

Regulatory Bulletin

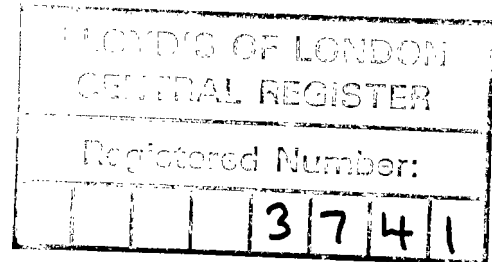
LLOYD'S
LLOYD'S OF LONDON

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FROM: John Baker, General Manager, Enforcement
LOCATION: 58/SW1
EXTENSION: 6633
DATE: 15 January 1997
REFERENCE: 003/97
SUBJECT: DISCIPLINARY BYELAWS

ACTION POINTS: FOR INFORMATION ONLY
DEADLINE: NONE

Introduction

At its meeting on 4 December 1996 the Council of Lloyd's made the following byelaws:-

Misconduct and Penalties (Amendment) Byelaw (No. 45 of 1996).

Disciplinary Committees (Amendment) Byelaw (No. 46 of 1996).

Appeal Tribunal (Amendment) Byelaw (No. 47 of 1996).

Council Stage of Disciplinary Proceedings (Amendment) Byelaw (No. 48 of 1996).

A full copy of the byelaws (the "Amending Byelaws") is attached to this bulletin. All four byelaws came into force immediately. In addition, a consolidated version of the principal byelaws which are amended thereby are also attached for your information showing the amendments in context.

The Amending Byelaws make amendments to the Misconduct and Penalties Byelaw (No. 30 of 1996), the Disciplinary Committees Byelaw (No. 31 of 1996), the Appeal Tribunal Byelaw (No. 32 of 1996) and the Council Stage of Disciplinary Proceedings Byelaw (No. 33 of 1996) (“the Principal Byelaws”), all of which came into force on 7 August 1996. These amendments are in the main clarificatory. In addition, certain existing offences have been added to the four classes of fixed penalty offences set out in the Misconduct and Penalties Byelaw (No. 30 of 1996) so that those offences may be dealt with by way of fixed penalty proceedings rather than requiring summary proceedings to be commenced.

The main amendments made by the Amending Byelaws are as follows:-

(a) Appeal Procedure

It will be recalled that the appeal process is now by way of review of the original hearing and that, where an appeal is successful, the Appeal Tribunal directs a rehearing. The amendments made ensure that such cases can be directed for rehearing in both disciplinary and regulatory cases. In addition, a procedure for making an application for leave to the Appeal Tribunal for certain regulatory decisions has been specified by the Appeal Tribunal (Amendment) Byelaw. The amendments also clarify which regulatory decisions require the leave of the Appeal Tribunal before an appeal can proceed.

(b) Express Revocation

For the avoidance of doubt, the revocations and amendments implied by the Principal Byelaws are confirmed by express provisions.

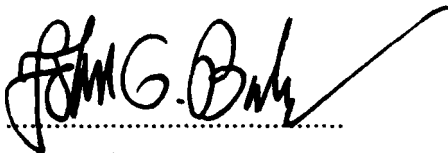
(c) Misconduct and Penalties Byelaw (No. 30 of 1996)

The amendments made by the Misconduct and Penalties (Amendment) Byelaw (No. 45 of 1996) cover two matters in the Misconduct and Penalties Byelaw (No. 30 of 1996). First, they align the effective date of continuing jurisdiction for misconduct over those who leave Lloyd’s with the Misconduct and Penalties Byelaw (No. 30 of 1996). Secondly, in the class

lists of fixed penalties offences at Schedule 2 of the Misconduct and Penalties Byelaw (No. 30 of 1996), a defined fixed penalty offence has been moved to a more appropriate class, and a number of existing offences, which have been identified by the Regulatory Division as appropriate offences to include within the four classes to which fixed penalty proceedings apply, are included accordingly.

Any queries on the new byelaws, their provisions and procedures, should be addressed in the first instance to Jonathan Foster (ext 6674) in the Legal Services Department or Henrietta van den Arend (ext6281) in the Regulatory Proceedings Department.

This bulletin has been sent to all underwriting agents and Lloyd's advisors, Lloyd's brokers, corporate members, market associations, the ALM and recognised auditors.

A handwritten signature in black ink, appearing to read 'JMG Baker', written over a dotted horizontal line. The signature is stylized and includes a long, sweeping flourish that extends to the right.

John Baker
General Manager, Enforcement

MISCONDUCT AND PENALTIES (AMENDMENT) BYELAW

(No. 45 of 1996)

(Made on 4th December 1996)

The Council of Lloyd's, in exercise of its powers under sections 6(2) and 7(1) of Lloyd's Act 1982, by special resolution hereby makes the following byelaw.

1. Interpretation

(1) In this byelaw, "the principal byelaw" means the Misconduct and Penalties Byelaw (No. 30 of 1996).

(2) Unless the context otherwise requires, expressions defined in the principal byelaw have the same meanings in this byelaw.

2. Amendments to the principal byelaw

The principal byelaw is amended as follows -

(a) for the avoidance of doubt, by inserting after paragraph 5 the following new paragraph 5A -

“Revocations and amendments

5A. The Misconduct, Penalties and Sanctions Byelaw (No. 9 of 1993) is revoked save in its application to any act or omission taking place prior to 8 August 1996.”;

(b) in paragraph 6(3)(b), by inserting the words “on or” before the words “prior to”;

(c) in the class list for Class A at the end of Schedule 2 to the principal byelaw -

(i) in the column headed “Byelaw”, by inserting the words “Agency Agreements Byelaw (No. 8 of 1988)” immediately below the words “The Members Agents (Information) Byelaw (No. 7 of 1988)” and by inserting the words “12(3) and 12(5)” opposite these inserted words, in the column headed “Relevant paragraph(s)”;

(ii) by inserting the words “and 6(1)“ after the word “4” in the column headed “Relevant paragraph(s)” in relation to the Members' Agents (Australia) Byelaw (No. 14 of 1992);

- (iii) in the column headed "Relevant paragraph(s)" in relation to the Membership Byelaw (No. 17 of 1993), by inserting the words "3(7)," before the words "15(7),";
- (d) in the class list for Class B at the end of Schedule 2 to the principal byelaw -
 - (i) in the column headed "Relevant paragraph(s)" in relation to the Membership Byelaw (No. 17 of 1993), by inserting the words "3(1), 3(2), 3(3), 3(4), 3(5), 3(6)," before the words "8(1),";
 - (ii) by inserting at the end of the class list in the column headed "Byelaw" the words "Individual Registration Byelaw (No. 13 of 1996)" and in the column headed "Relevant paragraph(s)" the words "2(1), 5(5) and 8(4),";
- (e) in the class list for Class C at the end of Schedule 2 to the principal byelaw -
 - (i) in the column headed "Relevant paragraph(s)" in relation to the Membership Byelaw (No. 17 of 1993), by inserting the words "3(8)" before the words "1 1(2)" and by deleting the words " 14(1), 14(2)," after the words " 11 (2),";
 - (ii) by inserting at the end of the class list in the column headed "Byelaw" the words "Individual Registration Byelaw (No. 13 of 1996)" and, opposite these inserted words, in the column headed "Relevant paragraph(s)", the words "1(5)(a), 1(5)(b), 8(2)(a) and 8(2)(b)";
- (f) in the class list for Class D at the end of Schedule 2 to the principal byelaw, by inserting the words "14(1), 14(2)," after the words "5(6)," in the column headed "Relevant paragraph(s)" in relation to the Membership Byelaw (No. 17 of 1993).

3. Commencement

This byelaw shall come into force on 4 December 1996.

MISCONDUCT AND PENALTIES (AMENDMENT) BYELAW

(No. 45 of 1996)

EXPLANATORY NOTE

(This note is not part of the byelaw)

This byelaw amends the Misconduct, Penalties and Sanctions Byelaw (No. 30 of 1996) (“the principal byelaw”) so as to confirm the revocations and amendments implied by that byelaw. In addition, the class lists in Schedule 2 to the principal byelaw- have been amended to incorporate some existing offences as fixed penalty offences.

DISCIPLINARY COMMITTEES (AMENDMENT) BYELAW

(No. 46 of 1996)

(Made on 4th December 1996)

The Council of Lloyd's, in exercise of its powers under sections 6(2) and 7(1) of Lloyds Act 1982, by special resolution hereby makes the following byelaw.

1. Interpretation

(1) In this byelaw "the principal byelaw" means the Disciplinary Committees Byelaw (No. 31 of 1996).

(2) Unless the context otherwise requires, expressions defined in the principal byelaw have the same meanings in this byelaw.

2. Amendments to the principal byelaw

The principal byelaw is amended for the avoidance of doubt by inserting after paragraph 1 of Schedule 3 (Revocations and Amendments) to the principal byelaw the following new paragraph 2-

"2. In paragraph 8(v)(aa) of the Members' Agents (Information) Byelaw (No. 7 of 1988), the words "other than proceedings dealt with as summary proceedings or fixed penalty proceedings" shall be in substitution for the words "other than a Summary Disciplinary Committee" in respect of all disciplinary proceedings which are instituted after this byelaw comes into force. "

3. Commencement

This byelaw shall come into force on 4 December 1996,

DISCIPLINARY COMMITTEES (AMENDMENT) BYELAW

(No. 46 of 1996)

EXPLANATORY NOTE

(This note is not part of the byelaw)

This byelaw amends the Disciplinary Committees Byelaw (No. 31 of 1996) so as to confirm the revocations and amendments implied by that byelaw.

APPEAL TRIBUNAL (AMENDMENT) BYELAW

(No. 47 of 1996)

(Made on 4th December 1996)

The Council of Lloyd's, in exercise of its powers under paragraphs 6(2) and 7(1) of Lloyd's Act 1982, by special resolution hereby makes the following byelaw.

1. Interpretation

- (1) In this byelaw, "the principal byelaw" means the Appeal Tribunal Byelaw (No.32 of 1996).
- (2) Unless the context otherwise requires, expressions defined in the principal byelaw have the same meanings in this byelaw.

2. Amendments to the principal byelaw

The principal byelaw is amended as follows -

- (a) In Schedule 2 (Lloyd's Appeal Rules) to the principal byelaw -
 - (i) in Rule 1(b), by adding the words ", or applications for leave to appeal from," after the words "appeals from";
 - (ii) in Rule 3.3, by deleting the words "Within 7 days of" and substituting "As soon as practicable after";
 - (iii) in the heading to Rule 4, by deleting the words "in disciplinary proceedings";
 - (iv) in Rule 4.1-
 - (aa) by deleting the words "of a Disciplinary Tribunal";
 - (bb) by deleting the words "paragraph 6 of" and substituting the words "paragraphs 6 and 7 of and paragraph 1 of Schedule 3 to";
 - (cc) by deleting the words "date of the decision concerned" and substituting the words -

"later of:

 - (a) the date of service on the appellant of the decision of the body in respect of which leave to appeal is sought; and

- (b) the date of service of a written statement giving reasons for that decision.”;
- (v) in Rule 4.2, by adding after the words “reasons for that decision” the words “and a copy of the application and accompanying documents shall be sent to the Appeal Tribunal at the same time”;
- (vi) by inserting after Rule 4.4a new Rule 4.5 as follows -
 - “4.5 At any time after service of an application for leave to appeal from a decision of the Council or the Committee pursuant to paragraph 7 of the Appeal Tribunal Byelaw, the Appeal Tribunal may, upon the application of any party to such application, stay the implementation of the decision in respect of which leave to appeal is sought, either in whole or in part.”;
- (vii) in Rule 5(a), by inserting after the words “Rule 3.8” the words “or Rule 4.5”;
- (viii) in Rule 7.2, by deleting the words “same or a different Disciplinary Tribunal (as it considers appropriate)” and substituting the words “body appealed from (and may order, if appropriate, that it shall be determined by a differently constituted body).”;
- (b) in Schedule 3 (right of appeal from decisions of the council or the committee) to the principal byelaw by substituting a full stop for the semi-colon at the end of sub-paragraphs 1 (c)(vi) and 1(n)(iv), by deleting the words “but only with the leave of the Appeal Tribunal.” after those sub-paragraphs and by inserting at the beginning of each of those sub-paragraphs the words “with the leave of the Appeal Tribunal.”;
- (c) for the avoidance of doubt, in Schedule 4 (Revocations and Amendments) to the principal byelaw, by inserting the following new paragraphs -
 1. The Appeal Tribunal Byelaw (No. 18 of 1995) is revoked save in its application to any appeals to the Appeal Tribunal which are commenced prior to the date on which the provisions of this byelaw have effect.
 2. Paragraph 2(b) of the Suspension: Supplementary and Consequential Matters Byelaw (No. 19 of 1983) is revoked save in its application to any appeals to the Appeal Tribunal which are commenced prior to the date on which the provisions of this byelaw have effect.
 3. in each of paragraphs 1, 3(a), 4(a), 5(a), 5A(a) and 6(a) of the Suspension: Supplementary and Consequential Matters Byelaw (No. 19 of 1983), the words “or the Appeal Tribunal” are revoked save in

their application to any appeals to the Appeal Tribunal which are commenced prior to the date on which the provisions of this byelaw have effect.”

3. Commencement

This byelaw shall come into force on 4 December 1996.

APPEAL TRIBUNAL (AMENDMENT) BYELAW

(No. 47 of 1996)

EXPLANATORY NOTE

(This note is not part of the byelaw)

This byelaw amends the Appeal Tribunal Byelaw (No.32 of 1996) so as to:-

- (i) confirm the revocations and amendments implied by that byelaw.
- (ii) clarify the procedure for making an application to the Appeal Tribunal for leave to appeal; and
- (iii) extend the power of the Appeal Tribunal where it allows an appeal to order that the matter be determined either by the original body appealed from or, if appropriate, a differently constituted body.

COUNCIL STAGE OF DISCIPLINARY PROCEEDINGS
(AMENDMENT) BYELAW

(No. 48 of 1996)

(Made on 4th December 1996)

The Council of Lloyd's, in exercise of its powers under sections 6(2) and 7(1) of Lloyd's Act 1982, by special resolution hereby makes the following byelaw.

1. Interpretation

(1) In this byelaw, "the principal byelaw" means the Council Stage of Disciplinary Proceedings Byelaw (No. 33 of 1996).

(2) Unless the context otherwise requires, expressions defined in the principal byelaw have the same meanings in this byelaw.

2. Amendments to the principal byelaw

For the avoidance of doubt, Schedule 3 (Revocations and Amendments) to the principal byelaw is amended by inserting the following new paragraphs -

"1. The Council Stage of Disciplinary Proceedings Byelaw (No. 11 of 1993) is revoked.

