



PPTA TE WEHENGARUA ANNUAL CONFERENCE 2021

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# PROPOSED CONSTITUTIONAL CHANGES

This paper proposes changes to the definition of membership and termination of membership (non-financial) and definitions of schools

# Constitution



**New Zealand Post-Primary Teachers' Association  
PO Box 2119, Wellington, New Zealand**

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## RECOMMENDATIONS

1. That the report be received.
2. That rule 5 (i) be changes from:
  5. (i) The following persons shall be eligible for full membership:
    - (a) All teachers in the state sector (including part-time or relieving teachers and including members who are on leave without pay from their teaching positions for periods of up to two (2) years who were full members immediately prior to the commencement of such leave) who are employed in:
      - (i) any state or integrated secondary school; or
      - (ii) any state or integrated form 1-7 or Area School; or
      - (iii) any state educational institution including any composite school offering education at form 1 level or above where the person teaches at that level or above.
    - (b) All persons engaged in instruction in evening or continuing education classes or courses offered by the controlling authorities of State and integrated secondary schools, Form 1-7 schools, area schools, composite schools and primary schools and including all persons employed as coordinators of programmes, assistant coordinators of programmes or liaison assistants for programmes and who do not already qualify for full membership in terms of rule 5(i)(a).

TO:

*5(i) The following teachers shall be eligible for membership*

*a. All teachers employed in:*

- (i) any state or integrated secondary school; or*
- (ii) any state or integrated year 7-15 school or Area School; or*
- (iii) any state educational institution including any composite school offering education at form 1 level or above where the person teaches at that level or above.*

*b. Members who are on official leave without pay from their teaching positions for periods of up to two (2) years from their last subscription payment as full members.*

*c. Relieving teachers who have paid a subscription in the last twelve months.*

*d. All persons engaged in instruction in evening or continuing education classes or courses offered by the controlling authorities of State and integrated secondary schools, year 7 to 15 schools, area schools, composite schools and primary schools and including all persons employed as coordinators of programmes, assistant coordinators of programmes or liaison assistants for programmes and who do not already qualify for full membership in terms of rule 5(i)(a).*

3. That Rule 8 (ii) be changed from:

(ii) Any member (except for members on leave without pay from their teaching positions for up to two (2) years) whose subscription for the current financial year is unpaid after the thirty-first day of March in any year or who has not contracted to pay such subscription by that date shall be debarred from the exercise of any of the privileges of membership until such subscription shall be paid unless the Executive shall otherwise determine.

TO:

- (ii) *Membership may be revoked and all rights of membership cancelled if any member:*
- a. resigns or is expelled from the Association, or*
  - b. fails to pay subscriptions for two consecutive pay cycles in any year, or*
  - c. exceeds two years on official leave without pay from their teaching positions, or*
  - d. has not paid a subscription as a relieving teacher during the last 12 months.*

4. That Rule 9 (iii) be changed from:

(iii) If she/he shall deliver to the Secretary a notice in writing stating her/his desire to withdraw from membership PROVIDED that such notice is a minimum of 2 weeks and provided further that any resignation shall not be effective until the member has paid all dues required under these rules.

TO:

(iii) *If she/he shall deliver to the Secretary a notice in writing stating her/his desire to withdraw from membership PROVIDED that such notice is a minimum of 2 weeks.*

## 1. BACKGROUND

- 1.1. During and immediately following the 2018-19 industrial round we had considerable difficulty with the Ministry and Novopay over indentation of who were and were not current PPTA members for the purpose continuing sub deduction if teachers moved schools and for eligibility for lump sum payments and salary increases arising from the settlement.
- 1.2. Most of those issues were resolved by the establishment of inter-organisation protocols and the introduction of legal requirements around offering membership to individuals and to notify unions of employees wishing to have or to continue to have membership at the point of employment.
- 1.3. However, there are still some areas where there can be a lack of clarity about who is a member if subs have not been received for a time and for how membership is terminated if it is not initiated by the member.
- 1.4. Particularly there are interpretation issues around the status of members on two year's unpaid leave (and the need to identify that as approved leave) and the status of day relievers who may take work infrequently or stop taking work and when they cease to have coverage.
- 1.5. This HX recommends some clarification of intent in the wording of the constitution around part 5 (membership) and part 8 (subscriptions) and an endorsement of our administrative practices to bring those into effect.
- 1.6. The current wording of the Rules referred to is in the appendix to this HX.

