



Member of the World Cat Congress

Executive Council Secretary
Chris M Lowe
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22nd July 2011

File Ref: BA24-1/11

Statement to the Membership

Attached is the original letter sent to the Kathryn Dalziel the lawyer acting for NZCF, requesting a legal opinion on various issues pertaining to the 2011 AGM, and the response we received from Kathryn.

For various reasons (some earthquake related) the response did not reach us until July despite the June date on the letter.

As you will see, the legal advice we have received says that the use of proxies for all votes including approval of previous minutes, and votes of no confidence in the Chair, is legitimate according to our current constitution.

Under our current constitution, people may hold any number of individual proxies, and those giving the proxies may grant them freedom to use those proxy votes as they wish or think best. Proxy votes may be used for any type of vote including accepting previous minutes, votes of no confidence in the Chair, and votes about whether the Chair 's ruling is correct or not.

The lawyer also commented that in her the opinion, proxies should not be able to be used for some categories of votes, specifically constitutional changes, and votes of no confidence in the Chair.

Since it is the case that we now have individual membership and voting rights, we could look at other options to enable all members to have a vote on agendaed items, for example allowing postal voting on all remits not only constitutional ones. Proxy voting could be removed completely or limited to certain types of vote (eg votes on already agendaed items).

Of course if proxy voting were removed or limited, the required voting strength for a quorum at an AGM may also need to be changed.

The EC invites members to make submissions on this, and to send their thoughts to the Executive Council Secretary Chris Lowe, preferably to reach her by mid August.

The EC will then consider this issue and having summarised member's submissions will put forward a remit to the next AGM addressing this matter.

Zena Pigden
Acting Chair

ATTACHMENTS



BA24/11

Kathryn Dalziel
Taylor Shaw Barristers & Solicitors
PO Box 1123
Christchurch 8140

20th April 2011

Dear Kathryn

Re: NZ Cat Fancy Inc – Interpretation of Rules – Proxy Voting

I have been instructed by the Executive Council to seek a legal opinion on the listed matters, which the Executive Council have highlighted following a vote of no confidence in the Chairman being past at the Annual General Meeting held 9th April 2011:

- Can proxy votes be used to vote on accepting previous minutes, accepting amendments to minutes, or accepting corrected minutes?
- Can proxy votes be used for procedural motions (this includes motions of no confidence in the chairman and also motions that the ruling of the Chairman be disagreed with)
- If proxy votes cannot be used for one or other or both of the above, does the fact that the meeting is inquorate without the proxy votes have any bearing or is there deemed to be a quorum for the meeting, even though proxy votes cannot be used for some motions?
- Leaving aside the question of proxy votes, of those present in person at an AGM :
 - (a) Who can vote on acceptance of minutes of a previous meeting?
 - (b) Everyone or only those who were present at the previous AGM?

To assist you with the process I have included copies of the following documentation

1. Appointment of proxy form (ref: pg 22 General Rules & Policies)
2. Voting preference form
3. Standing Orders
4. Constitution
5. General Rules & Policies
6. Transcription of AGM 2010 re: change to constitution “highest polling candidate”
7. DRAFT of AGM minutes 2011 (I have included only those pages relating to this issues highlighted – as the draft document is in excess of 60 pages)

Yours sincerely

Chris M Lowe

Executive Council Secretary

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Email: secretary@nzcf.com P: 06 839 7811

3 June 2011

New Zealand Cat Fancy Association

c/-Zena Pigden

17 Fern Road,

Ravensbourne,

DUNEDIN 9022

Dear Zena

Re: Interpretation of Rules – Proxy Voting

As discussed, I apologise for the delay in responding to your enquiry. I have spoken with you about this and now follow this up with my written opinion.

Background

I understand that there was an Annual General Meeting on 9 April 2011.

From the outset, there were challenges to the meeting including significant discussion around the minutes of the previous AGM. This discussion was important because there had been a change to the constitution at the AGM and it was believed by at least one member that the change had not been properly recorded.

A motion was put to change the minutes in order to achieve a flow on effect into the Constitution.

This raised the issue of the use of proxy votes, that is, votes of members not present but delegated to members who are present at the meeting.

Proxy Votes

The right to vote is set out in rule 4.4 of the Constitution which records that fully paid up members (rule 4.4(a)), fully paid up family members (rule 4.4(c)), affiliate members (rules 4.0(b) & 4.7), and life members (rule 4.5) are eligible to vote.

Rule 21.5 records that all members may attend NZCF meetings and those members with voting rights may vote at NZCF Meetings. All members with voting rights shall have one vote.

Proxy voting is then created under rules 21.6 and 21.7 of the Constitution. Rule 21.6 records that "proxies" shall be registered with the Executive Council Secretary at least days prior to the meeting to which the proxy relates. The form of proxy is to be in the form the Executive Council includes in the Standing Orders and rule 21.7 states that quorum for a NZCF Meeting is a "voting strength" of at least 40. This includes full financial members attending in person with voting rights **or hold proxies of Members with voting rights.**

Under rule 11.16 of the General Rules and Policies, the quorum for an AGM is described as 40 members (in person or proxy) who are eligible to vote with reference to rule 21.7 of the Constitution. Although worded differently, the intent is clear; members can vote on their own behalf and as proxy on any matter.

This is consistent with rule 27.1 of the Constitution which allows for a change in the Constitution by 75% majority of members present and voting including proxies and postal votes. The reason I mention this is because a change in any constitution is recognised as a highly important matter and yet, under this Constitution, it is allowed to be made by the use of proxies. In many constitutions, the right to change a constitution by proxy is not acceptable because of the importance of the vote.

Under the standing orders, voting is in accordance with the one person/one vote rule unless a person holds a proxy (order 6 (f)). The standing orders also have the appointment of proxy forms contemplated by the Rules.

Your questions

1. Can proxy votes be used to vote on accepting previous minutes, accepting amendments to minutes, or accepting corrected minutes? The answer is yes.
 2. Can proxy votes be used for procedural motions (this includes motions of no confidence in the chairman and also motions that the ruling of the Chairman be disagreed with)? The answer is yes.
 3. (Paraphrasing) Is the existence of proxy votes relevant to quorum? The answer is yes. The overriding document is the Constitution which creates a quorum of 40 "voting strength". Voting strength is made up of voting members present and proxies held by voting members present. The alternative analysis is found in the Rules and policies document which says
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quorum is 40 members made up of voting members and proxies from voting members. Either way, proxies form part of the count to quorum.

4. Who can vote at an AGM on a motion with respect to the minutes of the previous meeting? Answer all fully paid up members (rule 4.4(a)), fully paid up family members (rule 4.4(c)), affiliate members (rules 4.0(b) & 4.7), and life members (rule 4.5), either in person or by proxy. It does not matter if they were present or not, they can vote on the motion. In my view it is inadvisable to vote on any motion that you don't know anything about as you can be publicly criticised. My view is that member who elected to vote on the minutes without being present at the relevant meeting should have abstained from the vote but it is entirely over to them.

If you have any further questions, please do not hesitate to contact the writer. In my view this issue has revealed a real problem with the use of proxies and it may be worth revisiting the constitution and these processes in due course. As a starting point, I do not believe a vote of no confidence in a Chairman during the course of a meeting or a change in the Constitution should ever be able to be effected by the use of proxies.

Yours faithfully

TAYLOR SHAW

per;


Kathryn Dalziel

Associate

cc: Chris Lowe

Private Bag 6103

Hawkes Bay Mail Centre

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