2. Paragraph 8 of the Suspension: Supplementary and Consequential Matters . Byelaw (No. 19 of 1983) is revoked."

3. Commencement

This byelaw shall come into force on 4 December 1996.

COUNCIL STAGE OF DISCIPLINARY PROCEEDINGS
(AMENDMENT) BYELAW

(No. 48 of 1996)

EXPLANATORY NOTE

(This note is not part of the byelaw)

This byelaw amends the Council Stage of Disciplinary Proceedings Byelaw (No. 33 of 1996) so as to confirm the revocations and amendments implied by that byelaw.

MISCONDUCT AND PENALTIES BYELAW

(No. 30 of 1996)

(Made on 7 August 1996)

[The amendments made to this byelaw by the Misconduct and Penalties (Amendment Byelaw (No. 45 of 1996) are shown in italics and marked in the margin below.)

The Council of Lloyd's, in exercise of its powers under Lloyd's Act 1982, by special resolution hereby makes the following byelaw.

Interpretation

1. The provisions of Schedule 1 to this byelaw (interpretation) shall have effect.

Disciplinary jurisdiction of the Society

2. (1) The persons specified in sub-paragraph (2) shall be subject to the disciplinary jurisdiction of the Society and, accordingly, shall be amenable to disciplinary proceedings in respect of any misconduct committed by them.
- (2) The persons referred to in sub-paragraph (1) are:
 - (a) a member of the Society;
 - (b) a director of or person who works for a corporate member of the Society;
 - (c) an underwriting agent;
 - (d) a Lloyd's adviser;
 - (e) an approved run-off company;
 - (f) a Lloyd's broker;
 - (g) a director or partner of, or person who works for an underwriting agent, Lloyd's adviser, approved run-off company or a Lloyd's broker;
 - (h) an annual subscriber, associate or substitute;
 - (i) a registered individual.
- (3) A person falling within sub-paragraph (2) shall continue to be subject to the disciplinary jurisdiction of the Society in respect of any misconduct during the time when he is such a person notwithstanding that he ceases to be such a person before any disciplinary proceedings are commenced or completed.

Misconduct

3. Misconduct means:
 - (a) a contravention of or failure to observe any provision of Lloyd's Acts 1871 to 1982 or any byelaw made thereunder;
 - (b) a contravention of or failure to observe any regulation or direction made or given under Lloyd's Acts 1871 to 1982 or under any byelaw made thereunder (subject to the provisos to Section 7(3) of Lloyd's Act 1982);
 - (c) a contravention of or failure to observe any order, condition or requirement imposed, or undertaking given, or decision made pursuant to Lloyd's Acts 1871 to 1982 or under any byelaw made thereunder;

- (d) a contravention of or failure to observe any of the Core Principles;
 - (e) a failure to take reasonable steps in connection with the business of insurance to avoid risk of harm to Lloyd's policyholders, the Society, its members, or those doing business at Lloyd's; or
 - (f) engaging in or being associated with any discreditable conduct, whether or not connected with the business of insurance.
4. Any act or omission by an employee in the course of his employment or of an agent within the scope of his actual or ostensible authority shall also be imputed to his employer or principal and a finding of misconduct may be made against the employer or principal accordingly whether or not disciplinary proceedings are brought against the employee or agent concerned.

Penalties

5. (1) Subject to sub-paragraphs (3) and (4) below, the penalties that may be imposed on a person against whom a finding of misconduct has been made in disciplinary proceedings are:
- (a) **Formal proceedings**
In the case of formal proceedings any one or more of the following:
 - (i) exclusion or suspension from membership of the Society, or a requirement that a member shall cease underwriting at Lloyd's permanently or temporarily and either totally or in part;
 - (ii) revocation or suspension of the right to act at Lloyd's as a Lloyd's adviser, Lloyd's broker, underwriting agent, an approved run-off company, members' agent or managing agent, either totally or in part;
 - (iii) revocation or suspension of the right to act at Lloyd's as an annual subscriber, associate or substitute either totally or in part;
 - (iv) the termination of or suspension of the registration of a registered individual;
 - (v) revocation or suspension of the right to transact, or be concerned or interested in the transaction of, the business of insurance at Lloyd's or any class or classes of such business, either totally or in part;
 - (vi) revocation or suspension of the right of admission to the Room and any other specified part of the premises of the Society;
 - (vii) a fine;
 - (viii) a censure.
 - (b) **Summary proceedings**
In the case of summary proceedings any one or both of the following:
 - (i) a fine of not more than:
 - (a) £15,000 in the case of an individual;
 - (b) £30,000 in the case of a company or partnership ; and
 - (ii) a censure.
 - (c) **Fixed Penalty Proceedings**
In the case of fixed penalty proceedings a penalty set out in Schedule 2 to this byelaw (fixed penalties).
- (2) The penalties referred to in sub-paragraph (1) above may be imposed subject to any terms and conditions considered appropriate.
- (3) In the case of any misconduct for which the penalty is specifically prescribed by any other byelaw, that penalty shall apply.

- (4) The provisions of the Suspension: Supplementary and Consequential Matters Byelaw (No 19 of 1983) shall apply where a penalty involving suspension is imposed.
- (5) Notwithstanding that a finding of misconduct has been made against a person in disciplinary proceedings, the tribunal concerned may, if it considers that in all the circumstances it is appropriate, decide not to impose any penalty. This is without prejudice to any power the tribunal may have to order the payment of costs.

Revocations and amendments

5A. *The Misconduct, Penalties and Sanctions Byelaw (No. 9 of 1993) is revoked save in its application to any act or omission taking place prior to 8 August 1996.*

Application

6. (1) This byelaw shall come into force on 7 August 1996 and shall apply to any act or omission of any person taking place after that date.
- (2) A person falling within paragraph 1 of the Misconduct, Penalties and Sanctions Byelaw (No.5 of 1983) or paragraph 1 of the Misconduct, Penalties and Sanctions Byelaw (No.9 of 1993) as appropriate as at 7 August 1996 shall continue to be subject to the disciplinary jurisdiction of the Society in respect of any misconduct falling within sub-paragraph (3) notwithstanding that he ceases to be such a person before any disciplinary proceedings are commenced or completed.
- (3) Misconduct for the purposes of this sub-paragraph shall comprise any act or omission:
 - (a) governed by the Misconduct, Penalties and Sanctions Byelaw (No.5 of 1983) or the Misconduct, Penalties and Sanctions Byelaw (No.9 of 1993); and
 - (b) which takes place on or prior to 7 August 1996.

SCHEDULE 1

INTERPRETATION

In the byelaw, unless the context otherwise requires, the following expressions have the following meanings:

“Core Principles” means any Core Principles regarding the conduct of business at Lloyd’s, either generally or in respect of certain classes of person, promulgated in any byelaws made under Lloyd’s Acts 1871 to 1982.

“disciplinary proceedings” means proceedings in respect of misconduct pursuant to the Disciplinary Committees Byelaw (No.31 of 1996).

“fixed penalty proceedings” means disciplinary proceedings dealt with as such under Lloyd’s Disciplinary Rules set out in Schedule 2 to the Disciplinary Committees Byelaw (No.31 of 1996).

“formal proceedings” means disciplinary proceedings dealt with as such under Lloyd’s Disciplinary Rules set out in Schedule 2 to the Disciplinary Committees Byelaw (No.31 of 1996).

“summary proceeding” means disciplinary proceedings dealt with as such under Lloyd’s Disciplinary Rules set out in Schedule 2 to the Disciplinary Committees Byelaw (No.31 of 1996).

SCHEDULE 2

FIXED PENALTIES

Fixed penalty proceedings

1. (1) The Council may elect to commence disciplinary proceedings as fixed penalty proceedings only if the alleged misconduct falls within a class specified in paragraph 2 below.
- (2) A fixed penalty may only be imposed in fixed penalty proceedings if the defendant has chosen not to contest the proceedings and agreed to pay the fixed penalty in accordance with Lloyd’s Disciplinary Rules set out in Schedule 2 to the Disciplinary Committees Byelaw (No.31 of 1996).
- (3) The amount of the fixed penalty shall be calculated in accordance with paragraph 3 below.

Classes of misconduct to which fixed penalties apply

2. The classes of misconduct referred to in paragraph 1(1)(a) are:

Class A

A failure to observe any requirement to provide any document to the Council or the Committee under any of the following provisions.

[see class list at end of schedule]

Class B

A failure to observe any requirement to inform, notify or provide written notice of any matter to the Society, the Council or the Committee under any of the following provisions.

[see class list at end of schedule]

Class C

A failure to:

- (i) observe any requirement to provide any information or document pursuant to a specific request under any of the following provisions; and

[see class list at end of schedule]

- (ii) to pay any fixed penalty imposed.

Class D

A failure to observe any requirement to obtain the prior consent of the Council or the Committee under any of the following provisions.

[see class list at end of schedule].

Calculation of fixed penalties

3. (1) The fixed penalty for misconduct falling within the Classes A, B and C specified in paragraph 2 shall be calculated using Tables 1 and 2 as follows:
- (a) The amount of the penalty shall be calculated by reference to the relevant amount in the applicable table as follows:
- Class A
The penalty shall be the relevant amount stated in the table.
- Class B
The penalty shall be the relevant amount stated in the table.
- Class C
The penalty shall be twice the relevant amount stated in the table.
- (b) In the case of Class B, for the purposes of calculating the number of business days late in the first column of the tables:
- (i) where the provision is a requirement to inform, notify or provide written notice “forthwith” or “immediately”, the third business day after the obligation first arose shall be deemed to be the first business day late; and
- (ii) where the provision is a requirement to inform, notify or provide written notice “as soon as possible” or “promptly”, the sixth business day after the obligation first arose shall be deemed to be the first business day late.
- (c) The applicable table shall be:
Table 1 where the defendant is an individual;
Table 2 where the defendant is a company or partnership;
- (d) In the tables, the columns headed “Level 1”, “Level 2“ and “Level 3” apply as follows:
Level 1 applies where the defendant is a person on whom no penalty has been imposed in accordance with this Schedule in the three year period expiring on the date of the alleged misconduct;
Level 2 applies where the defendant is a person on whom either one or two penalties have been imposed in accordance with this Schedule in the three year period expiring on the date of the alleged misconduct; and
Level 3 applies where the defendant is a person on whom three or more penalties have been imposed in accordance with this Schedule in the three year period expiring on the date of the alleged misconduct.
- (2) The penalty for misconduct falling within the Class D specified in paragraph 2 shall be calculated using Table 3. The amount of the penalty shall be the relevant amount shown in Table 3. For this purpose the columns headed “Level 1”, “Level 2“ and “Level 3” apply in the manner set out in paragraph 3(1)(d) above.

TABLE 1- FIXED PENALTIES APPLICABLE TO AN INDIVIDUAL IN RESPECT OF MISCONDUCT FALLING WITHIN CLASSES A, B OR C

Number of business days late	Level 1	Level 2	Level 3
1	30	90	150

2	60	180	300
3	90	270	450
4	120	360	600
5	150	450	750
6	330	990	1650
7	360	1080	1800
8	390	1170	1950
9	420	1260	2100
10	450	1350	2250
11	480	1440	2400
12	510	1530	2550
13	540	1620	2700
14	570	1710	2850
15	600	1800	3000
16	630	1890	3150
17	660	1980	3300
18	690	2070	3450
19	720	2160	3600
20	750	2250	3750

TABLE 2- FIXED PENALTIES APPLICABLE TO A COMPANY OR PARTNERSHIP IN RESPECT OF MISCONDUCT FALLING WITHIN CLASSES A, B OR C

Number of business days late	Level 1	Level 2	Level 3
1	60	180	300
2	120	360	600
3	180	540	900
4	240	720	1200
5	300	900	1500
6	660	1980	3300
7	720	2160	3600
8	780	2340	3900
9	840	2520	4200
10	900	2700	4500
11	960	2880	4800
12	1020	3060	5100
13	1080	3240	5400
14	1140	3420	5700
15	1200	3600	6000
16	1260	3780	6300
17	1320	3960	6600
18	1380	4140	6900
19	1440	4320	7200
20	1500	4500	7500

TABLE 3- FIXED PENALTIES IN RESPECT OF MISCONDUCT FALLING WITHIN CLASS D

Defendant	Level 1	Level 2	Level 3
Individual	400	1,200	2,000
Company or Partnership	2,000	6,000	10,000

CLASS A

The failure to provide to the Council or Committee any document report etc. by a calculable date

<u>BYELAW</u>	<u>RELEVANT PARAGRAPH(S)</u>
The Underwriting Agents Byelaw (No.4 of 1984).	13B,54(a), 54(b), 55,56, 56A and 57A.
The Lloyd's Brokers Byelaw (No.5 of 1988).	35 and 44
The Umbrella Arrangements Byelaw (No.6 of 1988).	21
The Members Agents (Information) Byelaw (No.7 of 1988).	5(2), 5(3), 8(7)(a)(ii) and 10(6).
<i>Agency Agreements Byelaw (No. 8 of 1988)</i>	<i>12(3) and 12(5)</i>
The Run-Off Years of Account Byelaw (No.17 of 1989).	14.
The Solvency and Reporting Byelaw (No. 13 of 1990).	11.
Members Agents (Australia) Byelaw (No. 14 of 1992).	4 and 6(1).
Membership Byelaw (No. 17 of 1993).	3(7), 15(7), 16 and 34.
Lloyd's Advisers Byelaw (No.19 of 1993).	22 and 29.
Syndicate Accounting Byelaw (No. 11 of 1987).	16(9), 19(3) and 20.

