has the meaning given in paragraph 1 of Schedule 1 to the Run-Off Companies Byelaw (No. 2 of 1995);
- (b) “auction” has the meaning given in paragraph 2(1) of the Auction Byelaw (No. 14 of 1997);
- (c) “Lloyd’s deposit” means all or any Lloyd’s deposit, Lloyd’s life deposit or additional Lloyd’s deposit, each as defined in paragraph 5 of the Membership Byelaw (No. 17 of 1993);
- (d) “member of the Lloyd’s community” has the meaning given in section 14(2) of Lloyd’s Act 1982 but shall be deemed also to include each Lloyd’s adviser and each approved run-off company;
- (e) “premiums trust fund” has the meaning given in paragraph 1 of the Schedule to the Membership Byelaw (No. 17 of 1993);
- (f) “requirements of the Council” means any requirement imposed by any byelaw or regulation made under Lloyd’s Acts 1871 to 1982, any condition or requirement imposed or direction given under any such byelaw or regulation, any direction given under section 6 of Lloyd’s Act 1982, any requirement imposed by or under any undertaking given by a member of the Society to the Society or to the Council and any other requirement imposed or direction given by the Council under Lloyd’s Acts 1871 to 1982;
- (g) “special reserve fund” means any fund so designated and set up in relation to an individual member in accordance with arrangements referred to in section 175 of, and Schedule 20 to, the Finance Act 1993;
- (h) “syndicate” has the meaning given in paragraph 1 of Schedule 1 to the Syndicate Accounting Byelaw (No. 18 of 1994).

21.- Requirement to pay charges, ~~etc.~~ levies and fees

- (1) The *Council* may require the payment by a *member of the Lloyd’s community* of such charges, levies or fees as the *Council* may prescribe in respect of:
 - (a) the supply, provision, rental or installation of any goods, services, facilities or amenities of any kind whatsoever; or
 - (aab) the administration of the affairs at Lloyd’s of any *member of the Lloyd’s community* or the provision of services or information in connection therewith, including (without prejudice to the generality of the foregoing):
 - (i) in relation to any ~~member of the Society~~ or any *underwriting agent* acting as such in relation to that *member*, for acting as trustee or holder of, or

providing or reconciling information or performing any other function in relation to, all or any part of that *member's* premiums trust funds, Lloyd's deposits, special reserve funds or other trust funds at Lloyd's or any cash or assets (including income) which are or were comprised in, or are or were connected with, any such fund or part; or

- (ii) the maintenance of membership, registration or other records in respect of any *member of the Lloyd's community* or for the purposes of or in connection with his affairs at Lloyd's, or in respect of any *syndicate* or its business, and the provision or reconciliation of any such information; or
- (iii) the maintenance of records to enable or assist any *member of the Lloyd's community* to carry on any business or activity or perform any function at Lloyd's or in connection with the carrying on of any such business or activity or the performance of any such function (whether the information relates to the relevant *member of the Lloyd's community* or its affairs or to other *persons* or their affairs) and the provision or reconciliation of any such information; or
- (iv) the provision of services or information to *underwriting agents* in connection with any *auction*;

(~~abc~~) the consideration by the *Society* or the *Council* of any application by any *member of the Lloyd's community* for any approval, consent, permission or exemption under or in connection with any *requirements of the Council*; or

(~~aed~~) the response by the *Society* to any enquiry or request for information; or

(~~be~~) the exercise by the *Society* of any function or power pursuant to Lloyd's Acts 1871 to 1982 and any byelaw or regulation made thereunder; or

(~~ef~~) the furtherance of the objects of the *Society*.

- (2)- In sub-paragraph (1) (except in sub-paragraph (~~e~~),~~f~~), "the Society" means the *Society* itself and also any of its officers and employees and any *person* or *persons* in or to whom (whether individually or collectively) any functions or powers are vested or delegated by or pursuant to Lloyd's Acts 1871 to 1982 and any byelaw or regulation made thereunder.
- (3)- Where any charge, levy or fee falling within sub-paragraph (1)(~~aa~~~~b~~)(i) is also recoverable by the *Society*, in its capacity as trustee, from any trust fund to which (or to any part of which) it relates, the *Society* may (at its sole discretion) instead of recovering that charge from the *member* recover it from the trust fund in question.
- (4) Where any charge, levy or fee falling within sub-paragraph (1)(~~aa~~~~b~~)(i) or (~~aed~~) relates to any cash or assets (including income) which are or were comprised in, or are or were connected with, any trust fund or part thereof, those amounts shall, for the purposes of sub-paragraph (3), be regarded as relating to the trust fund in question.

3. Subscriptions
2. Requirement of members and underwriting agents to pay subscriptions and entrance fees

- (1) Every *member* and *underwriting agent* shall pay to the *Society* such entrance fees and annual ~~subscriptions~~subscriptions as the *Council* may from time to time prescribe in accordance with the provisions of this byelaw.
- (2) Entrance fees and annual subscriptions shall be levied on *members* by service on each *member* or his *underwriting agent* or agents of a notice specifying the amount due or the method of calculating the amount due, which shall be paid by such *member* not later than the date specified for that purpose in such notice.