## 2. PROPOSED CONSTITUTIONAL CHANGES

### MEMBERSHIP

- 2.1. We propose the following changes:
- 2.2. That rule 5 (i) be changes from:
  5. (i) The following persons shall be eligible for full membership:
    - (a) All teachers in the state sector (including part-time or relieving teachers and including members who are on leave without pay from their teaching positions for periods of up to two (2) years who were full members immediately prior to the commencement of such leave) who are employed in:
      - (i) any state or integrated secondary school; or
      - (ii) any state or integrated form 1-7 or Area School; or
      - (iii) any state educational institution including any composite school offering education at form 1 level or above where the person teaches at that level or above.

(b) All persons engaged in instruction in evening or continuing education classes or courses offered by the controlling authorities of State and integrated secondary schools, Form 1-7 schools, area schools, composite schools and primary schools and including all persons employed as coordinators of programmes, assistant coordinators of programmes or liaison assistants for programmes and who do not already qualify for full membership in terms of rule 5(i)(a).

TO:

*5(i) The following teachers shall be eligible for membership*

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*(iii) any state educational institution including any composite school offering education at form 1 level or above where the person teaches at that level or above.*

*b. Members who are on official leave without pay from their teaching positions for periods of up to two (2) years from their last subscription payment as full members.*

*c. Relieving teachers who have paid a subscription in the last twelve months.*

*d. All persons engaged in instruction in evening or continuing education classes or courses offered by the controlling authorities of State and integrated secondary schools, year 7 to 15 schools, area schools, composite schools and primary schools and including all persons employed as coordinators of programmes, assistant coordinators of programmes or liaison assistants for programmes and who do not already qualify for full membership in terms of rule 5(i)(a).*

2.3. This is primarily for clarification about the rights of the relieving teachers with irregular work to continued membership only for 12 months if they are not paying subs because they have no relief work; to clarify that unpaid leave must be approved leave. It also allows us to remove day relivers who stop working altogether but do not tell us.

2.4. The definition of schools only appears in Rule 5 and it seems useful to simply update the reference to Form 1 to Year 7 and from Form 1-7 to years 7-15 if these rules are amended.

## SUBSCRIPTION AND LEVIES

2.5. We propose the following changes:

8. (i) *No change*

That Rule 8 (ii) be changed from:

(ii) Any member (except for members on leave without pay from their teaching positions for up to two (2) years) whose subscription for the current financial year is unpaid after the thirty-first day of March in any year or who has not contracted to pay such subscription by that date shall be debarred from

the exercise of any of the privileges of membership until such subscription shall be paid unless the Executive shall otherwise determine.

TO:

- (ii) *Membership may be revoked and all rights of membership cancelled if any member:*
- a. resigns or is expelled from the Association, or*
  - b. fails to pay subscriptions for two consecutive pay cycles in any year, or*
  - c. exceeds two years on official leave without pay from their teaching positions, or*
  - d. has not paid a subscription as a relieving teacher during the last 12 months.*

No changes to later subclauses of the Rule.

*Note to 8(ii)*

*If membership is revoked then the loss of privileges of membership includes free support or advice from PPTA when requested, pay-rises or other changes upon agreement of collective negotiations, PPTA membership card, the right to vote etc.*

- 2.6. This change is in part to remove the potential for someone who has not paid subs remaining an active member between 1 April and 31 March. Expressing a maximum number of pay cycles as a trigger point at which their membership might not be continued also aligns with the way we gather the information that often lets us know something has changed – the pay roll. It also reinforces the measure by which we can determine if day relivers remain covered by us.
- 2.7. The term ‘may be revoked’ is used as we do need to check first why payment has stopped to ensure that it is not a payroll/school error or because someone has an otherwise legitimate reason to remain covered but not be paying subs.
- 2.8. To support the correct operation of the constitutional rights and obligations our administrative practices have to allow for the different rights and entitlements of members and to be fair to those who may not be intending to leave PPTA.
- 2.9. Clarity around who are and who are not members is particularly essential during and after industrial negotiations to ensure that valid members receive the benefits of the settlement and others do not.