CLASS B

A failure to notify inform provide written notice or documentation to the Society, Council or Committee under a Byelaw requirement

<u>BYELAW</u>	<u>RELEVANT PARAGRAPH(S)</u>
Information Relevant to the Operation of Sections 10, 11 and 12 of Lloyd's Act 1982 Byelaw (No. 1 of 1984).	2(a), 2(b), 3(a) and 3(b).
The Underwriting Agents Byelaw (No.4 of 1984).	13B and 53(b).
The Syndicate Audit Arrangements Byelaw (No.10 of 1984).	9(c)(i), 9(d), 9(f), 10(b), 11(d) and 15(e).
The Syndicate Accounting Byelaw (No. 11 of 1987).	5D and 14(e).
The Lloyd's Brokers Byelaw (No.5 of 1988).	34, 48(2), 48(3) and 48(4).
The Umbrella Arrangements Byelaw (No.6 of 1988).	26 and 29(6).
Misconduct (Reporting) Byelaw (No. 11 of 1989).	2.
Run-Off Year of Account Byelaw (No. 17 of 1989).	10, 12(b) and 12(c).
The Annual Subscribers Associate Substitutes Byelaw (No.8 of 1993).	10.
Membership Byelaw (No.17 of 1993).	3(1), 3(2) 3{3), 3(4), 3(5), 3(6), 8(1), 14(3), 14(4), 14(5), 14(9) and 50(3).
Lloyd's Advisers Byelaw (No.19 of 1993).	21,31(2)and 31(3).
Run-Off Companies Byelaw (No.2 of 1995).	3(1), 13(3) and 14(2).
Membership Amendment (No.3) Byelaw (NO.17 of 1995).	4(2) and 4(4).
<i>Individual Registration Byelaw (No. 13 of 1996)</i>	<i>2(1), 5(5) and 8(4)</i>

CLASS C

A failure to provide information and/or documents pursuant to a specific request to do so; or
a failure to pay a fixed penalty imposed

<u>BYELAW</u>	<u>RELEVANT PARAGRAPH(S]</u>
The Inquiries and Investigations Byelaw (No.3 of 1983).	5.
Suspension: Supplementary and Consequential Matters Byelaw (No.19 of 1983).	3(b)(ii), 4(b)(iii), 5(b)(ii), 5A(b)(ii) and 6(b)(iii).
Disclosure by Direction Byelaw (No.21 of 1983).	1,2,2A,and3.
The Register of Members Byelaw (No.22 of 1983).	5
The Underwriting Agents Byelaw (No.4 of 1984).	6, 6(a)(iia)(aa) and 65.
Syndicate Premium Income Byelaw (No.6 of 1984).	4(b)(i).
The Syndicate Audit Arrangements Byelaw (No.10 of 1984).	12(d).
The Central Fund Byelaw (No.4 of 1986).	4(8) and 4(9).
The Review Powers Byelaw (No.5 of 1986).	3 and 4.
The Membership (Entrance Fees and Annual Subscriptions) Byelaw (No.9 of 1987).	3.
The Lloyd's Brokers Byelaw (No.5 of 1988).	10(2), 36 and 43.
The Umbrella Arrangements Byelaw (No.6 of 1988).	6(3), 20(4) and 23.
Insurance Ombudsman Bureau Byelaw (No. 1 of 1989).	4.
The Solvency and Reporting Byelaw (No. 13 of 1990).	2(4) and 10.
The Loss Review Byelaw (No.8 of 1991).	6
The Members Agents (Australia) Byelaw (No.14 of 1992).	5.
Annual Subscribers, Associates, Substitutes Byelaw (No.8 of 1993).	8(2).
The Disciplinary Committees Byelaw (No. 10 of 1993).	22.
Membership Byelaw (No. 17 of 1993).	3(8), 11(1), 14(1), 14(2) , 20 and 39.
Lloyd's Advisers Byelaw (No. 19 of 1993).	7(2) and 28.
Information and Confidentiality Byelaw (NO.21 of 1993).	2.

The Lloyd's 1994 Claims Scheme. Byelaw No.4 of 1994).	15(1).
Transitional and Conversion Arrangements (CM) Byelaw (No.9 of 1994).	8(5) and 8(6).
Appeal Tribunal Byelaw (No. 18 of 1995).	6(2).
Disciplinary Committees Byelaw (No.31 of 1996).	Schedule 2 Rules 2.3, 3.6 and 13.1.
Council Stage of Disciplinary Proceedings Byelaw (No.33 of 1996).	Schedule 2, Rule 3.
<i>Individual Registration Byelaw (No. 13 of 1996)</i>	<i>1(5)(a), 1(5)(b), 8(2)(a) and 8(2)(b)</i>

CLASS D

A failure to obtain prior consent of the Council as required by a Byelaw

<u>BYELAW</u>	<u>RELEVANT PARAGRAPH(S)</u>
The Underwriting Agents Byelaw (No.4 of 1984).	13A(a), 13A(b), 14, 16, 20, 21, 23, 30, 32, 34(d), 35, 39, 43, 49(d), 50, 52B, 53(a) and 62.
The Related Parties Byelaw (No.2 of 1986).	2,3 and 4.
The Lloyd's Brokers Byelaw (No.5 of 1988).	14, 14A, 16, 18,40 and 48(1).
The Agency Agreements Byelaw (No.8 of 1988).	5.11A and IIB.
Multiples Syndicates Byelaw (No.5 of 1989).	3(1), 3(2) and 4(1)(b).
The Run-Off Years of Account Byelaw (No.17 of 1989).	18
Membership Byelaw (No. 17 of 1993).	5(5), 5(6), 14(1), 14(2), 17(2), 26(1), 27(1), 29(1) and 31.
Lloyd's Advisers Byelaw (No. 19 of 1993).	12(2) and 31(1).
Members Agents Pooling Arrangements Byelaw (No.30 of 1993).	5(1).
Lloyd's 1994 Claims Scheme Byelaw (No.4 of 1994).	1o(1).
Transitional and Conversion Agreements (CM) Byelaw (No.9 of 1994).	2(1) and 4(1).
Run-Off Companies Byelaw (No.2 of 1995).	2(3), 13(1) , 14(1) and 14(2).

Misconduct and Penalties Byelaw

(No. 30 of 1996)

EXPLANATORY NOTE

(This note is not part of the byelaw.)

This byelaw revokes and re-enacts with amendments the Misconduct, Penalties and Sanctions Byelaw (No. 9 of 1993). It also introduces some new provisions. The principal changes are as follows:

1. the classes of persons subject to the disciplinary jurisdiction of the Society has been extended to include registered individuals, following the introduction of the Individual Registration Byelaw (No. 13 of 1996) (paragraph 1);
2. provision is made for the disciplinary jurisdiction of the Society to continue in respect of misconduct committed by a person during the time when he fell within one of the specified classes, notwithstanding that he may not do so at the time of the proceedings (paragraph 2);
3. the definition of misconduct has been amended and express reference to Core Principles has been added (paragraph 3);
4. it is provided that an employer is liable for the acts and omissions of its employee in certain circumstances (paragraph 4);
5. the penalties that may be imposed have been redefined (paragraph 5). The penalty of a reprimand has been deleted and a new category of “fixed penalty” has been introduced, which is applicable to fixed penalty proceedings (as defined in Lloyd’s Disciplinary Rules set out at Schedule 2 to the new Disciplinary Committees Byelaw (No.31 of 1996)). Accordingly, the byelaw now distinguishes between penalties available in (a) formal proceedings, (b) summary proceedings and (c) fixed penalty proceedings;
6. In the case of summary proceedings, the penalties have been restricted to a censure and/or a fine up to a specific limit depending on the status of the defendant (paragraph 5);
7. The fixed penalties are by way of a fine of an amount specified by reference to the nature and seriousness of the offence and the category of person concerned (paragraph 5 and Schedule 2).

DISCIPLINARY COMMITTEES BYELAW

(No. 31 of 1996)

(Made on 7 August 1996)

[The amendments made to this byelaw by the Disciplinary Committees (Amendment) Byelaw (No. 46 of 1996) are shown in italics and marked in the margin below.]

The Council of Lloyd's, in exercise of its powers under Lloyd's Act 1982, by special resolution hereby makes the following byelaw.

Interpretation

1. The provisions of Schedule 1 to this byelaw (interpretation) shall have effect.

The Disciplinary Committees

2. (1) The Disciplinary Committees of the Society shall be the Disciplinary Board established pursuant to paragraph 3 below and the Disciplinary Tribunals established pursuant to the Rules set out in Schedule 2 to this byelaw. References in other byelaws to the Disciplinary Committee shall be taken to be references to the Disciplinary Board and/or the Disciplinary Tribunals, as appropriate.
- (2) The Disciplinary Committees shall exercise all disciplinary powers and functions conferred on the Council by Lloyd's Acts 1871 to 1982 and any byelaw made thereunder except:
 - (a) the power of the Council to confirm, modify or grant dispensation in respect of any penalty or sanction imposed by the Disciplinary Committees or the Appeal Tribunal; and
 - (b) those powers and functions which are expressed by Lloyd's Acts 1871 to 1982 and such byelaws to be exercisable by the Appeal Tribunal.
- (3) Members of the Disciplinary Committees shall be "entitled to such remuneration and expenses from the Society as the Council may determine.

The Disciplinary Board

3. (1) There shall be a Disciplinary Board which shall consist of a Chairman, Deputy Chairman and not less than one other individual or individuals as the Council may from time to time appoint. The Chairman shall not be a current member of the Society or the Council. The majority of the members of the Disciplinary Board shall be members of the Society of Lloyd's.
- (2) Subject to sub-paragraph (3), an appointment as a member of the Disciplinary Board or as Chairman or Deputy Chairman shall be for a term not exceeding three years, but may be renewed by the Council from time to time.
- (3) If a member of the Disciplinary Board is engaged in the conduct of disciplinary proceedings which have not been concluded at the date that his term of office would otherwise expire, he shall continue to be a member, but

unless his appointment is renewed under sub-paragraph (2) his membership shall continue only for the purposes of those disciplinary proceedings.

- (4) The quorum for the Disciplinary Board shall be at least three members and shall include a majority of members of the Society. Decisions of the Disciplinary Board shall be by a majority of votes cast.

Revocation and suspension of membership

4. (1) The Council may revoke the appointment of any member of the Disciplinary Board who was a member of the Society when appointed but who subsequently ceases to be a member of the Society.
- (2) The Council shall revoke the appointment of any member of the Disciplinary Board:
- (a) against whom an adverse verdict has been reached in disciplinary proceedings under Lloyd's Acts 1871 to 1982 or any byelaw made thereunder;
 - (b) against whom disciplinary proceedings under Lloyd's Acts 1871 to 1982 or any byelaw made thereunder might, in the opinion of the Council, have been taken if such member was subject to the disciplinary jurisdiction of the Society pursuant to the Misconduct and Penalties Byelaw (No.30 of 1996);
 - (c) who has been, by any court of competent jurisdiction, convicted of any crime or made the subject of a finding in any judgment in civil proceedings which, in the opinion of the Council, involves discreditable conduct and such conviction or finding has not to the Council's knowledge been set aside on appeal or otherwise;
 - (d) who has been found guilty of misconduct by any professional body which in the opinion of the Council, involves discreditable conduct and such finding has not to the Council's knowledge been set aside on appeal or otherwise;
 - (e) who has been adjudicated bankrupt or adjudicated or declared insolvent by the due process of law of the United Kingdom or elsewhere, or who has made any arrangement or composition with his creditors or who has otherwise acknowledged his inability to pay his debts; or
 - (f) who is unable by virtue of his physical or mental health to discharge his duties, in the opinion of the Council, having regard to any available advice of a qualified medical practitioner.
- (3) The Council shall suspend the appointment of any member of the Disciplinary Board:
- (a) against whom disciplinary proceedings are pending under Lloyd's Acts 1871 to 1982 or any byelaw made thereunder; or
 - (b) who has been suspended pursuant to any byelaw made under Lloyd's Act 1982.

Conflicts of interest

5. No member of the Disciplinary Board or a Disciplinary Tribunal shall take part in any matter referred to it if the circumstances are such that there would be a real danger of bias on his part or if he:

- (a) has any material financial interest in the matter;
- (b) inquired, or was a member of any inquiry or investigating committee which inquired, into the matter; or
- (c) was present at any meeting of the Council or any committee thereof at the time when any report was presented or discussion took place as to whether disciplinary proceedings should be brought in respect of the matter.

Disciplinary Proceedings

6. (1) If the Council considers that a person has committed an act of misconduct, it may institute disciplinary proceedings against that person before the Disciplinary Committees.
- (2) The rules set out in Schedule 2 to this byelaw (Lloyd's Disciplinary Rules) shall govern the bringing of and conduct of disciplinary proceedings before the Disciplinary Committees.

Revocations and amendments

7. The provisions of Schedule 3 to this byelaw (Revocations and Amendments) shall have effect.

Commencement and application

8. (1) This byelaw shall come into force on 7 August 1996.
- (2) This byelaw shall apply to all disciplinary proceedings which are_ instituted after it comes into force.

SCHEDULE 1

INTERPRETATION

In this byelaw, unless the context otherwise requires, the following expressions have the following meanings:

“Appeal Tribunal” means the Appeal Tribunal established by the Appeal Tribunal Byelaw (No.32 of 1996);

“Chairman” means the Chairman of the Disciplinary Board;

“Deputy Chairman” means the Deputy Chairman of the Disciplinary Board;

“Disciplinary Committees” means the Disciplinary Committees of the Society referred to in paragraph 2 of this byelaw;

“Disciplinary Board” means the Disciplinary Board established pursuant to paragraph 3 of this byelaw;

“Disciplinary Tribunal” means a Disciplinary Tribunal established pursuant to the Rules set out in Schedule 2 to this byelaw;

“misconduct” means misconduct as defined in any byelaws made under Lloyd's Acts 1871 to 1982.

SCHEDULE 2

Lloyd's Disciplinary Rules

Institution of proceedings

- 1.1 If the Council considers that a person has committed an act of misconduct, it may institute disciplinary proceedings against that person. Disciplinary proceedings shall be instituted in the name of the Council. The Council shall decide whether the matter is to be dealt with by way of fixed penalty proceedings, summary proceedings or formal proceedings.
- 1.2 Disciplinary proceedings shall be instituted by service of a Notice on the person concerned ("the defendant"). The Notice shall state whether the matter is to be dealt with by way of fixed penalty proceedings, summary proceedings or formal proceedings and:
 - (a) in the case of fixed penalty proceedings, shall
 - (i) set out the alleged misconduct;
 - (ii) set out the facts and matters relied on; and
 - (iii) state the fixed penalty;
 - (b) in the case of summary proceedings or formal proceedings, shall
 - (i) set out the alleged misconduct;
 - (ii) set out the facts and matters relied on; and
 - (iii) be accompanied by copies of all documents referred to and a copy of the Disciplinary Committees Byelaw (No.31 of 1996).
- 1.3 The Council shall send the Disciplinary Board a copy of the Notice and any documents served under Rule 1.2(b)(iii) at the same time as serving the Notice on the defendant.
- 1.4 Where disciplinary proceedings are instituted against an individual, the Council may serve a copy of the Notice on his employer, his firm or any company of which he is a director.
- 1.5 The Council shall appoint the Representative of the Council to conduct on its behalf the disciplinary proceedings (including any settlement negotiations). The Representative of the Council may instruct a qualified lawyer. The defendant and the Disciplinary Board shall be informed of the name of the Representative of the Council at the time of service of the Notice or upon any subsequent change in that appointment.