3. Amount and manner of calculation

- (1) The amounts of any charges, levies and fees pursuant to paragraph 1 and the manner of calculating such amounts shall be such as the *Council* shall from time to time prescribe.
- (2) The amounts of any entrance fees and annual subscriptions pursuant to paragraph 2 and the manner of calculating such amounts shall be such as the *Council* shall from time to time by *special resolution* prescribe.

4. Date and manner of payment

- (1) Charges, levies and fees pursuant to paragraph 1 shall be payable on such dates and in such manner as the *Council* shall from time to time prescribe.
- (2) Entrance fees and annual subscriptions pursuant to paragraph 2 shall be payable on such dates and in such manner as the *Council* shall from time to time by *special resolution* prescribe.
- (3) For the purposes of this byelaw, such date determined by the *Council* pursuant to subparagraphs 4(1) and 4(2) shall be the “due date”.

5. Non-payment

- (1) Without prejudice to sub-paragraph (2) where a member of the Lloyd's community fails to make any payment required pursuant to this byelaw by the due date (as defined in paragraph 4 above) the Council may charge interest on such amounts of the payments as are unpaid on the due date from the due date until the date of payment at a rate determined by the Council.
- (2) In relation to members, the making of payments prescribed pursuant to paragraphs 1 and 2 and any interest thereon charged pursuant to sub-paragraph (1) of this paragraph shall be a condition relating to permission to underwrite insurance business at Lloyd's pursuant to paragraph 42 of the Membership Byelaw (No. 5 of 2005) and the provisions of the Membership Byelaw (No. 17 of 1993) shall apply accordingly where any member fails to comply with such condition.

6. Powers to obtain information

- (1) Every member of the the Lloyd's community shall furnish to the Council such information as the Council may from time to time require by notice in writing to such member of the Lloyd's community or, in the case of a member, his underwriting agent for the purposes of this byelaw.
- (2) Any information required pursuant to sub-paragraph (1) shall be furnished in such manner and at such time as the Council may specify in writing.
- (3) A member of the Lloyd's community shall only be required under this paragraph to furnish such information as he or, in the case of a member, his underwriting agent possess or can reasonably be expected to obtain.

7.- Miscellaneous powers of the Council

In relation to any charges, levies, fees, entrance fees or subscriptions required under paragraphs 21 and 32 of this byelaw, the Council may:

- (a) ~~determine the amount of any charge, levy, fee or subscription~~ determine the amount of any charge, levy, fee or subscription in accordance with a specified scale or other specified factors;
- (b) provide for the return or abatement of any charge, levy, fee, entrance fee or subscription in specified circumstances;
- (c) make different provision for different cases and different circumstances; or

- (d) exempt wholly or in part any *person* or category of *person* from liability to pay any charge, levy, fee, entrance fee or subscription;
- ~~(e) prescribe the manner and time of payment; or~~
- ~~(f) charge interest on such amounts of any payment as are unpaid on the due date until the date of payment at a rate determined by the Council.~~

8. Agreements to limit Central Fund and New Central Fund contributions, annual subscriptions and related requirements

The requirements set out in paragraphs 9 to 11 below apply to contributions to the Central Fund, as prescribed under the Central Fund Byelaw (No. 4 of 1986), contributions to the New Central Fund, as prescribed under the New Central Fund and Property of the Society Byelaw (No. 23 of 1996) and to annual subscriptions and entrance fees prescribed pursuant to paragraph 2.

9. Agreements to limit contributions, annual subscriptions and/or entrance fees

(1) Subject to sub-paragraphs (3) and (4), the *Council* may upon admitting a *person* to membership of the *Society*, or at any time while a *person* remains a *member*, enter into an agreement with, or give an undertaking in favour of, that *person* (in this paragraph called “the relevant member”) containing all or any of such provisions as are described in sub-paragraph (2) together with any such other provisions as the *Council* and the relevant member may agree.

(2) The provisions referred to in sub-paragraph (1) are

- (a) the grant by the *Council* to the relevant member, in such terms and to such an extent as may be specified in the agreement or undertaking, of any such exemption or exemptions as are referred to in paragraph 4 of the Central Fund Byelaw (No. 4 of 1986), paragraph 4 of the New Central Fund and Property of the Society Byelaw (No. 23 of 1996) and, insofar as it relates to annual subscriptions and entrance fees, paragraph 7 of this byelaw;
- (b) an undertaking by the *Council* that it will not exercise the powers conferred by the Central Fund Byelaw (No. 4 of 1986), the New Central Fund and Property of the Society Byelaw (No. 23 of 1996) and, insofar as it relates to annual subscriptions and entrance fees, this byelaw, or such of those powers as may be specified in the agreement or undertaking, unless some specified event has first happened or some specified condition has first been satisfied (and such specified event or condition may include the prior approval of the proposed exercise of the power by *members*, or any class, category or description of *members*, by such