#### ADMINISTRATIVE PROCESSES TO SUPPORT THE RULES

- 2.10. There are three groups of members that our processes have to deal with when subscription requirements do not seem to be being met:
- Category 1 – ‘Regular’ teachers who continue in their employment but whose subs stop without notifying PPTA that they are resigning or otherwise changing status.
  - Category 2 – ‘Regular’ teachers who stop teaching without notifying PPTA.
  - Category 3 – ‘Regular’ teachers who continue in their employment but are on long term unpaid leave stop without notifying PPTA.
  - Category 4 – New and current relievers from whom no subs are received for a while.

- 2.11. The problem in managing the constitutional rights to continued members of these three groups is that they have different rights to continued membership, but we often do not know which category they fall into.
- 2.12. Category 1 may be teachers whose subscriptions have 'dropped off' payroll because of a fault of Novopay, or they may have decided to stop being members without telling us.
- 2.13. If it is the former case then they are still members, in the latter case they cease to have the rights of membership, but from when? The wording of the constitution could be read to indicate they can have up to 12 months of membership benefits before hitting a 31 March cut-off.
- 2.14. Category 2 cease to have the rights of membership, but we don't know they have stopped and when does the end of membership take effect.
- 2.15. Category 3 – 'are indistinguishable from category 1 or 2 teachers, but they have the constitutional right to remain members for a period of 24 months without paying subs.
- 2.16. Category 4 – The constitution does not refer to them specifically in part 8 and so they are covered by the 31 March cut off.
- 2.17. The main problem is that when subs stop we don't know what category applies, so we do not know if they are constitutionally entitled to 24 months membership, up to 12 months membership or should be deleted from membership immediately.
- 2.18. The practical resolution to this is to hold 'inactive' file for 12 months. If we receive a sub payment or contact from them in that time they can be returned to active membership.
- 2.19. After 12 months they will be deleted from the 'inactive' file. After that they would need to either formally re-join or provide evidence that they were on long term leave to be retrospectively returned to full membership status.
- 2.20. For STCA purposes anyone in the inactive file at the time of a settlement would need to provide us with evidence of a reason for not paying subs which gave them constitutional rights to ongoing membership. The Ministry would need to be notified that some on the inactive list might still be PPTA members and that there may be others not on the list who are PPTA members on extended approved leave without pay. Membership and eligibility would need to be determined on a case-by-case basis and relate to the PPTA constitutional requirements.
- 2.21. Any on more than 12 months unpaid leave at the time of the settlement would need to demonstrate that they were firstly on unpaid leave and secondly that the period from their last sub payment did not exceed 24 months.
- 2.22. To facilitate this, we propose the following administrative steps:
  - a. Reminders of the requirement to notify PPTA when members go on long term leave, and for the general provisions for continuing will be advertised on the website and at least biannually in PPTA publications, including the requirement to notify us when they change jobs or go on long term unpaid leave.
  - b. To accommodate Rule 9(iii), membership shall cease two weeks from receipt of written notification of termination of membership from the member, or the date notified in writing to the member.



- c. Members shall be contacted if the requirements of Rule 8 of the constitution are not met or cease to be met after two pay cycles. If they are on long term leave they will have active membership status for up to 24 months without subscription payments. If they have moved to short term relieving roles they will have active membership status for up to 12 months without subscription payments.
- d. If members cannot be contacted then, within a reasonable timeframe, their last known branch chair will be asked to advise PPTA if they are still at the school, have left the school or are on long term leave.
  - i. Anyone identified as on long term leave will retain active membership status for up to 24 months.
  - ii. Anyone who remains in the school but does not respond to approaches about subs will be notified that their membership will cease after the next pay cycle, with advice on what steps the member might take next.
  - iii. Members who cease to be at the school will be identified as 'inactive' until we receive a subscription from day relief work.
  - iv. All other 'unidentified' will go into an 'inactive' file' for 12 months.
- e. If not reactivated after 12 months in that file they are lapsed from membership, though they may later provide evidence that they retained membership eligibility under the constitution and be reinstated as members for the whole of the eligible period.

## RULE 9

2.23. It is also proposed that Rule 9 (iii) be amended by the deletion of the words '*and provided further that any resignation shall not be effective until the member has paid all dues required under these rules.*'

2.24. This is because:

- it is very difficult to make people pay outstanding subs if they have determined to stop being members and we do not do this as a matter of practice.
- If resignation is not effective until they do pay, then it implies that constitutionally they remain members (even if they are "debarred from the privileges of membership"). That appears to create a constitutional grey area where they might still be construed to be members for purposes of STCA settlements etc. even though they have not paid subs for an extended period and have signalled an intention to leave.