Fixed penalty proceedings

- 2.1 Rules 2.2 to 2.4 apply to fixed penalty proceedings.
- 2.2 The Council shall serve on the defendant together with the Notice a statement that within 14 days the defendant may choose not to contest the Notice and agree to pay the fixed penalty, or to contest the Notice in which case the disciplinary proceedings will continue against him as summary proceedings in accordance with these Rules.
- 2.3 Within 14 days following service of a Notice, the defendant may serve a notice on the Council stating that he agrees to pay the fixed penalty and does not contest the Notice. In this event a copy of the Notice and the notice served by the defendant shall be submitted to the Disciplinary Board, who shall issue a decision accordingly imposing the fixed penalty. No order for costs shall be made. A copy of the decision shall be

served on the parties. The decision shall take effect immediately and the disciplinary proceedings will thereupon be concluded.

- 2.4 If no notice under Rule 2.3 is served within 14 days of service of a Notice, then:
- (a) the Council will serve on the defendant copies of all documents referred to in the Notice and a copy of the Disciplinary Committees Byelaw (No.31 of 1996);
 - (b) the disciplinary proceedings shall continue as summary proceedings in accordance with these Rules, save that:
 - (i) the time for service of the Defence under Rule 4.1 shall be 14 days from service of the documents pursuant to (a) above; and
 - (ii) Rules 3.2 to 3.10 shall not apply to summary proceedings which were commenced as fixed penalty proceedings.

Settlements

- 3.1 Rules 3.2 to 3.10 apply to proceedings which were commenced as summary proceedings or formal proceedings.
- 3.2 The Council may serve on the defendant together with the Notice a statement of
- (a) the penalties which the Council considers would be appropriate; and
 - (b) any order as to costs which the Council considers would be appropriate.
- Any statement served under this paragraph shall not be placed before the Disciplinary Board except pursuant to Rule 3.8(b).
- 3.3 Within 28 days following service of a Notice, the defendant may enter into negotiations with the Representative of the Council regarding a settlement of the proceedings by submitting to the Representative of the Council written proposals for settlement.
- 3.4 Any agreement between the defendant and the Representative of the Council regarding proposed terms of settlement shall be in writing and include a statement of the agreed facts and the penalties and/or costs orders to be made.
- 3.5 Any proposed terms of settlement which are agreed shall be submitted to the Disciplinary Board for its consideration within 28 days from service of the Notice. The Disciplinary Board may approve or decline to approve the settlement in its absolute discretion. If it considers it appropriate, the Disciplinary Board may suggest modifications to the terms of settlement for the parties' consideration. For the purpose of considering the terms of settlement the Disciplinary Board may require the parties to appear before it.
- 3.6 If the Disciplinary Board approves the settlement, it shall issue a decision as to misconduct, penalties and costs which gives effect to the settlement and shall notify the parties accordingly. Its decision shall take effect immediately unless otherwise stated.
- 3.7 If the Disciplinary Board declines to approve the settlement, it shall notify the parties accordingly.
- 3.8 All matters relating to settlement shall be treated as confidential and shall not be relied on in any disciplinary proceedings, except that:
- (a) any terms of settlement approved by the Disciplinary Board may be published; and
 - (b) any written settlement proposals which are expressly made on the basis that they may be taken into account on the question of costs shall be admissible on that question only.

- 3.9 If no agreed terms of settlement are submitted to the Disciplinary Board within 28 days of service of a Notice or if the Disciplinary Board declines to approve the settlement, the proceedings shall continue as set out in these Rules as if no settlement negotiations had been entered into save that any period from the submission of the terms of settlement to the Disciplinary Board for approval to the date of notification of its decision not to approve the settlement shall not count for the purpose of calculating the period of 28 days specified for service of a Defence in Rules 4.1 and 6.2.
- 3.10 The Disciplinary Board may grant an extension of the time for submission of agreed terms of settlement if both the Representative of the Council and the defendant so request in writing. Any extension granted shall also extend the periods specified in Rules 3.9,4.1 and 6.2.

Defence

- 4.1 Within 28 days of service of a Notice, the defendant shall:
- (a) notify the Disciplinary Board in writing, with a copy to the Council, whether he admits the misconduct alleged in the Notice;
 - (b) serve in writing a Defence stating:
 - (i) which (if any) of the facts and matters alleged in the Notice are challenged; and
 - (ii) any other facts and matters relied on.

The Defence shall be accompanied by copies of any documents referred to which are additional to the documents served under Rule 1.2(b)(iii) or Rule 2.4(a).

Disciplinary Tribunal

- 5.1 As soon as practicable after the service of a Defence or the time limited for service of a Defence under Rule 4.1, the Disciplinary Board shall appoint a tribunal (“the Disciplinary Tribunal”) to hear the disciplinary proceedings.
- 5.2 The Disciplinary Tribunal shall consist of three people, two of whom shall be members of the Society. Of these members of the Society one shall be a working member and one shall be an external member unless there is reason for the Disciplinary Tribunal not to be so comprised. The Tribunal Chairman shall be a qualified lawyer of at least 10 years standing or a person who holds or has held high judicial office.
- 5.3 The Disciplinary Board shall promptly give the Representative of the Council and the defendant notice of the membership of the Disciplinary Tribunal, and, in the event that its appointment does not include one working member and one external member, its reasons for not including any such member.
- 5.4 Decisions of the Disciplinary Tribunal shall be by a majority of votes cast.
- 5.5 Members of the Disciplinary Board may be appointed to serve on a Disciplinary Tribunal save for members of the Disciplinary Board who have considered the terms of settlement submitted to the Disciplinary Board under Rule 3.5.
- 5.6 The Disciplinary Board shall revoke the appointment of any member of a Disciplinary Tribunal on any of the grounds set out in paragraph 4(2) or 4(3) of the Disciplinary Committees Byelaw (No.31 of 1996).
- 5.7 The defendant may object to any person being a member of the Disciplinary Tribunal on the ground that his appointment is in breach of paragraph 5 of the Disciplinary Committees Byelaw (No.31 of 1996). Any objection shall be made by giving notice of the objection, stating the reasons for it, to the Disciplinary Board within 7 days of

receiving notice of that person's membership. If the Disciplinary Board is satisfied that the objection is properly made, it shall retire that person from the Disciplinary Tribunal and select another in his place, and notify the Representative of the Council and the defendant accordingly.

Proceedings in default of a Defence

- 6.1 Rules 6.2 to 6.5 apply to summary proceedings and formal proceedings where no Defence is served.
- 6.2 The misconduct alleged in the Notice and the facts and matters set out therein shall be deemed to be admitted by the defendant if he has not notified the Disciplinary Board otherwise and served a Defence within 28 days of service of the Notice and the Disciplinary Tribunal may issue findings accordingly and serve a copy on the parties.
- 6.3 A defendant may apply to the Disciplinary Tribunal to set aside findings against him pursuant to Rule 6.2 and for leave to serve a Defence. The Disciplinary Tribunal shall grant the application if it is satisfied that it is necessary in the interests of justice to do so. Any such application shall be made within 7 days of the date of service of the findings on the defendant.
- 6.4 Within 7 days of the later of
- (i) service of findings under Rule 6.2; or
 - (ii) the refusal of an application under Rule 6.3 to set aside such findings
- each party shall:
- (a) serve on the Disciplinary Tribunal and the other party any written submissions as to penalties or costs. Either party may refer in its submissions to any previous misconduct admitted by or proved against the defendant, or any finding regarding the defendant of any other regulatory body or any Court of competent jurisdiction whether within the United Kingdom or elsewhere, and the Disciplinary Tribunal may take such matters into account; and
 - (b) notify the Disciplinary Tribunal and the other party if it intends to make any oral submissions as to penalties or costs, in which case the Disciplinary Tribunal shall arrange a hearing for that purpose.
- A party may serve written submissions in reply on the Disciplinary Tribunal and the other party within 7 days of service of the other party's written submissions.
- 6.5 The Disciplinary Tribunal shall notify the parties of its decision in accordance with Rule 10.1.

Contested Summary Proceedings

- 7.1 Rules 7.2 to 7.8 below apply to summary proceedings where a Defence has been served under Rule 4.1 or pursuant to leave given under Rule 6.3.
- 7.2 Within 14 days of service of the Defence, the Council shall serve on the defendant:
- (a) any written statement of Reply to the Defence and any further written submissions;
 - (b) copies of all additional documents referred to; and
 - (c) a copy of any statement of evidence relied on, signed by the witness verifying its accuracy.
- 7.3 Within 14 days of the earlier of the time limited for service under Rule 7.2 above or confirmation by the Council that it has no, or no further, documents to be served under that Rule, the defendant shall serve on the Council:
- (a) any further written submissions;

- (b) copies of all additional documents referred to; and
 - (c) a copy of any statement of evidence relied on, signed by the witness verifying its accuracy.
- 7.4 The parties' submissions shall include submissions as to penalty (save in the case of misconduct where the penalty is fixed by byelaw) and costs. Either party may refer in its submissions to any previous misconduct admitted by or proved against the defendant, or any finding regarding the defendant of any other regulatory body or any Court of competent jurisdiction whether within the United Kingdom or elsewhere, and the Disciplinary Tribunal may take such matters into account. These submissions as to penalty and costs shall be set out separately from the parties' other submissions and shall be considered by the Disciplinary Tribunal only after a decision has been made as to the alleged misconduct.
- 7.5 Summary proceedings shall be dealt with on the basis of written submissions and documents unless the defendant makes a written request for an oral hearing. Such request shall be made not later than the time limited for the service of the defendant's written submissions under Rule 7.3 above and shall set out the defendant's submissions why an oral hearing is required. The Disciplinary Tribunal shall grant the request only if it is satisfied that an oral hearing is necessary in the interests of justice. Rules 9.2 and 9.3 shall apply if an oral hearing is held.
- 7.6 The Disciplinary Tribunal may make any directions it considers appropriate varying or supplementing the above procedure, including provision for further written submissions.
- 7.7 If at any time prior to its decision it appears to the Disciplinary Tribunal that the gravity of the matter may be such that the proceedings would be more appropriately dealt with by way of formal proceedings, it may:
- (a) order that the proceedings shall continue as formal proceedings;
 - (b) after hearing the parties, make such consequential directions as it considers appropriate having regard to Rules 8.3 to 8.5 below;
 - (c) make provision for the costs of the summary proceedings.
- 7.8 The Disciplinary Tribunal shall notify the parties of its decision in accordance with Rule 10.1.

Contested Formal Proceedings

- 8.1 Rules 8.2 to 8.8 apply to formal proceedings when a Defence has been served under Rule 4.1 or pursuant to leave given under Rule 6.3.
- 8.2 The Disciplinary Tribunal shall hold a preliminary hearing within 14 days of its appointment. The Disciplinary Tribunal may hold further preliminary hearings from time to time.
- 8.3 The purpose of the preliminary hearings shall be for the Disciplinary Tribunal to give such directions as it considers appropriate for the conduct of the proceedings. If appropriate, the directions may include:
- (a) a requirement for service of a written statement of Reply to the Defence and other written submissions;
 - (b) a requirement that the parties exchange copies of all documents referred to in the written submissions or intended to be referred to at the hearing;
 - (c) a requirement that the parties exchange copies of all documents in their possession, custody or power upon which they rely in support of their case or

of which they are aware and which to a material extent adversely affect their own case or support the other party's case;

- (d) a requirement that the parties provide each other with the names of all witnesses intended to be called at the hearing;
 - (e) a requirement that the parties exchange copies of written witness statements setting out the substance of the evidence such witnesses will give, signed by the witness and verifying its accuracy;
 - (f) a direction that any witness statements shall stand as the evidence in chief of the witness concerned unless the Disciplinary Tribunal orders otherwise;
 - (g) arrangements for the timing and location of the hearing and for a transcript to be made of the hearing.
- 8.4 Preliminary hearings shall be dealt with by the Disciplinary Tribunal Chairman alone unless either party objects.
- 8.5 There shall be an oral hearing before the Disciplinary Tribunal in accordance with Rules 9.2 and 9.3 unless the parties agree that the proceedings may be determined on the basis of written submissions and documents.
- 8.6 The Disciplinary Tribunal shall issue its findings regarding the alleged misconduct and serve a copy on the parties.
- 8.7 Within 7 days of service of the findings under Rule 8.6 each party shall:
- (a) serve on the Disciplinary Tribunal and the other party any written submissions as to penalty or costs. Either party may refer in its submissions to any previous misconduct admitted by or proved against the defendant, or any finding regarding the defendant of any other regulatory body or any Court of competent jurisdiction whether within the United Kingdom or elsewhere, and the Disciplinary Tribunal may take such matters into account; and
 - (b) notify the Disciplinary Tribunal and the other party if it intends to make any oral submissions as to penalty or costs, in which case the Disciplinary Tribunal shall arrange a hearing for that purpose.
- A party may serve written submissions in reply on the Disciplinary Tribunal and the other party within 7 days of service of the other party's written submissions.
- 8.8 The Disciplinary Tribunal shall notify the parties of its decision in accordance with Rule 10.1.

Oral hearings

- 9.1 Rules 9.2 and 9.3 apply to formal proceedings unless an oral hearing is dispensed with pursuant to Rule 8.5 and to summary proceedings where there is an oral hearing pursuant to Rule 7.4.
- 9.2 The hearing shall be in private unless the defendant requires a public hearing. In such a case the Disciplinary Tribunal may in its discretion direct that any part of the hearing shall take place in private if in its opinion this is necessary in the interests of justice.
- 9.3 The Disciplinary Tribunal shall have power to determine the conduct of the hearing in such manner as it considers appropriate subject to the following:
- (a) the Council shall open the case and shall have the right to call witnesses and adduce other evidence of any facts and matters set out, in the Notice and the Reply;

- (b) the defendant shall have the right to address the Disciplinary Tribunal and to call witnesses and adduce other evidence of any facts and-matters set out in the Defence;
- (c) both parties shall have the right to cross examine and re-examine witnesses who are called and such witnesses may also be questioned by the Disciplinary Tribunal;
- (d) the Council and the defendant shall each have the right to make a final address provided that the defendant shall have the right to address the Disciplinary Tribunal last.