- majority and in such manner (whether at a meeting (including a meeting held under paragraph 10 of this byelaw) or otherwise) as may be so specified);
- (c) an undertaking by the Council that it will give to the relevant member prior notice, of such a period as may be specified in the agreement or undertaking, of the proposed level of any contribution to the Central Fund or the New Central Fund or of the annual subscription for any year and that, save in such circumstances and to such an extent (if any) as may be so specified, such contribution or annual subscription will not exceed the level referred to in the notice;
- (d) an undertaking by the Council that for such period as may be specified any Central Fund contributions, New Central Fund contributions or annual subscriptions will be determined or calculated on such basis as may be specified;
- (e) an undertaking by the Council that it will, in such circumstances as may be specified in the agreement or undertaking, exercise its powers under the Membership Byelaw (No. 17 of 1993) and its powers under the Agency Agreements Byelaw (No. 8 of 1988), or under any agreement in a form prescribed under those byelaws, so as to enable the relevant member to terminate his participation in any syndicate by shorter notice than that which would otherwise be required;
- (f) an undertaking by the relevant member that he will make, or will if so required by the Council make, contributions to the Central Fund or the New Central Fund in such circumstances and in such amounts as may be specified in the agreement.
- (3) An agreement which includes a provision such as is described in sub-paragraph (2)(a) or (b) shall not be entered into except with the prior sanction of a special resolution of the Council.
- (4) A special resolution passed for the purposes of sub-paragraph (3) may relate to a proposed agreement with or undertaking in favour of a particular member or may relate generally to such proposed agreements with or undertakings in favour of members, or members of such classes or description, as may be specified; and any exemption granted under this paragraph with the sanction of such a special resolution shall for the purposes of paragraph 4 of the Central Fund Byelaw (No. 4 of 1986), paragraph 4 of the New Central Fund and Property of the Society Byelaw (No. 23 of 1996) or, as the case may be, paragraph 7 of this byelaw be treated as granted by special resolution.

10. Meetings of members

- (1) Without limiting the generality of paragraph 9(2)(b), approval of a proposed exercise by the Council of its powers to levy contributions to the Central Fund or the New Central Fund or to prescribe the level of annual subscriptions (each a “relevant

power'') may, if an undertaking given by the *Council* under that paragraph so provides, be given at a meeting of *members* held in accordance with the provisions of the Constitutional Arrangements Byelaw (No.2 of 2010) that are applicable to general meetings convened pursuant to paragraphs 6.3 or 6.4 of that byelaw, subject to the modifications set out under sub paragraphs 10(2) to 10(5) below.

- (2) A member shall be entitled to attend and vote at the meeting if, but only if, he satisfies the following conditions -
- (a) He will, if the *Council* exercises the relevant power in the manner proposed, be liable to pay the *Central Fund* contribution, *New Central Fund* contribution or annual subscription to which the proposed exercise relates; and
 - (b) He is a *person* to whom the *Council* has undertaken under paragraph 6(2)(b) that it will not exercise the relevant power in the manner and in the circumstances proposed without the prior approval of a resolution passed at a meeting held under this paragraph.
- (3) The quorum of *members* necessary for the holding of a meeting under this paragraph shall be a *member* or *members* present in person or by proxy who satisfy the conditions specified in sub-paragraph (2) and who when taken together will be liable to pay not less than one-tenth of the aggregate *Central Fund* contribution, *New Central Fund* contribution or annual subscription to which the proposed exercise of the powers of the *Council* relates.
- (4) Each *member* who is qualified to attend and vote at a meeting held under this paragraph shall have one vote for each whole £100 of *Central Fund* contribution, *New Central Fund* contribution or (as the case may be) annual subscription which he will be liable to pay if the *Council* exercises its powers in the manner proposed.
- (5) A resolution proposed at a meeting held under this paragraph shall be passed if a simple majority of the votes cast are cast in favour of it.

11. Powers of the Council cumulative

Except in so far as it is expressly otherwise provided, any power conferred on the *Council* by any provision of this byelaw is in addition to, and shall not be construed as limiting or being limited by, any other power of the *Council*, whether conferred by any other provision of this byelaw or otherwise-, including pursuant to:

- (a) 6. ~~Revocation~~ *Central Fund* Byelaw (No. 4 of 1986); *New Central Fund* and ~~amendment~~ *Property of byelaws*

- ~~(1) Byelaw 26 made under Lloyd's Acts 1871 to 1951 is revoked.~~
~~(b) (2) The Miscellaneous Matters the Society Byelaw (No. 23 of 1996); and~~
~~(c) Annual Subscriber Byelaw (No. 15 of 1983) is amended by deleting 2000).~~

12. Transitional provisions

In any membership agreement between the *Society* and a *member*, any reference to a meeting held in accordance with paragraph 8 (Powers of Charging).3 of the Membership, Central Fund and Subscriptions (Miscellaneous Provisions) Byelaw (No. 16 of 1993) shall be taken as a reference to a meeting held in accordance with paragraph 10 of this byelaw.

13.- Commencement

This byelaw shall come into force on 6 December 1990.