2.25. If the Rule is not amended, then either:

- our practices would need to change to reflect the constitution, which would create the anomaly indicated above and mean that we would probably need to start using debt collecting agencies to pursue subscriptions, which may make it less likely that people return to membership later, or
- we would need to terminate their membership under rule 8, which would mean rule 9 would be superfluous.

## MEMBERSHIP

5. (i) The following persons shall be eligible for full membership:
- (a) All teachers in the state sector (including part-time or relieving teachers and including members who are on leave without pay from their teaching positions for periods of up to two (2) years who were full members immediately prior to the commencement of such leave) who are employed in:
- (i) any state or integrated secondary school; or
- (ii) any state or integrated form 1-7 or Area School; or
- (iii) any state educational institution including any composite school offering education at form 1 level or above where the person teaches at that level or above.
- (b) All persons engaged in instruction in evening or continuing education classes or courses offered by the controlling authorities of State and integrated secondary schools, Form 1-7 schools, area schools, composite schools and primary schools and including all persons employed as coordinators of programmes, assistant coordinators of programmes or liaison assistants for programmes and who do not already qualify for full membership in terms of rule 5(i)(a).

## SUBSCRIPTION AND LEVIES

8. (i) Each member shall pay to the Secretary an annual subscription of an amount determined each year by the Annual Conference for each class of membership.
- (ii) Any member (except for members on leave without pay from their teaching positions for up to two (2) years) whose subscription for the current financial year is unpaid after the thirty-first day of March in any year or who has not contracted to pay such subscription by that date shall be debarred from the exercise of any of the privileges of membership until such subscription shall be paid unless the Executive shall otherwise determine.
- (iii) Any member whose membership lapses or who resigns or is expelled from the Association and who subsequently applies for readmission shall pay a re-entrance fee at a rate established by the Executive but not exceeding ten percent of the annual subscription PROVIDED that the Executive shall have the authority to exempt an applicant from payment of such fee.
- (iv) The Executive may recommend that members shall pay a levy for a specified purpose PROVIDED that such a recommendation shall only be implemented following the adoption by a majority of members of a resolution conducted by a secret ballot taken in each Region of the Association on a proposal to raise a levy and PROVIDED FURTHER that any levy so raised shall not exceed 10% of the annual subscription.

- (v) An Annual or a Special Conference called as provided for in these rules may by a resolution carried by a majority of those present and entitled to vote require members to pay a levy for a specified purpose PROVIDED that at least one month's prior notice is given to members of the purpose, terms and amount of the proposed levy and of the wording of the proposed resolution.

## DURATION AND CESSATION OF MEMBERSHIP

9. A member shall cease to be such:

- (i) If she/he shall cease to be a teacher or tutor or ceases to be eligible for membership in terms of Rules 5 or 6 hereof and shall cease to pay her/his subscription provided that where a member has been dismissed and appeals against that dismissal she/he shall be eligible to retain membership pending the determination of the appeal.
- (ii) If the Executive shall at an ordinary meeting thereof by a two-thirds majority of those present and entitled to vote resolve that such member be expelled or excluded from membership by reason of:
  - (a) wilful disregard of any policy decided upon by the Annual Conference of the Association or decisions of the National Executive or
  - (b) purporting to represent the views of the Association unless authorised to do so or
  - (c) improperly divulging Association information classified as confidential or
  - (d) misappropriation or misuse of any funds or other property of the Association.

PROVIDED that charges made under rule 9(ii) b c and d above have been referred to the Executive through the Code of Ethics procedure and that charges under (a) above are laid before the Executive in writing from any member or group of members and PROVIDED FURTHER that fourteen (14) days notice of the Executive meeting and of the proposed motion and the reasons therefore be given the member who shall be entitled to attend the meeting and make a statement thereto.

- (iii) If she/he shall deliver to the Secretary a notice in writing stating her/his desire to withdraw from membership PROVIDED that such notice is a minimum of 2 weeks and provided further that any resignation shall not be effective until the member has paid all dues required under these rules.