The Disciplinary Tribunal's decision

- 10.1 The Disciplinary Tribunal shall issue its decision as to misconduct and any penalties or orders as to costs and serve a copy on the defendant, with a copy to the Council and to the Chairman of the Disciplinary Board. Subject to Rule 10.2, the Disciplinary Tribunal need not give reasons for its decision. If the decision is adverse to the defendant, the Disciplinary Tribunal shall at the same time notify the defendant of any right of appeal under the Appeal Tribunal Byelaw (No.32 of 1996) and any right to apply to the Council under the Council Stage of Disciplinary Proceedings Byelaw (No.31 of 1996) and provide the defendant with a copy of those byelaws.
- 10.2 The Disciplinary Tribunal shall, upon the written request of either party made within 14 days of its decision, state in writing:
- (a) the reasons for any findings as to misconduct, setting out all findings of fact made by it; and
 - (b) the reasons for any penalties imposed or orders as to costs made.

Penalties

11. If the Disciplinary Board or a Disciplinary Tribunal makes any finding of misconduct against the defendant, it may impose any penalty permitted by the byelaws as it considers appropriate.

costs

- 12.1 A Disciplinary Tribunal may order any party to the proceedings to pay costs and, if so, shall determine the amount of those costs.
- 12.2 Costs may include the remuneration and expenses of members of the Disciplinary Tribunal and assessors, administration costs including legal costs and other expenses incurred in connection with the proceedings and the Society's own costs incurred in the investigation, preparation and presentation of the case."

The effect of the decision

- 13.1 Unless otherwise stated in the decision, the decision of a Disciplinary Tribunal shall take effect 14 days from the latest of
- (a) the date of service of the decision;
 - (b) the date of service of the written statement pursuant to Rule 10.2;
 - (c) the determination of any application under Rule 6.3; or
 - (d) the decision of the Appeal Tribunal on an application for leave to appeal.
- 13.2 If the defendant exercises any right of appeal under and in accordance with the Appeal Tribunal Byelaw (No.32 of 1996) or any right to apply to the Council under and in accordance with the Council Stage of Disciplinary Proceedings Byelaw (No.31 of

1996), the Disciplinary Tribunal's decision shall not take effect pending the determination of the appeal or the decision of the Council.

13.3 Disciplinary proceedings shall not be retried as finally concluded until the decision of the Disciplinary Tribunal takes effect.

Publication

14.1 Subject to Rule 14.2 the Council may publish a decision of the Disciplinary Board or a Disciplinary Tribunal and any written statement made under Rule 10.2 and shall do so if

- (a) the decision includes a finding of misconduct in respect of the defendant;
- (b) the hearing was held in public; or
- (c) the defendant requires the Council to do so.

14.2 The Council may withhold publication of all or any part of any decision of the Disciplinary Board or a Disciplinary Tribunal or any written statement made under Rule 10.2 if it considers that it should do so because of exceptional regulatory reasons or because the interests of justice so require.

14.3 The Council may direct that a defendant in respect of whom the Disciplinary Board or a Disciplinary Tribunal has made a finding of misconduct, publish that finding in whatever form and manner the Council considers appropriate.

14.4 If the hearing was not held in public, no publication shall take place earlier than the date on which a decision takes effect, unless the defendant agrees.

General and miscellaneous provisions

Power to determine procedure

15.1 Subject to these Rules, the Disciplinary Board or a Disciplinary Tribunal shall have power to determine the conduct of proceedings before it in such manner as it considers appropriate,

15.2 Unless otherwise stated, the provisions of Rules 16.1 to 24.3 regarding proceedings before a Disciplinary Tribunal apply also to any proceedings before the Disciplinary Board.

Burden and standard of proof

16.1 The burden of proof in all disciplinary proceedings before a Disciplinary Tribunal shall be on the Council unless otherwise provided in these Rules or in the byelaws.

16.2 The standard of proof required in disciplinary proceedings is the standard of proof applicable in civil cases.

16.3 If the defendant admits any fact or matter it shall be treated as proved against him.

Evidence

17.1 A Disciplinary Tribunal shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before any court of law. Without prejudice to the generality of this Rule, a Disciplinary Tribunal may admit in evidence:

- (a) transcripts of the evidence given by the defendant in any inquiry under byelaws made under Lloyd's Acts 1871 to 1982; and
- (b) evidence from any person who, for good reason, is not called as a witness at the hearing.

- 17.2 The findings of fact of any court of competent jurisdiction or of any committee or tribunal of any statutory, professional or body exercising a regulatory or disciplinary jurisdiction, whether within the United Kingdom or elsewhere, which have not been set aside on appeal or otherwise, shall be prima facie evidence of the facts so found. A criminal conviction of the defendant by any such court, which has not been set aside on appeal or otherwise, shall be conclusive evidence of the commission of the offence in question.
- 17.3 A Disciplinary Tribunal may administer oaths in accordance with section 7(4)(a) of Lloyd's Act 1982.
- 17.4 A Disciplinary Tribunal may require any person subject to the disciplinary jurisdiction of the Society whom it considers may provide material documents or evidence in connection with any disciplinary proceedings to make such documents or evidence available to it and to the parties in such manner as it considers appropriate.

Amendment

- 18 A Disciplinary Tribunal may permit the amendment of any document served by the parties (including, for the avoidance of doubt, amendment of the misconduct alleged in the Notice) on such terms as it thinks fit.

Discontinuance

- 19 The Council may at any stage discontinue the disciplinary proceedings by serving a notice to that effect on the defendant with a copy to the Disciplinary Tribunal. The disciplinary proceedings shall thereupon be concluded save for any question of costs.

Joinder of proceedings etc

- 20.1 Where disciplinary proceedings are brought against two or more persons in matters considered by the Council to be related, the Council may (subject to Rule 20.2 below) require that a single Disciplinary Tribunal hears the proceedings.
- 20.2 A Disciplinary Tribunal may instruct that disciplinary proceedings against two or more defendants shall be heard separately, or at the same time, or that a hearing of a particular issue be stayed until the determination of another issue.

Assessors

- 21 At any time prior to the substantive hearing of the disciplinary proceedings, a Disciplinary Tribunal may appoint an assessor on such terms as it thinks fit to assist in the hearing and determination of the proceedings. An assessor shall be entitled to such remuneration and expenses from the Society as the Council may determine.

Time

- 22.1 If any period specified by these Rules expires on a Saturday, Sunday, bank holiday, Christmas Day or Good Friday, it will be extended to the next day which is not such a day.
- 22.2 A Disciplinary Tribunal may, if it considers it appropriate, extend any period within which a party is required by these Rules to do any act in connection with proceedings before it.

Default

- 23.1 If a defendant fails to attend any hearing before a Disciplinary Tribunal and the Disciplinary Tribunal is not satisfied that he has a reasonable excuse for his absence, it may proceed in his absence.
- 23.2 The Disciplinary Tribunal may, in the event of the failure of a party to comply with any instruction of the Disciplinary Tribunal, take any action it considers appropriate, including an award of costs against that party.

Representation

- 24.1 The Council shall be represented at hearings before a Disciplinary Tribunal by the Representative of the Council or by a qualified lawyer instructed by him.
- 24.2 The defendant may be represented at hearings before a Disciplinary Tribunal by a qualified lawyer.
- 24.3 The Representative of the Council and the defendant shall notify the Disciplinary Tribunal of any representative he appoints as soon as reasonably practicable and in any event not less than 14 days prior to the commencement of the hearing.

Notices and service

- 25.1 Any notice required to be given by these Rules shall be in writing.
- 25.2 Any notice shall be given and service of documents pursuant to these Rules shall be effected by:
- (a) post to the proper address;
 - (b) fax;
 - (c) leaving the document at the proper address; or
 - (d) personal service.
- 25.3 The proper address of any person is:
- (a) in the case of an individual, his business address or his usual or last known home address;
 - (b) in the case of a partnership, its principal or last known place of business in the United Kingdom;
 - (c) in the case of a body corporate, its registered office or principal office in the United Kingdom;
 - (d) in the case of the Council, the Representative of the Council, at his business address;
 - (e) in the case of the Disciplinary Board or a Disciplinary Tribunal, the Secretary of the Disciplinary Committees;
 - (f) in the case of the Representative of the Council, at his business address;
 - (g) the business address of the qualified lawyer; if any, who is acting for that person in the matter in connection with which the service of the document in question is to be effected.
- 25.4
- (a) Where notice is given or service is effected by post and the document is proved to have been posted, the document in question shall be presumed to have been delivered 72 hours from the time of posting and the date of notification or service shall be construed accordingly;
 - (b) where notice is given or service is effected by fax, it shall be confirmed by the delivery or posting of a copy of the fax to the party to whom the fax was addressed and the date of notification or service shall be presumed to be the date of the fax transmission;

- (c) where notice is given or service is effected by leaving the document at the proper address of the person to be served, the date of notification or service shall be the date on which the document was left.

25.5 The provisions of Rules 25.1 to 25.4 are without prejudice to any applicable provisions of any byelaw regarding the service of documents or notices, to which they shall be regarded as alternative.

Definitions

26.1 These Rules form part of the Disciplinary Committees Byelaw (No.31 of 1996) and, subject to Rule 26.2 shall be interpreted accordingly.

26.2 In these Rules, unless the context otherwise requires, the following expressions shall have the following meanings:

“misconduct” means misconduct as defined in the Misconduct and Penalties Byelaw (No.30 of 1996).

“Notice” means a Notice served under Rule 1.2.

“person” subject to the disciplinary jurisdiction of the Society means a person subject to the disciplinary jurisdiction of the Society as set out in the Misconduct and Penalties Byelaw (No.30 of 1996).

“qualified lawyer” means a barrister or a solicitor, holding a full practicing certificate.

“Representative of the Council” means the individual appointed by the Council to conduct the disciplinary proceedings pursuant to Rule 1.5.

SCHEDULE 3

REVOCATIONS AND AMENDMENTS

1. The Disciplinary Committees Byelaw (No. 10 of 1993) is revoked save in its application to any disciplinary proceedings commenced prior to the date that this byelaw comes into force.
2. In *paragraph 8(v)(aa) of the Members’ Agents (Information) Byelaw (No. 7 of 1988)*, the words “*other than proceedings dealt with as summary proceedings or fixed penalty proceedings*” shall be in substitution for the words “*other than a Summary Disciplinary Committee*” in respect of all disciplinary proceedings which are instituted after this byelaw comes into force.

DISCIPLINARY COMMITTEES BYELAW

(No. 31 of 1996)

EXPLANATORY NOTE

(This note is not part of the byelaw)

This byelaw revokes and re-enacts with amendments the Disciplinary Committees Byelaw (No. 10 of 1993) and provides a revised procedure for the bringing of and conduct of disciplinary proceedings before the Disciplinary Committees.

This note explains the main changes made by this byelaw, including in the rules governing disciplinary proceedings which are now set out separately in Schedule 2 (the “Lloyd’s Disciplinary Rules”).

The Byelaw

1. Paragraph 2 of the byelaw states that the Disciplinary Committees of the Society comprise both the Disciplinary Board (established pursuant to paragraph 3 of the byelaw) and the Disciplinary Tribunals (established pursuant to the Rules set out in Schedule 2 of the byelaw).
2. Paragraph 3 requires the creation of a Disciplinary Board (in place of the existing Panel created under paragraph 1 of the Disciplinary Committees Byelaw (No. 10 of 1993)). The new Disciplinary Board will consist of a Chairman, Deputy Chairman and not less than one other individual or individuals as the Council may from time to time appoint. The Chairman will not be a member either of the Society or the Council but the majority of the members of the Disciplinary Board will be members of the Society.
3. Members of the Disciplinary Board will be appointed under paragraph 3(2) for a term not exceeding 3 years, which may be renewed by the Council from time to time. The quorum for the Disciplinary Board is three and includes a majority of members of the Society (paragraph 3(4)).
4. The circumstances in which the Council may revoke or suspend the appointment of any member of the Disciplinary Board have been redefined in paragraph 4 as have the circumstances in which a member of the Disciplinary Board or a Disciplinary Tribunal must not take part in any matter on the grounds of conflict of interest.

Lloyd’s Disciplinary Rules (Schedule 2)

Lloyd’s Disciplinary Rules clarify and amend the existing procedural rules for ‘the conduct of disciplinary proceedings before the Disciplinary Committees. The main provisions are as follows:

1. Proceedings are now instituted by service of a Notice on the person concerned (“the defendant”) which must specify whether the matter is to be dealt with by way of fixed penalty proceedings, summary proceedings or formal proceedings. The Notice will also set out the alleged misconduct and the facts and matters relied on and, in fixed penalty proceedings only, will state the fixed penalty (Rule 1.2).
2. Rule 1.4 is a new provision that enables the Council to serve a copy of the Notice on the individual concerned’s employer, firm or any company of which he is a director.
3. Rules 2.2 to 2.4 apply to fixed penalty proceedings, that is, proceedings regarding misconduct for which a penalty is fixed in Schedule 2 to the new Misconduct and Penalties Byelaw (No.30 of 1996). In fixed penalty proceedings the defendant may choose not to contest the Notice and agree to pay the fixed penalty in which case no order as to costs may be made. Alternatively, the defendant may contest the Notice, in which case the proceedings will continue against him as summary proceedings. The fixed penalty procedure is designed to facilitate the expeditious resolution of proceedings in certain lesser cases of misconduct where there is no real dispute.
4. The new rules also provide for a settlement procedure for proceedings commenced as summary proceedings or formal proceedings (Rules 3.2 to 3.10). This gives the parties the ability to settle the proceedings within 28 days from service of the Notice. Any proposed terms of settlement which are agreed between the parties are submitted

to the Disciplinary Board for its consideration, and the Disciplinary Board may approve or decline to approve the settlement in its absolute discretion. All matters relating to settlement are to be treated as confidential and will not be relied on in any disciplinary proceedings except that approved terms of settlement may be published and proposals regarding settlement may be made on the basis that they will be admissible on the question of costs (Rule 3.8).

5. In any case where the defendant wishes to contest the proceedings, a Defence must be served by the defendant within 28 days of the service of a Notice (Rule 4).
6. Rules 5.1 to 5.5 provide for the Disciplinary Board to appoint a Disciplinary Tribunal to hear the disciplinary proceedings. The composition of a Disciplinary Tribunal is three people, two of whom shall be members of the Society. The Tribunal Chairman will be a qualified lawyer of at least 10 years standing or a person who holds or has held high judicial office. The composition of the Tribunal is subject to rules 5.3 to 5.5 which set out grounds for excluding certain individuals.
7. If no Defence is served in summary proceedings or formal proceedings, a Disciplinary Tribunal may issue findings on the basis that the misconduct alleged in the Notice and the facts and matters set out therein shall be deemed to be admitted by the defendant (Rules 6.1 to 6.5). These provisions are intended to enable the proceedings to continue in the event that the defendant fails to respond to the Notice served on him. A defendant may apply under Rule 6.3 within 7 days of the issue of such findings to set them aside and to apply for leave to serve a Defence but the application will only be granted if the Disciplinary Tribunal is satisfied that this is necessary in the interests of justice.
8. Rules 7.1 to 7.8 apply to summary proceedings where a Defence has been served. Summary proceedings are to be dealt with on the basis of written submissions and documents unless a defendant makes a written request for an oral hearing, which will be granted by the Disciplinary Tribunal only if it is satisfied that an oral hearing is necessary in the interests of justice (Rule 7.4). Rule 7.2 and 7.3 allow both parties to serve further written submissions and copies of all additional documents referred to as well as a copy of any witness statements to be relied. In addition, the parties may make submissions as to penalty (unless the penalty is fixed by Schedule 2 to the Misconduct and Penalties Byelaw) and to costs.
9. Rule 7.7 enables a Disciplinary Tribunal which considers that the gravity of the matter is such that it should be dealt with by way of formal proceedings to convert the proceedings to formal proceedings.
10. Rules 8.1 to 8.4 set out the procedure to be used in formal proceedings when a Defence has been served. A preliminary hearing will be held in formal proceedings by the Disciplinary Tribunal when appropriate directions maybe made as to the future conduct of the proceedings (Rules 8.2 to 8.4).
11. In formal proceedings, there will be an oral hearing before the Disciplinary Tribunal unless the parties agree otherwise (Rule 8.5). Rules 9.1 to 9.3 require an oral hearing to be in private unless the Defendant requires a public hearing. The Disciplinary Tribunal also has power to determine the conduct of the hearing in such manner as it considers appropriate (Rule 9.3).
12. In formal proceedings, within 7 days of the issue by the Disciplinary Tribunal of its findings regarding the alleged misconduct, submissions as to penalties or costs must be served on the Disciplinary Tribunal. The parties may also elect to make oral submissions.

13. The Disciplinary Tribunal is required to issue and serve a copy of its decision as to misconduct and any penalties or orders as to costs on the Defendant. Reasons need not be given for its decision unless either party makes a request for such reasons (Rule 10.2),
14. The Council is required to publish the decision of the Disciplinary Board or a Disciplinary Tribunal in certain circumstances (Rules 14.1 to 14.3)
15. Rules 15.1 to 26.2 set out general and miscellaneous provisions relevant to the conduct of the disciplinary proceedings. Of particular note, new provisions have been included at Rules 16.1 and 16.2 stating that the burden of proof in all disciplinary proceedings is on the Council and that the standard of proof required is the standard of proof applicable in civil cases.

APPEAL TRIBUNAL BYELAW

(No. 32 of 1996)

(Made on 7 August 1996)

[The amendments made to this byelaw by the Appeal Tribunal (Amendment) Byelaw (No. 47 of 1996) are shown in italics and marked in the margin below.]

The Council of Lloyd's, in exercise of its powers under Lloyd's Act 1982, by special resolution hereby makes the following byelaw.

Interpretation

1. The provisions of Schedule 1 to this byelaw (Interpretation) shall have effect.

The Appeal Tribunal

2. (1) There shall be an Appeal Tribunal which shall consist of a President, a Deputy President and such other individual or individuals as the Council may from time to time appoint. Each member of the Appeal Tribunal shall be a qualified lawyer of at least 10 years standing or a person who holds or has held high judicial office.
 - (2) No person shall be appointed to the Appeal Tribunal who is:
 - (a) a person subject to the disciplinary jurisdiction of the Society;
 - (b) a member of the Council;
 - (c) a member of the Disciplinary Board; or
 - (d) a member of a Disciplinary Tribunal that has been involved in the matter referred to the Appeal Tribunal.
 - (3) Subject to sub-paragraph (5), an appointment as President or Deputy President shall be for a term not exceeding 5 years, but may be renewed by the Council from time to time.
 - (4) Any other individual appointed to the Appeal Tribunal shall be appointed for the purpose of hearing and determining, and for the duration of, a specified appeal or appeals or other proceedings.
 - (5) If the President or Deputy President is engaged in a hearing which has not been concluded at the date that his term of office would otherwise expire, he shall continue to be a member, but unless his appointment is renewed under sub-paragraph (3) his membership shall continue only for the purposes of that hearing.
 - (6) Each member of the Appeal Tribunal shall be entitled to such remuneration and expenses from the Society as the Council may determine.

Revocation of membership

3. The Council shall revoke the appointment of any member of the Appeal Tribunal:
 - (a) against whom disciplinary proceedings under Lloyd's Acts 1871 to 1982 or any byelaw made thereunder might, in the opinion of the Council, have been

- taken if such member was a person subject to the disciplinary jurisdiction of the Society pursuant to the Misconduct and Penalties Byelaw (No.30 of 1996)
- (b) who has been, by any court of competent jurisdiction, convicted of any crime or made the subject of a finding in any judgment in civil proceedings which, in the opinion of the Council, involves discreditable conduct and such conviction or finding has not to the Council's knowledge been set aside on appeal or otherwise;
 - (c) who has been found guilty of misconduct by any professional body which, in the opinion of the Council, involves discreditable conduct and such finding has not to the Council's knowledge been set aside on appeal or otherwise;
 - (d) who has been adjudicated bankrupt or adjudicated or declared insolvent by the due process of law of the United Kingdom or elsewhere, or who has made any arrangement or composition with his creditors or who has otherwise acknowledged his inability to pay his debts; or
 - (e) who is unable by virtue of his physical or mental health to discharge his duties, in the opinion of the Council having regard to any available advice of a qualified medical practitioner.

Conflicts of interest

- 4. No one appointed to the Appeal Tribunal shall hear and determine an appeal if the circumstances are such that there would be a real danger of bias on his part or if he has any material financial interest in the matter referred to the Appeal Tribunal.

The hearing of appeals

- 5.
 - (1) The Appeal Tribunal shall hear and determine all appeals brought pursuant to paragraphs 6 and 7 below.
 - (2) The rules set out in Schedule 2 to this byelaw (Lloyd's Appeal Rules) shall govern the bringing of and conduct of all appeals to or other proceedings before the Appeal Tribunal.
 - (3) Subject to paragraph 4, each appeal or other matter shall be heard and determined by the President or Deputy President unless it is not reasonably practicable for them to do so. If the President and Deputy President are unable, to hear the matter, the Council shall appoint a member of the Appeal Tribunal for this purpose pursuant to paragraph 2 above.

Rights of appeal in disciplinary proceedings

- 6.
 - (1) Subject to this paragraph and the provisions of Schedule 2, a defendant shall have a right of appeal from a decision of a Disciplinary Tribunal on any allegation of misconduct and/or any penalties 'and/or orders as to costs.
 - (2) A defendant shall have no right of appeal from a decision of the Disciplinary Board imposing a fixed penalty or approving or refusing to approve terms of settlement agreed to by the defendant.
 - (3) An appeal from a decision as to misconduct, penalty or costs order in summary proceedings or in default of service of a defence or in default of appearance at an oral hearing shall only be made with the leave of the Appeal Tribunal.
 - (4) The Council shall have no right of appeal to the Appeal Tribunal.

Other rights of appeal

7. Subject to the provisions of Schedule 2, the persons referred to in paragraphs 2- and 3 of Schedule 3 (rights of appeal from decisions of the Council or the Committee) shall have a right of appeal from any decision of the Council or the Committee made under any of the provisions set out in paragraph 1 of Schedule 3 to this byelaw.

Statement of reasons

8. (1) Within 14 days of the date of a decision of the Council or the Committee, a person who has a right of appeal under paragraph 7 of this byelaw may request that the Council or the Committee shall:
- (a) serve a statement setting out the reasons for the decision, if not already provided to him;
 - (b) identify all documents which were before it; and
 - (c) provide him with copies of any documents which were not previously provided to him.
- The Council or the Committee shall comply with the request within 7 days.
- (2) If the Council or the Committee acted upon confidential information or documents, particulars and copies of that information and of those documents may be omitted from the statement of reasons and documents served under this paragraph. In this event the Council or the Committee shall disclose to the person concerned the fact that such omission has been made.

Revocations and amendments

9. The provisions of Schedule 4 to this byelaw (Revocations and Amendments) shall have effect.

Commencement and application

10. (1) This byelaw shall come into force on 7 August 1996.
(2) This byelaw shall apply to all appeals to the Appeal Tribunal which commence after it comes into force.

SCHEDULE 1

Interpretation

In this byelaw, unless the context otherwise requires, the following expressions have the following meanings:

“Appeal Tribunal” means the Appeal Tribunal established by the Appeal Tribunal Byelaw (No.32 of 1996);

“Deputy President” means the Deputy President of the Appeal Tribunal;

“Disciplinary Board” means the Disciplinary Board established by the Disciplinary Committees Byelaw (No.31 of 1996);

“Disciplinary Tribunal” means a Disciplinary Tribunal appointed pursuant to Lloyd’s Disciplinary Rules set out in Schedule 2 to the Disciplinary Committees Byelaw (No.31 of 1996);

“fixed penalty” means a penalty set out in Schedule 2 to the Misconduct and Penalties Byelaw (No.30 of 1996);

“person subject to the disciplinary jurisdiction of the Society” means a person subject to the disciplinary jurisdiction of the Society as set out in the Misconduct and Penalties Byelaw (No.30 of 1996);

“President” means the President of the Appeal Tribunal.

“qualified lawyer” means a barrister or a solicitor, holding a full practicing certificate.

SCHEDULE 2

Lloyd’s Appeal Rules

The hearing of appeals

1. These Rules govern the bringing of and conduct of all appeals to or other proceedings before the Appeal Tribunal pursuant to the Appeal Tribunal Byelaw, that is:
 - (a) appeals from, or applications for leave to appeal from, a decision of a Disciplinary Tribunal in disciplinary proceedings, pursuant to paragraph 6 of that byelaw; and
 - (b) appeals from, or *applications for leave to appeal from*, decisions of the Council or the Committee, pursuant to paragraph 7 of that byelaw.

Grounds for appeal

2. In any appeal under the Appeal Tribunal Byelaw, the Appeal Tribunal shall not substitute its own judgment for that of the body appealed from but shall consider only whether that body:
 - (a) made an error of law;
 - (b) took into account irrelevant matters or failed to take into account relevant matters or otherwise reached a decision so unreasonable that no reasonable body could have so decided; or
 - (c) failed to adopt a fair procedure in reaching its decision;provided that the Appeal Tribunal shall not be bound to allow an appeal unless it is of the opinion that substantial injustice has occurred.

Commencement of an appeal

- 3.1 An appeal shall be begun by service on the Council of a Notice of Appeal, which must be served within 14 days of the later of
 - (a) the date of service on the appellant of the decision of the body appealed from;
 - (b) the date of service of a written statement giving reasons for that decision; or
 - (c) if leave is required, the date on which leave to appeal was granted.The Notice of Appeal shall be accompanied by a copy of the decision which is being appealed and, if applicable, the statement of reasons for the decision and the order giving leave to appeal.
- 3.2 The appellant shall send the Appeal Tribunal a copy of the Notice of Appeal and accompanying documents at the same time as serving the Notice on the Council.
- 3 . 3 ~~Within 7 days of~~ “As soon as practicable after the receipt of the Notice of Appeal, the Appeal Tribunal shall give the appellant and the Council notice of the member of the Appeal Tribunal who shall hear and determine the appeal (“the appointed member”).
- 3.4 The appellant may object to the appointed member appointed to hear and determine the appeal on the ground that his appointment is in breach of paragraph 4 of the

Appeal Tribunal Byelaw No.32 of 1996). Any objection shall be made by giving notice of the objection, stating the reasons for it, to the Appeal Tribunal within 7 days of receiving notice under rule 3.3 above. If the Appeal Tribunal is satisfied that the objection is properly made, that person shall retire from hearing that matter and another person shall be selected in his place, and the Council and the appellant shall be notified accordingly.

- 3.5 The Council shall appoint the Representative of the Council to conduct the appeal proceedings on its behalf. The Representative of the Council may instruct a qualified lawyer. The appellant and the Appeal Tribunal shall be informed of the name of the Representative of the Council and of any subsequent change in that appointment.
- 3.6 Within 14 days of service of a Notice of Appeal, the appellant shall serve on the Council, with a copy to the Appeal Tribunal. a statement setting out:
 - (a) the grounds of appeal; and
 - (b) any facts or matters relied on.
- 3.7 The Council may serve a reply within 14 days of service by the appellant of the statement pursuant to Rule 3.6 and shall send a copy of such reply to the Appeal Tribunal.
- 3.8 At any time after service of a Notice of Appeal from a decision of the Council or the Committee pursuant to paragraph 7 of the Appeal Tribunal Byelaw, the Appeal Tribunal may, upon the application of any party to such appeal, stay the implementation of the decision appealed against, either in whole or in part.

Applications for leave to appeal ~~in disciplinary proceedings~~

- 4.1 An application to the Appeal Tribunal for leave to appeal against a decision ~~of a Disciplinary Tribunal pursuant to paragraph 6 of paragraphs 6 and 7 of and paragraph 1 of Schedule 3 to the Appeal Tribunal Byelaw~~ shall be made within 14 days of the ~~date of the decision concerned.~~ later of:
 - (a) the date of service on the appellant of the decision of the body in respect of which leave to appeal is sought; and
 - (b) the date of service of a written statement giving reasons for that decision.
- 4.2 An application for leave to appeal shall be in writing and shall set out the reasons for which it is contended leave should be granted. The application shall be served on the Council and shall be accompanied by a copy of the decision in respect of which leave is sought and, if applicable, the statement of reasons for that decision *and a copy of the application and accompanying documents shall be sent to the Appeal Tribunal at the same time.*
- 4.3 The Appeal Tribunal may decide an application on the basis of the applicant's written submissions or may hold a hearing for this purpose as it considers appropriate.
- 4.4 The Council may make written submissions in response to an application for leave to appeal within 14 days of service of the application.
- 4.5 *At any time after service of an application for leave to appeal from a decision of the Council or the Committee pursuant to paragraph 7 of the Appeal Tribunal Byelaw; the Appeal Tribunal may, upon the application of any party to such application, stay the implementation of the decision in respect of which leave to appeal is sought, either in whole or in part.*

Preliminary hearings

5. The Appeal Tribunal may hold preliminary hearings for the purpose of:

- (a) deciding any application under Rule 3.8 *or* Rule 4.5 for a stay of the decision pending the appeal;
- (b) giving any directions which it considers appropriate for the conduct of the proceedings.

Oral Hearings

- 6.1 There shall be an oral hearing before the Appeal Tribunal unless the parties agree that the proceedings may be determined on the basis of written submissions and documents.
- 6.2 The hearing shall be in private unless the appellant requires a public hearing. In such a case the Appeal Tribunal may in its discretion direct that any part of the hearing shall take place in private if in its opinion this is necessary in the interests of justice.

The Appeal Tribunal's decision

- 7.1 The Appeal Tribunal shall give to the parties a written statement of its decision and its reasons. The decision shall take effect immediately.
- 7.2 Where the Appeal Tribunal allows an appeal it shall order that the matter shall be determined by the ~~same or a different Disciplinary Tribunal (as it considers appropriate)~~ body appealed from (and may order, if appropriate, that it shall be determined by a differently constituted body) and it shall give such directions as it thinks fit.
- 7.3 If the Appeal Tribunal has exercised its power under Rule 11.2 to preserve the confidentiality of information, the written statement of its decision and reasons shall disclose the fact that it has done so but need give no further particulars.

costs

- 8.1 The Appeal Tribunal may order any party to the proceedings to pay costs and, if so, shall determine the amount of those costs and the date by which they shall be paid.
- 8.2 Costs may include the remuneration and expenses of members of the Appeal Tribunal and assessors, administration costs and legal costs and other expenses incurred in connection with the appeal, including the Society's own costs incurred in the preparation and presentation of the appeal.

Publication

- 9.1 The Council may publish a decision of the Appeal Tribunal if
 - (a) the hearing was held in public;
 - (b) the appellant requires the Council to do so; or
 - (c) the decision upholds the decision of a Disciplinary Tribunal.
- 9.2 The Council may withhold publication of all or part of any decision of the Appeal Tribunal if it considers that it should do so because of exceptional regulatory reasons or before the interests of justice so require.
- 9.3 In the case of an appeal against a decision of a Disciplinary Tribunal, if the hearing was not held in public, no publication shall take place earlier than the date on which a decision takes effect, unless the appellant agrees.

General and miscellaneous provisions

Power to determine procedure

10. Subject to these Rules, the Appeal Tribunal shall have power to determine the conduct of proceedings before it in such manner as it considers appropriate.

Evidence

- 11.1 The Appeal Tribunal shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before any court of law.
- 11.2 When hearing an appeal brought under paragraph 7 of the Appeal Tribunal Byelaw, the Appeal Tribunal shall be entitled to consider information or documents which were before the Council or the Committee without revealing either the information or documents or their source.
- 11.3 The findings of fact of any court of competent jurisdiction or any committee or tribunal of any statutory, professional or other body exercising a regulatory or disciplinary jurisdiction, whether within the United Kingdom or elsewhere, which have not been set aside on appeal or otherwise, shall be prima facie evidence of the facts so found. A criminal conviction of the appellant by any such court, which has not been set aside on appeal or otherwise, shall be conclusive evidence of the commission of the offence in question.
- 11.4 The Appeal Tribunal may administer oaths in accordance with section 7(4)(a) of Lloyd's Act 1982.
- 11.5 The Appeal Tribunal may require the Council, the Committee, the Disciplinary Board, a Disciplinary Tribunal, or any person subject to the disciplinary jurisdiction of the Society to disclose to the Appeal Tribunal any information or document which the Appeal Tribunal in its opinion needs in order to exercise its jurisdiction fairly in any appeal.

Amendment of documents

12. The Appeal Tribunal may permit the amendment of any document served by the parties on such terms as it thinks fit.

Joinder of proceedings etc

13. The Appeal Tribunal may instruct that appeals by two or more appellants shall be heard separately, or at the same time, or that a hearing of a particular issue be stayed until the determination of another issue.

Time

- 14.1 If any period specified by these Rules expires on a Saturday, Sunday, bank holiday, Christmas Day or Good Friday, it will be extended to the next day which is not such a day.
- 14.2 The Appeal Tribunal may, if it considers it appropriate, extend any period within which a party is required by these Rules to do any act in connection with proceedings before it.

Default

- 15.1 If a party fails to attend any hearing before the Appeal Tribunal and the Appeal Tribunal is not satisfied that he has a reasonable excuse for his absence, it may proceed in his absence.
- 15.2 The Appeal Tribunal may, in the event of the failure of the party to comply with any instruction of the Appeal Tribunal, take any action it considers appropriate, including an award of costs against that party.

Representation

- 16.1 The Council shall be represented at hearings before the Appeal Tribunal by the Representative of the Council or by a qualified lawyer instructed by him.
- 16.2 The appellant may be represented by a qualified lawyer at hearings before the Appeal Tribunal.
- 16.3 The Representative of the Council and the appellant shall notify the Appeal Tribunal of any representative appointed as soon as reasonable practicable and in any event not less than 14 days prior to the commencement of the hearing.

Notices and service

- 17.1 Any notice required to be given by these Rules shall be in writing.
- 17.2 Any notice shall be given and service of documents pursuant to these Rules shall be effected by:
- (a) post to the proper address;
 - (b) fax;
 - (c) leaving the document at the proper address; or
 - (d) personal service.
- 17.3 The proper address of any person is:
- (a) in the case of an individual, his business address or his usual or last known home address;
 - (b) in the case of a partnership, its principal or last known place of business in the United Kingdom;
 - (c) in the case of a body corporate, its registered office or principal office in the United Kingdom;
 - (d) in the case of the Council or the Committee, the Representative of the Council, at his business address, or, if the Representative of the Council has not been appointed, the Secretary of the Council;
 - (e) in the case of the Appeal Tribunal, the Secretary of the Appeal Tribunal;
 - (f) in the case of the Representative of the Council, at his business address; or
 - (g) the business address of the qualified lawyer, if any, who is acting for that person in the matter in connection with which the service of the document in question is to be effected.
- 17.4 (a) Where notice is given or service is effected by post and the document is proved to have been posted, the document in question shall be presumed to have been delivered 72 hours from the time of posting and the date of notification or service shall be construed accordingly;
- (b) Where notice is given or service is effected by fax, it shall be confirmed by the delivery or posting of a copy of the fax to the party to whom the fax was addressed and the date of notification or service shall be presumed to be the date of the fax transmission;

- (c) where notice is given or service is effected by leaving the document at the proper address of the person to be served, the date of notification or service shall be the date on which the document was left.

17.5 The provisions of Rules 17.1 to 17.4 are without prejudice to any applicable provisions of any byelaws regarding the service of documents or notices, to which they shall be regarded as alternative.

Definitions

18.1 These Rules form part of the Appeal Tribunal Byelaw (No.32 of 1996) and, subject to Rule 18.2, shall be interpreted accordingly.

18.2 In these Rules, unless the context otherwise requires, the following expressions shall have the following meanings:

“person subject to the disciplinary jurisdiction of the Society” means a person subject to the disciplinary jurisdiction of the Society as set out in the Misconduct and Penalties Byelaw (No.30 of 1996).

“qualified lawyer” means a barrister or a solicitor, holding a full practicing certificate.

“Representative of the Council” means the individual appointed by the Council to conduct the appeal proceedings pursuant to Rule 3.5.

SCHEDULE 3

Right of appeal from decisions of the Council or the Committee.

1. An appeal may be made pursuant to paragraph 7 of this byelaw from any decision of the Council or the Committee made under Lloyd’s Act 1982 or:
 - (a) Membership Byelaw (No. 17 of 1993), as to:
 - (i) the refusal of an application for membership of the Society under paragraph 10 of that byelaw;
 - (ii) the imposition of a condition or requirement (including a requirement to give an undertaking) other than a condition or requirement which is applicable to all members, under paragraphs 3 or 10 of that byelaw;
 - (iii) the cessation or revocation of membership of the Society under paragraphs 41,42,43,45,46 or 47 of that byelaw;
 - (iv) the refusal of an application for any consent, or the grant of any consent subject to a condition or requirement, under paragraph 14 of that byelaw;
 - (v) the grant of permission to any underwriting member to underwrite insurance business at Lloyd’s subject to any condition, requirement or direction under paragraph 22 of that byelaw;
 - (vi) the making of any condition, requirement or direction under paragraph 24 of that byelaw;
 - (vii) the giving of any direction under paragraph 25 of that byelaw.
 - (b) Underwriting Agents Byelaw (No. 4 of 1984), as to:
 - (i) the refusal of an application for registration as an underwriting agent or of an application for renewal of such registration under paragraph 6 of that byelaw;

- (ii) the refusal of an application by an underwriting agent for permission to act as both a managing agent and members' agent under paragraph 6 of that byelaw;
- (iii) the refusal of an application by a managing agent for permission to manage a syndicate under paragraph 6 of that byelaw;
- (iv) the imposition of a condition or requirement (including a requirement to give an undertaking), other than a condition or requirement which is applicable to all applicants or underwriting agents of the same class, under paragraph 9 of that byelaw;
- (v) the withdrawal of a permission to act as a managing agent or as a members' agent under paragraph 11 of that byelaw;
- (vi) the withdrawal of a permission for a managing agent to manage a syndicate (other than a withdrawal under paragraph 11 of that byelaw);
- (vii) the removal of the name of an underwriting agent from the register under paragraph 11 of that byelaw;
- (viii) the postponement of the removal of the name of an underwriting agent from the register, or the giving of any direction in connection with such a postponement under paragraph 11 of that byelaw;
- (ix) the refusal of an application for consent to the appointment of a person as a director of, or a person becoming a partner in, an underwriting agent under paragraph 53 of that byelaw;
- (x) the refusal to:
 - (a) grant a clearance notification under paragraph 10 of that byelaw; or
 - (b) give or vary any agreement (other than on the grantor renewal of a permission to act) required under any of the provisions of Section I and II of Part C of that byelaw;
 but only with the leave of the Appeal Tribunal.
- (c) Syndicate Premium Income Byelaw (No. 6 of 1984), as to:
 - the giving of any direction under paragraph 4 of that byelaw.
- (d) Syndicate Audit Arrangements Byelaw (No. 10 of 1984), as to:
 - (i) the refusal of an application by a person for the entry of his name in the list of all persons entitled to act as a syndicate auditor under paragraph 3 of that byelaw;
 - (ii) the removal of a name from the list of all persons entitled to act as a syndicate auditor under sub-paragraphs 5(a)(i), (b) or (c) of that byelaw.
- (e) Lloyd's Brokers Byelaw (No. 5 of 1988), as to:
 - (i) the refusal of an application for registration as a Lloyd's broker or of an application for renewal of such registration under paragraph 6 of that byelaw;
 - (ii) the imposition of a condition (including a requirement to execute an undertaking or guarantee), other than a condition which is applicable to all applicants or Lloyd's brokers, under paragraph 9 of that byelaw
 - (iii) the removal of the name of a Lloyd's broker from the register under paragraph 11 of that byelaw;

- (iv) the postponement of the removal of the name of a Lloyd's broker from the register, or the giving of any direction in connection with such a postponement under paragraph 11 of that byelaw;
- (v) the refusal of an application for consent to the appointment of a person as a director of, or a person becoming a partner in a Lloyd's broker under paragraph 48 of that byelaw;
- (vi) *with the leave of the Appeal Tribunal*, the refusal to give or vary any agreement (other than on the registration of a Lloyd's broker or the renewal of any such registration) required under any of the provisions of Part C of that byelaw;.

~~*but only with the leave of the Appeal Tribunal*~~

- (f) Umbrella Arrangements Byelaw (No. 6 of 1988), as to:
 - (i) the refusal of an application by a Lloyd's broker for the registration of an umbrella arrangement under paragraph 7 of that byelaw;
 - (ii) the imposition of a condition, other than a condition applicable in respect of all umbrella arrangements, under paragraph 10 of that byelaw;
 - (iii) the removal of the particulars of an umbrella arrangement from the register under paragraph 11 of that byelaw;
 - (iv) the postponement of the removal of the particulars of an umbrella arrangement from the register under paragraph 11 of that byelaw;
 - (v) any direction given on the removal of an umbrella arrangement from the register or the postponement of such removal under paragraph 11 of that byelaw;
 - (vi) the giving of any direction to a Lloyd's broker or to any non-Lloyd's broker which is a party to a registered umbrella arrangement with the Lloyd's broker under paragraph 20(3) of that byelaw.
- (g) Agency Agreements Byelaw (No. 8 of 1988), as to:
 - (i) the decision to grant an application under paragraph 11A of that byelaw, by the member of the Society to whom the notice to which the application relates is proposed to be given;
 - (ii) the decision of the Council to refuse an application under paragraph 11A of that byelaw or to impose conditions on the grant of such an application, by the members' agent which has made the application;
 - (iii) the decision to grant an application under paragraph 11B of that byelaw, by the member of the Society to whom the notice to which the application relates is proposed to be given;
 - (iv) the decision to refuse an application under paragraph 11B of that byelaw or to impose conditions on the grant of such an application, by the managing agent which has made the application;
 - (v) the decision to refuse a direction under paragraph 15 of that byelaw, by the managing agent which has applied for the direction;
 - (vi) the decision to grant a direction under paragraph 15 of that byelaw, by either or both of the member of the Society who has made the nomination to which the direction relates or the member of the Society who has been so nominated.
- (h) Multiple Syndicates Byelaw (No. 5 of 1989), as to:

- (i) the refusal of an application by a managing agent for consent under part C or part E of that byelaw by the managing agent concerned, whether on its own behalf or on behalf of an individual;
 - (ii) the refusal of an application for consent under part C of that byelaw by the individual concerned;
 - (iii) the revocation of any consent granted under part C or part E of that byelaw;
 - (iv) the variation of any condition or the imposition of any additional condition in connection with any consent granted under part C or part E of that byelaw.
- (i) Run-off Years of Account Byelaw (No. 17 of 1989), as to:
 - (i) the giving of any direction under paragraph 7(c) or (d) of that byelaw;
 - (ii) the refusal to grant a permission or the revocation or suspension of such permission under paragraphs 16(d), 17 or 18 of that byelaw.
 - (j) Personal Stop Loss Reinsurance Regulation (No. 2 of 1990), as to:
 - (i) the giving of any direction under paragraph 7 of that regulation.
 - (k) Approval of Correspondents Regulation (No. 4 of 1990), as to:
 - (i) the revocation of approval of a correspondent under paragraph 12 of that regulation;
 - (ii) the imposition of a condition to the approval of a correspondent other than a condition applicable to all correspondents under paragraph 9 of that regulation.
 - (l) Annual Subscribers, Associates, Substitutes and Others Byelaw (No. 8 of 1993), as to:
 - (i) the refusal of an application for entry in the Register as an annual subscriber or associate, or renewal of an application for such entry, under paragraph 5 of that byelaw;
 - (ii) the removal of the name of an annual subscriber or associate from the Register under paragraph 9 of that byelaw;
 - (iii) the postponement of the removal of the name of an annual subscriber or associate from the Register or the giving of any direction in connection with such postponement under paragraph 9 of that byelaw;
 - (iv) the imposition of a condition or requirement (including a requirement to give an undertaking) other than a condition or requirement which is applicable to all annual subscribers or associates, as the case may be, under paragraph 7 of that byelaw;
 - (v) the refusal of an application for entry in the List as a substitute or representative, or the renewal of an application for such entry, under paragraph 14 of that byelaw;
 - (vi) the removal of the name of a substitute or representative from the List under paragraph 17 of that byelaw;
 - (vii) the postponement of the removal of the name of a substitute or representative from the List, or the giving of any direction in connection with such postponement under paragraph 17 of that byelaw;
 - (viii) the imposition of a condition or requirement (including a requirement to give an undertaking), other than a condition or requirement which is applicable to all substitutes or representatives as the case may be, under paragraph 16 of that byelaw.

- (m) Lloyd's Advisers Byelaw(No. 19 of 1993), as to:
 - (i) the refusal of an application for registration as a Lloyd's adviser under paragraph 4 of that byelaw;
 - (ii) the removal of the name of a Lloyd's adviser from the register under paragraph 8 of that byelaw;
 - (iii) the postponement of the removal of the name of a Lloyd's adviser from the register, or the giving of any direction in connection with such a postponement under paragraph 8 of that byelaw;
 - (v) the imposition on a Lloyd's adviser of a condition other than a condition applicable to all Lloyd's advisers under paragraph 6 of that byelaw.
- (n) Run-off Companies Byelaw (No. 2 of 1995), as to:
 - (i) the refusal of an application for entry in the register of approved run-off companies under paragraph 7 of that byelaw;
 - (ii) the removal of the name of an approved run-off company from the register or the postponement of such removal under paragraph 11 of that byelaw;
 - (iii) the imposition upon an approved run-off company of any condition other than a condition applicable to all approved run-off companies under paragraph 9 of that byelaw;
 - (iv) *with the leave of the Appeal Tribunal*, the refusal to revoke or vary a condition imposed upon an approved run-off company under paragraph 9 of that byelaw:
~~*but only with the leave of the Appeal Tribunal*~~
- (o) Individual Registration Byelaw (No.13 of 1996), as to:
 - (i) the refusal of an application for registration to carry out a regulated function under Schedule 1, rule 3(c) of that byelaw;
 - (ii) the imposition of a condition to a registration other than a condition which is applicable all individuals registered to carry out the regulated function under Schedule 1, rule 3(b) or rule 9(5) of that byelaw;
 - (iii) the termination of, or refusal to terminate, a registration under Schedule 1, rule 8(4) of that byelaw.

2. Appeals under sub-paragraphs 1(a) to (o) of this Schedule maybe brought by a person who :
- (a) has made an application which has been refused (refusals including for the purposes of this paragraph the refusal to grant a clearance notice or give or vary an agreement);
 - (b) has had any approval, consent or permission granted to him revoked, suspended or withdrawn;
 - (c) has had any condition, requirement or direction imposed upon or given to him;
 - (d) has been removed from a list or register (with the exception of the List of substitutes and representatives)
 - (e) has had his removal from a list or register (with the exception of the List of substitutes and representatives) postponed or who has been made the subject of a direction in connection with such postponement
 - (f) in the case of the List of substitutes and representatives, is the sponsor of a person:
 - (i) who has been removed from that list; or

- (ii) whose removal from that list has been postponed; or
 - (iii) who has been made the subject of a direction in connection with such postponement;
 - (g) in the case of sub-paragraph (1)(k) is a correspondent and:
 - (i) an approval previously granted to or in respect of such person has been revoked; or
 - (ii) an approval granted to or in respect of such person has been made subject to a condition other than a condition applicable to all correspondents;
 - (h) in the case of sub-paragraph 1(o) is an individual who has had his registration terminated or the termination of whose registration has been refused; as the case may be.
3. Appeals under sub-paragraphs 1(a),(b),(e),(f),(m),(n) and (o) of this Schedule may also be brought by an individual where any of the decisions listed in those sub-paragraphs, has been based in whole or in part, on an adverse conclusion as to the character of that individual.

SCHEDULE 4

Revocations and Amendments

1. *The Appeal Tribunal Byelaw (No. 18 of 1995) is revoked save in its application to any appeals to the Appeal Tribunal which are commenced prior to the date on which the provisions of this byelaw have effect.*
2. *Paragraph 2(b) of the Suspension: Supplementary and Consequential Matters Byelaw (No. 1.9 of 1983) is revoked save in its application to any appeals to the Appeal Tribunal which are commenced prior to the date on which the provisions of this byelaw have effect.*
3. *in each of paragraphs 1, 3(a), 4(a), 5(a), 5A(a) and 6(a) of the Suspension.. Supplementary and Consequential Matters Byelaw (No. 19 of 1983), the words “or the Appeal Tribunal” are revoked save in their application to any appeals to the Appeal Tribunal which are commenced prior to the date on which the provisions of this byelaw have effect.*

APPEAL TRIBUNAL BYELAW

(No.32 of 1996) ,

EXPLANATORY NOTE

(This note is not part of the byelaw)

This byelaw revokes and re-enacts with amendments the Appeal Tribunal Byelaw (No. 18 of 1995). The byelaw covers both appeals in disciplinary proceedings and appeals from decisions of the Council or the Committee.

This note sets out the main changes made by this byelaw including the rules governing the appeal procedure, which are now set out separately in Schedule 2 (the “Lloyd’s Appeal Rules”):

1. All members of the Appeal Tribunal are required to be qualified lawyers of at least 10 years standing or people who hold or have held high judicial offices (paragraph 2(1)). In addition, the Council is now able to revoke the appointment of a member of the Appeal Tribunal in certain circumstances (paragraph 3).
2. The byelaw provides that a defendant has a right of appeal from a decision in disciplinary proceedings on any allegation of misconduct and/or any penalties and/or orders as to costs except that there is no right of appeal from a decision imposing a fixed penalty (which requires the defendant’s agreement under the provision of the Disciplinary Committees Byelaw) or regarding terms of settlement agreed to by a defendant. In addition, an appeal from a decision in summary proceedings or in default of service of the defence or in default of appearance at a hearing can only be made with the leave of the Appeal Tribunal.
3. There is a right of appeal under paragraph 7 of the byelaw in respect of the decisions of the Council or the Committee listed in Schedule 3. In these cases, the person concerned may request a statement of reasons for the decision of the Council or the Committee within 14 days of the decision before deciding whether to appeal. This changes the present system under which reasons are only given for such decisions after an appeal has been commenced by the defendant.
4. Schedule 2 to this byelaw sets out Lloyd’s Appeal Rules which govern the bringing of and conduct of all appeals or other proceedings before the Appeal Tribunal.
5. In all cases, appeals are by way of review, not rehearing. The grounds of appeal are that the body appealed from (i) made an error of law; (ii) took into account irrelevant matters or failed to take into account relevant matters or otherwise reached a decision so unreasonable that no reasonable body could have so decided, or (iii) failed to adopt a fair procedure in reaching its decision. It is provided that the Appeal Tribunal shall not be bound to allow an appeal unless it is of the opinion that substantial injustice has occurred. If an appeal succeeds, the matter will then be remitted to the body appealed from with such directions for re-hearing and determination as the Appeal Tribunal thinks fit.
6. An appeal is commenced when an appellant serves a Notice of Appeal on the Council together with a copy of the decision which has been appealed and, if applicable, the statement of reasons for the decision and the order giving leave to appeal.
7. The appellant must then serve a statement setting out the grounds of appeal and any factual matters relied on within 14 days of service of a Notice of Appeal. The Council may serve a reply within 14 days of service of the appellant’s statement.
8. The Council will appoint the Representative of the Council to conduct the appeal proceedings on its behalf (Rule 3.5).
9. There will be an oral hearing before the Appeal Tribunal unless the parties agree otherwise (Rule 6.1). The hearing is in private unless the appellant requires a public hearing (Rule 6.2).

COUNCIL STAGE OF DISCIPLINARY PROCEEDINGS BYELAW

(No. 33 of 1996)

(Made on 7 August 1996)

[The amendments made to this byelaw by the Council Stage of Disciplinary Proceedings (Amendment) Byelaw (No. 48 of 1996) are shown in italics and marked in the margin below.]

The Council of Lloyd's, in exercise of its powers under Lloyd's Act 1982, by special resolution hereby makes the following byelaw.

Interpretation

1. The provisions of Schedule 1 to this byelaw (interpretation) shall have effect.

Right to apply to the Council

2. A person on whom a penalty has been imposed by a decision of the Disciplinary Board or a Disciplinary Tribunal shall have the right to apply to the Council requiring it to consider the penalty imposed, except:
 - (a) a fixed penalty;
 - (b) a penalty imposed in summary proceedings;
 - (c) a penalty imposed in formal proceedings in which no penalty was imposed on that person which could not have been imposed had the matter been dealt with by way of summary proceedings; or
 - (d) a penalty imposed by a decision of the Disciplinary Board following its approval of terms of settlement agreed to by that person.

The Council Stage

3. The rules set out in Schedule 2 to this byelaw (Lloyd's Rules for the Council Stage of Disciplinary Proceedings) shall govern the bringing of and conduct of an application to the Council under this byelaw.

Revocations and amendments

4. The provisions of Schedule 3 to this byelaw (Revocations and Amendments) shall have effect.

Commencement and application

5. This byelaw shall come into force on 7 August 1996.

SCHEDULE 1

Interpretation

In the byelaw, unless the context otherwise requires, the following expressions have the following meanings:

“Disciplinary Board” means the Disciplinary Board established by the Disciplinary Committees Byelaw (No.31 of 1996);

“Disciplinary Tribunal” means a Disciplinary Tribunal appointed pursuant to the Disciplinary Committees Byelaw (No.31 of 1996);

“fixed penalty” means a penalty set out in Schedule 2 to the Misconduct and Penalties Byelaw (No.30 of 1996);

“summary proceedings” means disciplinary proceedings dealt with as such under Lloyd’s Disciplinary Rules set out in Schedule 2 to the Disciplinary Committees Byelaw (No.31 of 1996).

SCHEDULE 2

Lloyd’s Rules for the Council Stage of Disciplinary Proceedings

Application to the Council

- 1.1 An application to the Council pursuant to the Council Stage of Disciplinary Proceedings Byelaw (No.33 of 1996) to consider a penalty imposed on a person (“the applicant”) in disciplinary proceedings shall be made to the Secretary of the Council by the later of:
 - (a) the expiration of the time allowed for the lodging of a Notice of Appeal with the Appeal Tribunal; or
 - (b) 14 days of the decision of the Appeal Tribunal on an appeal.
- 1.2 The application shall be in writing and:
 - (a) identify the penalty concerned;
 - (b) be accompanied by a copy of the decision imposing the penalty and any written reasons given for that decision; and
 - (c) set out the applicant’s written submissions regarding the penalty.

Special meeting of the Council

- 2.1 The Chairman or a Deputy Chairman of Lloyd’s shall convene a special meeting of the Council to consider the penalty and shall give the applicant at least 14 days’ written notice of the special meeting.
- 2.2 The applicant may appear at the special meeting either in person or by a qualified lawyer instructed by him and may make oral submissions regarding the penalty imposed. If the applicant wishes to do so, he shall inform the Council in writing of this and of the name of any representative at least 3 days before the hearing.
- 2.3 If the applicant appears at the special meeting the Council may invite the Representative of the Council to attend either in person or by a qualified lawyer instructed by him and to take such part in the meeting as the Council considers appropriate.

Decision of the Council

- 3.1 The Council may, having considered the penalty imposed and any submissions:
- (a) confirm, modify or grant dispensation in respect of the penalty but shall not increase any penalty;
 - (b) give any directions necessary for the enforcement of any penalty which has been confirmed or modified by the Council; and
 - (c) give such directions as it considers fit regarding publication of its decision.
- 3.2 The Council shall notify the applicant of its decision in writing.
- 3.3 The Council's decision shall have immediate effect.

Definitions

- 4.1 These Rules form part of the Council Stage of Disciplinary Proceedings Byelaw (No.33 of 1996) and, subject to Rule 4.2, shall be interpreted accordingly.
- 4.2 In these Rules, unless the context otherwise requires, the following expressions shall have the following meanings:
- "the Appeal Tribunal" means the Appeal Tribunal established by the Appeal Tribunal Byelaw (No.32 of 1996)
- "qualified lawyer" means a barrister or a solicitor, holding a full practicing certificate.
- "Representative of the Council" means the individual appointed by the Council to conduct the disciplinary proceedings pursuant to Lloyd's Disciplinary Rules set out in Schedule 2 to the Disciplinary Committees Byelaw (No.31 of 1996) or the appeal proceedings pursuant to Lloyd's Appeal Rules set out in Schedule 2 to the Appeal Tribunal Byelaw (No.32 of 1996).

SCHEDULE 3

Revocations and Amendments

1. *The Council Stage of Disciplinary proceedings Byelaw (No. 11 of 1993) is revoked.*
2. *Paragraph 8 of the Suspension: Supplementary and Consequential Matters Byelaw (No. 1.9 of 1983) is revoked*

COUNCIL STAGE OF DISCIPLINARY PROCEEDING ETC. BYELAW

(No. 33 of 1996)

EXPLANATORY NOTE

(This note is not part of the byelaw.)

This byelaw revokes and re-enacts with amendments the Council Stage of Disciplinary Proceedings Byelaw (No. 11 of 1993). The principal changes areas follows:

1. Paragraph 2 of this byelaw provides that the Council stage is available with regard to any penalty imposed in disciplinary proceedings except
 - (a) a fixed penalty;
 - (b) a penalty imposed in summary proceedings;

-
- (c) a penalty imposed in formal proceedings in which no penalty was imposed on that person which could not have been imposed had the matter been dealt with by way of summary proceedings; or
 - (d) a penalty imposed by a decision of the Disciplinary Board following its approval of agreed terms of settlement.

A Council stage is not required in every case - it will only take place if the defendant applies for it.

2. Schedule 2 of this byelaw sets out new rules governing the bringing of and conduct of an application to the Council. If a defendant has the right to apply to the Council under paragraph 2 of this byelaw, he must follow the provisions of the Rules when making an application to the Council.
3. The Council considers the penalty at a special meeting convened for this purpose. The applicant may attend and be represented at the meeting, in which event the Council may invite the Representative of the Council to attend also (Rules 2.1, 2.2 and 2.3).
4. Having considered the penalty imposed and any submissions, the Council will make a decision under Rule 3 which shall have immediate effect: