

NEW ZEALAND RUGBY UNION

Salary Cap Regulations

1 September 2013

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Part 1 • Definitions and Interpretation

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Regulations, unless the context requires or indicates otherwise, the following definitions will apply:

“Agent” means any person or organisation who acts as an agent on behalf of a Player for the purposes of negotiating or securing Payments or Benefits for that Player;

“Appeal Council” means the NZRU Appeal Council constituted under the *NZRU Constitution*;

“Associated Entity” means any company, trust, partnership or other entity (whether incorporated or not) established by or operating with one of its purposes being to provide Payments or Benefits to a Player, or any spouse, civil union partner, de facto partner, family member or close relative of a Player;

“Athletic Apparel” means athletic apparel and athletic accessories used primarily for the practice, training or playing of sport including but not limited to:

a. sports $\frac{3}{4}$ and $\frac{7}{8}$ pants, sports socks, sweatshirts, t-shirts, polo shirts, sports shorts (including lycra shorts, thermal shorts and compression shorts) stadium jackets, tracksuits, sweatpants, rain jackets and pants, windbreakers, polar fleece tops, singlets, headwear (including caps, beanies and visors), swimwear, compression tights (including socks); and

b. sports bags (including gym bags, gear bags and boot bags), sports backpacks, eyewear (excluding protective and prescription eyewear), gloves, mitts, scarves, headbands and wristbands, practice bibs, and drink bottles;

“Available” means that All Blacks management has notified a Provincial Union that a Current All Black is available for selection for a Provincial Union team;

“Benefit” has the meaning given to it in clause 18;

“Board” means the Board of the NZRU;

“Borrowing Provincial Union” means the Provincial Union to which a Player is loaned pursuant to a Loan Arrangement;

“by a Provincial Union” has the meaning given to it in clause 22;

“Casual Wear” means clothing or apparel that is normally worn on casual occasions;

“Collective Agreement” means the Collective Agreement entered into by the NZRU and the RPC which came into effect from 1 January 2013;

“Compliance Obligation” has the meaning given to it in clause 10;

“Compliance Statement” means a Compliance Statement issued by the NZRU in accordance with clause 11;

“Contract Year” means the calendar year (commencing on 1 January and concluding on 31 December) and may be defined with reference to a particular year (eg Contract Year 2010);

“Conversion Rate” means the rate at which foreign currency is to be converted to New Zealand dollars as determined by the rates published by the NZRU’s main bankers at the time the Remuneration is Paid by a Provincial Union to a Player;

“Current All Black” means a Player who was selected in the initial All Blacks squad for the Rugby Championship during the current Contract Year.

“Determination” means a determination issued by the NZRU Salary Cap Manager in accordance with clause 13;

“Educational Fees” means genuine and legitimate educational course fees charged by an Educational Institution recognised under the Education Act 1989. For the avoidance of doubt, Educational Fees do not include any related costs such as books, accommodation, transport etc;

“Educational Institution” means a “Tertiary Education Provider” as defined under section 159 of the Education Act 1989;

“Employment Relationship Problem” has the meaning given to it in the Employment Relations Act 2000;

“Employment Services” means Playing Services, Promotional Services and Media Interviews and associated travel as those terms are defined in the Collective Agreement;

“End of Year Tour” means the tour undertaken by the All Blacks after the completion of the ITM Cup Competition or, in any year where there is a Rugby World Cup, the Rugby World Cup;

“Excess Salary Cap Payments” means Salary Cap Payments in excess of the Salary Cap in a Contract Year;

“Exempt” means exempt from being treated as a Salary Cap Remuneration Payment or a Salary Cap Non-Financial Benefit as the context requires;

“Explanatory Notice” means a notice issued by the NZRU Salary Cap Manager in accordance with clause 12;

“Final Super Rugby Squad” means the Players named in a Final Super Rugby Squad pursuant to the NZRU’s Super Rugby Selection Process as set out in the Collective Agreement;

“Finals Round Match” means a match in the finals round of the ITM Cup Competition as set out in the *Domestic Competition Regulations* being, for the avoidance of doubt, a semifinal or final;

“Financial Loan” means a loan as set out in clause 30;

“Formal Wear” means clothing or apparel that is normally worn on official ceremonial occasions or on any other occasion that may be required by a Provincial Union, including pursuant to any formal dress wear policy;

“Former All Black” means a Player who was selected to the All Blacks in a game forming part of the Inbound Tour during the current Contract Year or End of Year Tour in the preceding Contract Year, the Inbound Tour or Rugby Championship Teams in the preceding Contract Year or the End of Year Tour prior to that preceding Contract Year. For the purposes of this definition a Player is selected to the All Blacks game where they are named in the Playing 22;

“Gross” means prior to any deductions (including, without limitation, PAYE and ACC employee contribution deductions);

“Inbound Tour” means all senior international representative matches in New Zealand between senior national representative teams where at least one of the teams is a Senior Representative Team other than a match in the Rugby Championship;

“Injury Amounts” means the amounts set out in Part 14;

“Interest Rate” means the rate of 2% above the 12 month-fixed mortgage rate of the NZRU’s main bankers as at 1 January each year;

“International Clearance” means an official clearance given by the NZRU for a Player to be available to play rugby in a National Union other than New Zealand;

“ITM Cup Competition” means the Premier Competition as provided for under the Collective Agreement and *NZRU Domestic Competition Regulations*. Any reference to “ITM Cup” has the same meaning as “Premier Competition” in the Collective Agreement;

“ITM Cup Competition Team” means the Players selected in the Playing 22 of a Provincial Union’s team for a Match in the ITM Cup Competition;

“Lending Provincial Union” means the Provincial Union from which a Player is loaned pursuant to a Loan Arrangement;

“Loan Arrangement” means an agreement for the loan of a Player, as contemplated in the *Player Eligibility Regulations* and clause 77 of the Collective Agreement, and required by these Regulations to be recorded in the form set out in Schedule 1;

“Loan End Date” means the earlier of:

- a. the final Match of the ITM Cup Competition in that Contract Year; or
- b. if provided for in the Loan Arrangement, the date on which the Player returned to the Lending Provincial Union due to an injury to another Player;

“Loan Period” means the period of a Loan Arrangement from the Loan Start Date to the Loan End Date;

“Loan Player” means a Player who has agreed to be loaned to another Provincial Union pursuant to a Loan Arrangement;

“Loan Start Date” means the date on which a Loan Arrangement is to commence;

“Loan Team” means the Borrowing Provincial Union’s ITM Cup Competition Team;

“Match” means a match in the ITM Cup Competition including (for the avoidance of doubt), Finals Round Matches;

“NZRU” means the New Zealand Rugby Union Incorporated;

“NZ Rugby Contract” means the contract set out in Appendix 4 of the Collective Agreement;

“NZRU Direction” means a direction issued by the NZRU to a Player and a Provincial Union advising that a Player is not available for selection in a team;

“NZ Rugby Interim Contract” means the contract set out in Appendix 5 of the Collective Agreement;

“NZRU Salary Cap Manager” means the person or persons employed, engaged or appointed by the NZRU to implement, monitor, manage and enforce the Salary Cap as covered by the Collective Agreement and these Regulations;

“NZRU Sevens Contract” means the contract set out in Appendix 8 of the Collective Agreement;

“NZ Rugby Wider Training Group Contract” means the contract set out in Appendix 6 of the Collective Agreement;

“Paid” includes paid, expended, provided, conferred, settled, advanced, reimbursed, rewarded, recompensed;

“Payment” has the meaning given to it in clause 17;

“Part-Season Loan” means a Loan Arrangement, the Loan Period of which is less than a Season;

“Player” means a rugby union player;

“Player Apparel” means:

a. rugby jerseys, shorts, socks, headbands and wristbands used for the purposes of playing in, or training for, any rugby match;

b. Athletic Apparel required for, or incidental to, playing in or training for any rugby match (including apparel used and/or required on the sideline at any Match);

c. Casual Wear required, by a Provincial Union, to be worn by a Player on the day of a Match;

d. Formal Wear;

e. Sports Footwear;

“Playing Contract” means an NZ Rugby Contract, NZ Rugby Wider Training Group Contract, NZ Rugby Interim Contract, NZRU Sevens Contract, NZRU Sevens Wider Training Group Contract and/or Provincial Union Contract or Provincial Union Development Contract;

“Player Property” has the meaning given to it in clause 13.1 of the Collective Agreement;

“Player’s Team” means:

a. where a Player is not a Loan Player, the ITM Cup Competition Team; or

b. where a Player is a Loan Player and it is during the Loan Period, the Player’s Loan Team; or

c. where a Player is a Loan Player and it is outside the Loan Period, the ITM Cup Competition Team.

“Playing 22” means the fifteen selected Players plus seven reserves;

“Pre-Season Audit Information” means the information to be provided by a Provincial Union in respect of the Payments Paid by it to its Players from the start of a Contract Year up to and including the Salary Cap Pre-Audit Date, as advised by the NZRU Salary Cap Manager to Provincial Unions from time to time;

“Pre-Season Statutory Declarations” means the Statutory Declarations to be completed by the Chief Executive Officer and Chairman of each Provincial Union in relation to, and to be provided with, the Pre-Season Audit Information in the form advised by the NZRU Salary Cap Manager to Provincial Unions from time to time;

“Provincial Union” means an Affiliated Union as defined in the *NZRU Constitution* participating in the ITM Cup Competition;

“Provincial Union Commercial Revenue” means the aggregate annual consolidated revenue of a Provincial Union and its subsidiaries and any related entities (as confirmed in audited financial statements for each financial year), less any revenue received from gaming or community trusts and any funding received from the NZRU that is tagged for community rugby expenditure on a specific activity or service (as confirmed in audited financial statements for each financial year);

“Provincial Union Contract” means the contract set out in Appendix 10 of the Collective Agreement;

“Provincial Union Development Contract” means the contract set out in Appendix 11 of the Collective Agreement;

“Provincial Union Non-Financial Benefits” has the meaning in clause 72.7 of the Collective Agreement;

“Provincial Union Team Performance Incentives” means Payments Paid by a Provincial Union to a Player in recognition of that Provincial Union’s ITM Cup Competition Team playing in a Finals Round Match of the ITM Cup Competition;

“Regulations” means these Salary Cap regulations as may be amended by the NZRU Board from time to time;

“Round Robin Matches” means the Round Robin of the ITM Cup Competition (i.e. excluding Finals Round Matches);

“RPC” means the Rugby Players Collective Inc;

“Rugby Cap” means the NZRU’s online salary cap database;

“Rugby Championship” means the competition played annually in New Zealand, Australia, South Africa, and Argentina in which the senior national representative teams from these nations play each other on a home and away tournament basis;

“Salary Cap” means the amount(s) set out in clause 15;

“Salary Cap Final Audit Date” means 31 December in each Contract Year;

“Salary Cap Non-Financial Benefits” has the meaning given to it in clause 20;

“Salary Cap Payments” has the meaning given to it in clause 14;

“Salary Cap Pre-Audit Date” is a date following the conclusion of the Super Rugby competition and prior to the commencement of the Premier Competition in the Contract Year during the term of the Collective Agreement;

“Salary Cap Remuneration Payments” has the meaning given to it in clause 19;

“Season” means the period over which the ITM Cup Competition is run in a Contract Year, being from the Monday before the first Round Robin Match to the Sunday immediately after the ITM Cup Competition final (inclusive). For the avoidance of doubt, if the first Round Robin Match is on a Monday, that Monday will be the first day of the Season, and if the ITM Cup Competition final is on a Sunday, that Sunday will be the last day of the Season;

“Season End Audit Information” means the information to be provided by a Provincial Union in respect of the Payment Paid by it to its Players over a Contract Year, as advised by the NZRU to Provincial Unions from time to time;

“Season End Statutory Declarations” means the Statutory Declarations to be completed by the Chief Executive Officer and Chairman of each Provincial Union in relation to, and to be provided with, the Season End Audit Information in the form advised by the NZRU to Provincial Unions from time to time;

“Season Loan” means a Loan Arrangement, the Loan Period of which is a Season;

“Senior Representative Team” in respect of an Inbound Tour means the most senior team which represents one or more countries or nations;

“Sports Footwear” means sports and leisure footwear including but not limited to:

- a. boots suitable for use in playing rugby;
- b. running shoes;
- c. cross-training shoes;
- d. gym shoes;
- e. sandlettes;

“Super Rugby Competition” has the meaning set out in clause 42.1 of the Collective Agreement;

“Test Match” means a match against the senior national representative team of any National Union that is designated test status by the IRB;

“Transferring Provincial Union” in relation to a particular Player means the Provincial Union to which a Player has transferred;

“Transferor Provincial Union” in relation to a particular Player means the Provincial Union from which a Player has transferred;

“to a Player” has the meaning given to it in clause 21;

“Veteran Player” means a Player who has played at least one game (except where unavailable for an entire competition due to injury or as a result of NZRU Direction) in the ITM Cup Competition for the same ITM Cup Competition Team (and/or its predecessor competitions), in eight or more Contract Years;

“Warning Notice” means a notice issued pursuant to clause 65.1a;

“Working Day” means a day (other than a Saturday or Sunday) which is not a public holiday in Wellington.

1.2 Rules of Interpretation: In these Regulations, unless the context otherwise requires:

(a) **Headings:** headings are for ease of reference only and will be deemed not to form any part of these Regulations;

(b) **Plural and Singular:** words importing the singular number will include the plural and vice versa;

(c) **Persons:** references to persons will be deemed to include references to natural persons, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, states or agencies of state, government departments and local and municipal authorities in each case whether or not having separate legal personality;

(d) **Clauses, Schedules and Parts:** references to clauses, Schedules and Parts are references to clauses, Schedules and Parts in these Regulations;

(e) **Obligations:** any obligation not to do something will be deemed to include an obligation not to suffer, permit or cause that thing to be done. An obligation to do something will be deemed to include an obligation to cause that thing to be done;

(f) **Currency:** all amounts referred to in these Regulations are denominated in New Zealand dollars;

(g) **Amounts:** all amounts referred to are Gross amounts;

(h) **Legislation:** references to any statutory provisions includes any amendments made to, or subordinate legislation made under, those provisions.

1.3 Any terms which are not defined in this Part have the same meaning as in the Collective Agreement.

Part 2 • Introduction

2 INTRODUCTION

2.1 The NZRU and RPC are parties to a Collective Agreement. Under the Collective Agreement these parties have agreed to a Salary Cap for Provincial Unions whose teams compete in the ITM Cup Competition.

2.2 These Regulations are deemed to have commenced on 1 January 2013. The Regulations applicable to the Contract Years 2006-2012 continue to apply to those Contract Years.

2.3 The NZRU including the Board will act reasonably when exercising any power or discretion conferred on them under these Regulations.

3 OBJECTS

3.1 The objects of these Regulations are as follows:

- (a) to assist the NZRU in the management of the Salary Cap as agreed in the Collective Agreement;
- (b) to provide a mechanism whereby the NZRU can ensure that Provincial Unions are complying with the Collective Agreement and these Regulations;
- (c) to provide for appropriate penalties to be imposed in the event that any breach of these Regulations is established.

4 DESIRED OUTCOMES

4.1 The desired outcomes the NZRU is seeking from the Salary Cap are as follows:

- (a) to provide a mechanism whereby the ITM Cup Competition is even and contestable, exciting, affordable and aspirational;
- (b) to enable the NZRU to maximise the public benefits from a more even competition including:
 - (i) a competition where the players and the stakeholders aspire to be involved with or associated with the ITM Cup Competition,
 - (ii) a competition that enables the NZRU and Provincial Unions to optimise revenue;
 - (iii) the enhanced international competitiveness of New Zealand rugby; and
 - (iv) the ITM Cup Competition is enjoyed by those who participate directly and the administrators, volunteers and fans who support the game.

5 CONSISTENCY WITH THE COLLECTIVE AGREEMENT

5.1 These Regulations have been developed pursuant to clause 80.2 of the Collective Agreement.

5.2 In the event the NZRU wishes to make amendments to these Regulations it must comply with the following process:

- (a) in the first instance, the NZRU must meet with the RPC and attempt to obtain its agreement to any amendment;
- (b) if the RPC withholds agreement, the NZRU may proceed to make the amendment (provided that, in that event, the RPC may seek to rely upon the problem resolution provisions of the Collective Agreement).

Part 3 • General Duties on Provincial Unions

6 PROVINCIAL UNION CONDUCT

6.1 Each Provincial Union will act in good faith and in accordance with the objectives, intention and purpose of these Regulations.

6.2 No Provincial Union will willingly, negligently or recklessly engage in any conduct or assist, aid, abet or encourage any other person in any conduct which has as one of its purposes, or which might have the effect of, avoiding, evading or undermining the obligations on Provincial Unions under these Regulations.

6.3 For the avoidance of doubt, where a director, officer, employee, agent and/or contractor of a Provincial Union acts in any of the ways referred to in clause 6.2 that Provincial Union will be deemed to have contravened clause 6.2.

6.4 To assist the NZRU in monitoring and enforcing these Regulations, and to assist in ensuring the objectives, intention and purposes of these Regulations are met, Provincial Unions will forthwith notify the NZRU in writing of any possible breaches of these Regulations by any Provincial Union.

7 DUTY TO COOPERATE

7.1 Each Provincial Union will fully cooperate with the NZRU to assist the NZRU in ensuring that all Provincial Unions comply with their respective obligations under these Regulations.

8 PROVIDE INFORMATION

8.1 Provincial Unions will provide all information requested by the NZRU Salary Cap Manager to enable them to monitor and enforce these Regulations.

9 JURISDICTION

9.1 These Regulations apply to all Provincial Unions.

Part 4 • Provincial Union Compliance Obligation

10 COMPLIANCE OBLIGATION

10.1 A Provincial Union may not make Salary Cap Remuneration Payments, or extend Salary Cap Non-Financial Benefits, other than agreed in a Provincial Union Contract or a Provincial Union Development Contract or Loan Arrangement under the Collective Agreement and these Regulations.

10.2 A Provincial Union may not employ any person to play rugby on any type of arrangement other than a Provincial Union Contract or Provincial Union Development Contract. A Provincial Union may, however, enter into other types of non-employment arrangements to retain persons provided that a person must become a party to a Provincial Union Contract or a Provincial Union Development Contract, in order to participate in the ITM Cup.

10.3 A Provincial Union may not do anything to restrict or restrain a Player who is not a party to a Provincial Union Contract or Provincial Union Development Contract from entering into a Provincial Union Contract or Provincial Union Development Contract at any time.

10.4 For the avoidance of doubt:

(a) in the event a Provincial Union performs an act in contravention of clause 10.1, 10.2 or 10.3 it will have breached its Compliance Obligation;

(b) in the event a Provincial Union performs more than one act in contravention of clause 10.1 or 10.2 in the same Contract Year where the circumstances in which the breach occurred are sufficiently similar the NZRU Salary Cap Manager may elect to treat the breaches as a single breach of this Compliance Obligation;

(c) any Payments or Benefits Paid or deemed pursuant to these Regulations to have been Paid in respect of Employment Services in breach of the Compliance Obligation and which take the amount Paid (or deemed to have been Paid) to a Player above the maximum amount as set out in clause 19A in a Contract Year, will count towards a Provincial Union's Salary Cap Payments in that Contract Year.

Part 5 • Information

11 COMPLIANCE STATEMENTS

11.1 The NZRU Salary Cap Manager may, from time to time, issue Compliance Statements advising Provincial Unions:

- (a) how particular provisions of these Regulations are to be interpreted and/or applied;
- (b) whether any Payment or Benefit (or any part of any Payment or Benefit) is a Salary Cap Remuneration Payment or Salary Cap Non-Financial Benefit;
- (c) whether any Payment or Benefit (or any part of any Payment or Benefit) is Exempt;
- (d) of any other matter relating to these Regulations which may be appropriate to include in a Compliance Statement.

11.2 For the avoidance of doubt, a Compliance Statement may set out any Determination (or any part thereof) provided that any such Compliance Statement will not disclose any information identifying any individual Player or Provincial Union.

11.3 Subject to 11.4, a Compliance Statement will be binding on all Provincial Unions with effect from the date set out therein.

11.4 Where appropriate a Compliance Statement may allow for existing contractual arrangements between Provincial Unions and Players and provide that these are not covered by the Compliance Statement for the duration of the term of the existing contractual arrangement.

11.5 A Compliance Statement may be updated and/or amended by the NZRU Salary Cap Manager from time to time. The NZRU Salary Cap Manager will notify all Provincial Unions of any such updates and/or amendments which will have effect from the date set out in such notice.

12 EXPLANATORY NOTICES

12.1 The NZRU Salary Cap Manager may, from time to time, issue Explanatory Notices to assist Provincial Unions in understanding and/or interpreting these Regulations.

12.2 Explanatory Notices will be issued to all Provincial Unions.

12.3 Any Explanatory Notice issued may be updated and/or amended by the NZRU Salary Cap Manager from time to time.

13 DETERMINATIONS

13.1 A Provincial Union may request that the NZRU Salary Cap Manager issue a Determination, or alternatively the NZRU Salary Cap Manager may decide to issue a Determination without any such request from a Provincial Union, setting out:

- (a) whether a particular Payment or Benefit (or any part of any Payment or Benefit) is a Salary Cap Remuneration Payment or Salary Cap Non-Financial Benefit;
- (b) whether any Payment or Benefit (or any part of any Payment or Benefit) is Exempt, including:
 - (i) whether any Payment or Benefit is a genuine employment agreement;
 - (ii) whether any Payment or Benefit is a Player Agreement;
- (c) how particular provisions of these Regulations are to be interpreted and/or applied to a particular Provincial Union; and/or
- (d) whether a particular action or proposed action not expressly contemplated by these Regulations contravenes these Regulations.

13.2 A request for a Determination by a Provincial Union must:

- (a) be made in writing to the NZRU Salary Cap Manager;
- (b) specify the nature and purpose of the Payment or Benefit, action in question or matter that is, the subject in respect of which the Determination is sought;
- (c) be accompanied by any statements, information and/or documents the Provincial Union considers may be necessary for the NZRU Salary Cap Manager to make its Determination.

13.3 Where a request for a Determination is made, or the NZRU Salary Cap Manager indicates that they are seeking to make a Determination, a Provincial Union will provide the NZRU Salary Cap

Manager (within 5 Working Days of request) any additional information and/or documents the NZRU Salary Cap Manager considers necessary to make the Determination.

13.4 On being satisfied that all necessary information and supporting documentation has been received, the NZRU Salary Cap Manager will make the Determination and advise the Provincial Union of that Determination.

13.5 All Determinations made by the NZRU Salary Cap Manager pursuant to this clause, will be binding on the Provincial Union concerned.

13.6 Where the NZRU Salary Cap Manager has provided a Determination and reliable evidence subsequently comes to the NZRU Salary Cap Manager's attention which in their opinion is such that, had they known of the evidence at the time of providing the Determination, they would not have provided the Determination in its present form the NZRU Salary Cap Manager may, at any time, reverse the original decision and issue a new Determination.

Part 6 • Salary Cap

14 SALARY CAP PAYMENTS

14.1 Salary Cap Payments are, in relation to a particular Provincial Union, the aggregate of the following in a particular Contract Year:

- (a) the Salary Cap Remuneration Payments made by the Provincial Union; plus
- (b) the Salary Cap Non-Financial Benefits made by the Provincial Union;

less any Injury Amounts as calculated under clause 47 and any discount pursuant to Part 11.

14.2 In respect of Loan Players, the Salary Cap Remuneration Payments and the Salary Cap Non-Financial Benefits will be calculated pursuant to Part 13.

14.3 A Provincial Union's Salary Cap Payments in a particular Contract Year must not in aggregate exceed that particular Provincial Union's salary cap level for that specified Contract Year.

14.4 For the avoidance of doubt, where a Provincial Union's Salary Cap Payments are less than its Salary Cap in any Contract Year, it will not carry forward the amount of the difference by way of credit to any subsequent Contract Year.

15 SALARY CAP LEVEL

15.1 In each of Contract Years 2013, 2014, and 2015 the level of the Salary Cap for each Provincial Union shall be the lesser of:

(a) a figure representing 36% of that Provincial Union's Provincial Union Commercial Revenue for the Contract Year two Contract Years prior to the current Contract Year; and

- (i) for Contract Year 2013 - \$1,100,000;
- (ii) for Contract Year 2014 - \$1,025,000;
- (iii) for Contract Year 2015 - \$1,025,000.

(b) for each of Contract Years 2013, 2014 and 2015 provided that where, in any Contract Year, there are eight or more Provincial Unions whose Salary Cap is at this maximum level, this figure will increase by 5% for the year following the next Contract Year and the same will apply in each subsequent Contract Year in which eight or more Provincial Unions are at the maximum salary cap level.

15.2 A Provincial Union whose Salary Cap for any Contract Year is determined by the level of its Provincial Union Commercial Revenue can apply in writing to the NZRU and the RPC by no later than 1 June in that Contract Year to have its Salary Cap increased up to the maximum salary cap level for that Contract Year, in accordance with the following provisions:

(a) the Provincial Union must establish that its Provincial Union Commercial Revenue is reasonably expected to increase in the current Contract Year;

(b) in assessing whether, and by how much, to increase that Provincial Union's salary cap level, the determining factors are:

(i) new secured commercial revenue streams or commercial contracts in relation to the future; combined with

(ii) Provincial Union Commercial Revenue for the Contract Year immediately prior to the current Contract Year;

(c) any decision to increase a Provincial Union's salary cap level must be agreed between the NZRU and the RPC, and in the event that agreement cannot be reached an arbitrator will be appointed and asked to make a binding decision.

16 NOTIFICATION OF PROVINCIAL UNIONS SALARY CAP LEVEL

16.1 The NZRU must calculate, by the Salary Cap Pre-Audit Date in each Contract Year, each Provincial Union's Provincial Union Commercial Revenue for the Contract Year two Contract Years prior to the current Contract Year.

16.2 As soon as practicable after calculating each Provincial Union's Commercial Revenue, the Salary Cap Manager must notify:

- (a) each Provincial Union of their salary cap level for the Contract Year; and
- (b) the RPC of each Provincial Union's salary cap level for the Contract Year.

Part 6A • 2013 Exemption

16A 2013 TRANSITIONAL RULE

16A.1 For the 2013 Contract Year only, a Provincial Union which is found to have paid Excess Salary Cap Payments in 2013 may apply to the NZRU for an exemption from any penalty on certain limited grounds set out in this clause. In order to be granted such an exemption the Provincial Union must demonstrate on the balance of probabilities that the main contributing factor to having paid Excess Salary Cap Payments in 2013 was because of one or more of the following:

- (a) Player contracting commitments entered into before 18 April 2013, including where such commitments did not of themselves breach the Salary Cap but left insufficient scope for the Provincial Union to prudently complete its Player contracting for the 2013 Contract Year; or
- (b) Player Loan costs in 2013; or
- (c) Player cost increases that are minor and that are to at least some degree unpredictable, for instance where a Player who is paid a retainer of less than \$7,500 per annum (and would therefore not have his payments count towards the Provincial Union's Salary Cap Payments) is paid replacement Player fees to a level that could not reasonably have been foreseen, with the result that total payments to that Player exceed \$7,500 per annum (and therefore all such payments count towards the Provincial Union's Salary Cap Payments); or
- (d) An unforeseeable change to the pattern of injury discounts, such that a Provincial Union receives significantly less injury discounts than it would reasonably have anticipated.

16B APPLICATION FOR EXEMPTION UNDER THE OF 2013 TRANSITIONAL RULE

16B.1 A Provincial Union wishing to request an exemption under the 2013 Transitional Rule set out in 16A must:

- (a) Apply in writing to the NZRU Salary Cap Manager; and
- (b) Specify the reason or reasons that it seeks to rely on the 2013 Transitional Rule; and
- (c) Provide the NZRU Salary Cap Manager with any statements, information, and/ or documents the Provincial Union considers may be necessary to satisfy the NZRU that the main contributing factor towards it exceeding the 2013 salary cap level was because of one or more of the reasons set out in 16A.

16B.2 Where an application pursuant to this clause is made, a Provincial Union will provide the NZRU Salary Cap Manager (within 5 working days of request) any additional information and documents the NZRU Salary Cap Manager considers necessary.

Part 7 • Payments and Benefits

17 MEANING OF PAYMENT

17.1 Payment means:

any payment, including payments by way of salary, wage, retainer, compensation, fee, profit, reward, remuneration, earnings, allowance, bonus, consideration, money, incentive, advance, financial benefit given or promised, refund, reimbursement, financial obligation or expense incurred or paid, investment made, rebate, reparation, disbursement, expenditure, restitution, royalty, gratuity, perquisite, emolument, redundancy or termination payment.

17.2 Without limiting clause 17.1, Payment includes any payment by way of:

- (a) match fee, match bonus, win bonus, year-end or season-end bonus, loyalty payment, per diem, sign-on fee, transfer payment, relocation allowance or payment;
- (b) expense including, without limitation, any:
 - (i) amount paid to any person acting for and/or on behalf of a Player (including, without limitation, fees Paid to an Agent);
 - (ii) insurance premium and/or superannuation payment;
 - (iii) loan principal or interest payment;
 - (iv) child support maintenance payment;
 - (v) accommodation or relocation cost;
 - (vi) holiday cost;
 - (vii) personal expense;
 - (viii) education expense;
 - (ix) travel expense;
 - (x) tax payment;
- (c) loan;
- (d) any payment made under the Holidays Act 2003.

18 MEANING OF BENEFIT

18.1 Benefit means any benefit including a benefit by way of a fringe benefit.

18.2 Without limiting clause 18.1, Benefit includes any benefit such as:

- (a) holidays;
- (b) vehicles;
- (c) match tickets;
- (d) membership fees;
- (e) food;
- (f) any other goods, services, and/or other non-financial benefit.

Part 8 • Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits

19 SALARY CAP REMUNERATION PAYMENTS

19.1 Subject to Part 9, Salary Cap Remuneration Payments means the aggregate of the following Payments Paid to a Player by a Provincial Union after making any discounting adjustments pursuant to Part 11:

- (a) Provincial Union Retainers;
- (b) Provincial Union Development Retainers;
- (c) Provincial Union Individual Performance Incentives;
- (d) Provincial Union Assembly Fees;
- (e) Provincial Union Training Fees;
- (f) 35 per cent of the fair value remuneration received by a Player pursuant to a genuine agreement (other than a Provincial Union Contract or Provincial Union Development Contract, or other genuine employment agreement);
- (g) Where the Provincial Union is a Borrowing Provincial Union, an apportionment of the Loan Player's Salary Cap Remuneration Payments according to Part 13 (irrespective of whether the Borrowing Provincial Union is obliged to make such payments); and
- (h) any other Payment that is Paid directly or indirectly by a Provincial Union to a Player in consideration of that Player's Employment Services.

19.2 A Player who, prior to the cut-off date in the Collective Agreement, was contractually entitled to receive, in aggregate, more than \$55,000 in Salary Cap Remuneration Payments (or more than \$85,000 in the case of a Veteran Player) in 2013, 2014, or 2015 under his Provincial Union Contract shall be deemed for the purposes of these Regulations and for the 2013, 2014 and/or 2015 Contract Years (as applicable) to have received \$55,000 in Salary Cap Remuneration Payments (\$85,000 in the case of a Veteran Player), and any amount of the Player's Provincial Union remuneration above \$55,000 (or \$85,000 for Veteran Players) shall not form any part of the Player's Provincial Union's Salary Cap Remuneration Payments for the relevant Contract Year.

19.3 The NZRU Salary Cap Manager can determine whether any form of agreement or contract (for the purposes of this clause referred to as a contract) between a Provincial Union and a Player is for Employment Services and as a result any Payment or Benefit Paid is a Salary Cap Remuneration Payment or Salary Cap Non-Financial Benefit, and in doing so may take into account the following factors:

- (a) whether the contract covers training for and playing rugby, promotional services and media interviews;
- (b) the level of any Payments or Benefits Paid under the contract;
- (c) whether the effect of the contract is to restrain a Player;
- (d) the intention of the parties;
- (e) the substance of the contract;
- (f) the form of the contract;
- (g) the skills, experience and stage of a Player in his playing career; and/or
- (h) any other matter which may be relevant to determining whether the agreement or contract is for Employment Services.

19A MAXIMUM AMOUNTS

19A.1 In respect of each Contract Year during the Term, the maximum amount which can be Paid to a Player by way of the aggregate of Provincial Union Retainer, Provincial Union Individual Performance Incentives and Provincial Union Non-Financial Benefits is \$55,000, provided that each Provincial Union may pay up to two Veteran Players up to \$85,000 in each Contract Year.

19A.2 For the avoidance of doubt, any amount Paid to or deemed to have been Paid to a Player in excess of \$55,000 or \$85,000, as applicable, will count towards a Provincial Union's Salary Cap Payments in that Contract Year.

20 SALARY CAP NON-FINANCIAL BENEFITS

20.1 Subject to Part 9, Salary Cap Non-Financial Benefits means the aggregate of any Benefits Paid to a Player by a Provincial Union.

21 MEANING OF “TO A PLAYER”

21.1 In the Salary Cap, including these Regulations, wherever the terms “to Players (or to a third party on behalf of a Player)”, “to a Player”, “to that Player”, or any variation thereof are used, they include:

- (a) to, or at the direction of, a Player;
- (b) for the benefit of a Player;
- (c) to or for the benefit of the spouse, civil union partner, de facto partner, family member, relative or trustee of a Player;
- (d) to or for the benefit of any Associated Entity
- (e) to or for the benefit of any Agent, manager or other advisor of a Player;
- (f) to or for the benefit of any creditor of any person set out in a to e;
- (g) in any other circumstance deemed by the NZRU Salary Cap Manager to be Paid to a Player.

22 MEANING OF “BY A PROVINCIAL UNION”

22.1 In these Regulations and with regard to the Salary Cap, including these Regulations, wherever the terms “by a Provincial Union”, “by a Lending Provincial Union”, or “by a Borrowing Provincial Union” or any variation thereof are used, they include:

- (a) by or on behalf of a Provincial Union;
- (b) by a third party to ensure or assist in ensuring a Player is available to provide his Employment Services to a Provincial Union;
- (c) deemed by the NZRU Salary Cap Manager, to be by or on behalf of a Provincial Union.

23 TIME WHEN SALARY CAP REMUNERATION PAYMENTS OR SALARY CAP NON-FINANCIAL BENEFITS PAID

23.1 For the purposes of these Regulations, a Salary Cap Remuneration Payment or Salary Cap Non-Financial Benefit will be regarded as being Paid, when:

- (a) it is actually Paid; or
- (b) it is deemed by the NZRU to be Paid (in which case the NZRU will notify the Provincial Union of the time at which the Salary Cap Remuneration Payment or Salary Cap Non-Financial Benefit is deemed to have been Paid).

23.2 For the avoidance of doubt, it is irrelevant for the purposes of clause 23.1 whether:

- (a) the Salary Cap Remuneration Payment or Salary Cap Non-Financial Benefit has been, or is to be, Paid before, during or after the term of any Playing Contract or other arrangement pursuant to which a Player is Paid a Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits by a Provincial Union;
- (b) the term of any Playing Contract or other arrangement pursuant to which a Player is Paid Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits by a Provincial Union has commenced, expired or been terminated;
- (c) a Player plays for or is selected in a Provincial Union team; and/or
- (d) a Player is in New Zealand.

Part 9 • Exempt Payments or Benefits

24 EXEMPT PAYMENTS OR BENEFITS

24.1 The following forms and/or proportions of Payments or Benefits are not Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits (“Exempt”):

- (a) Payments or Benefits Paid by a Provincial Union to a Player pursuant to a genuine employment agreement as set out in clause 25;
- (b) 65 percent of the fair value remuneration received by a Player pursuant to a genuine agreement (other than a Provincial Union Contract or a Provincial Union Development Contract, or other genuine employment agreement);
- (c) Provincial Union Team Performance Incentives as set out in clause 27;
- (d) Player Apparel as set out in clause 28;
- (e) Loan Player relocation expenses as set out in clause 29;
- (f) Financial Loans as set out in clause 30;
- (g) Payments or Benefits Paid by a Provincial Union to a Player in settlement of an Employment Relationship Problem as set out in clause 31;
- (h) Match Tickets as set out in clause 32;
- (i) Meals as set out in clause 33;
- (j) Travel assistance as set out in clause 34;
- (k) Educational Fees in respect of a Player in accordance with clause 35;
- (l) Minimum Compulsory employer contributions to the KiwiSaver superannuation scheme in accordance with clause 36;
- (m) Payments made by a Super Rugby Franchise pursuant to clause 72.9 of the Collective Agreement;
- (n) Premier Competition Incentive Payments as provided for in clause 75.7 of the Collective Agreement;
- (o) any Payments or Benefits (in whole or in part) the NZRU Salary Cap Manager considers, should be Exempt (whether set out in a Determination, Compliance Statement or otherwise).

25 GENUINE EMPLOYMENT AGREEMENTS

25.1 Payments or Benefits payable by a Provincial Union to a Player pursuant to a genuine employment agreement will be Exempt provided, that the NZRU Salary Cap Manager is satisfied that the Payments or Benefits payable under that agreement reflect fair value remuneration.

25.2 In considering whether an agreement is a genuine employment agreement for fair value remuneration, the NZRU Salary Cap Manager may have regard to the following factors:

- (a) whether the agreement is genuine, including what work, if any, is actually performed pursuant to the agreement;
- (b) the obligations of the parties under the agreement;
- (c) whether the Player is required to perform services wearing any Player Apparel;
- (d) the degree of control the “employer” party has over the performance, by the Player, of his obligations under the agreement;
- (e) the amount of Payments or Benefits payable under the agreement;
- (f) the form of Payment or Benefit payable under the agreement (including whether it is in a lump sum);
- (g) whether the Player could be required to perform the work provided for under the agreement pursuant to the Collective Agreement;
- (h) whether the agreement contemplates the Player providing Employment Services;
- (i) what other persons are being paid to perform work of a similar nature in that location or area;
- (j) the profile of the Player;
- (k) any relevant skills, qualifications or experience the Player may have;
- (l) remuneration surveys or other factors that might indicate what the “market” value of a particular service is; and/or
- (m) any other matter which may be relevant to determining whether the agreement is a genuine employment agreement.

For the avoidance of doubt, a Provincial Union may seek a Determination as to whether any Payment or Benefit is Paid to a Player by a Provincial Union pursuant to a genuine employment agreement.

25.3 Where a Provincial Union and a Player enter into a genuine employment agreement, the Provincial Union must notify the NZRU Salary Cap Manager of the existence and provide a copy of the agreement within 10 working days.

26 PLAYER AGREEMENTS

26.1 Sixty-five percent of Payments or Benefits payable by a Provincial Union to a Player pursuant to a genuine agreement (being a contract other than a Provincial Union Contract, Provincial Union Development Contract, or genuine employment agreement) (“player agreement”) will be Exempt provided, that the NZRU Salary Cap Manager is satisfied that the Payments or Benefits payable under that agreement reflect fair value remuneration.

26.2 In considering whether an agreement is a player agreement, the NZRU Salary Cap Manager may have regard to the following factors:

- (a) whether the agreement is genuine;
- (b) whether the agreement provides for the use of Player Property or whether the Player Property is used or not;
- (c) whether the Player in fact performs the services provided for under the agreement;
- (d) the obligations of the parties under the agreement;
- (e) the amount of Payments or Benefits payable under the agreement;
- (f) the form of Payment or Benefit payable under the agreement (including whether it is in a lump sum);
- (g) whether the Player could be required to perform the services provided for under the agreement pursuant to the Collective Agreement;
- (h) Payments or Benefits Paid for similar services or products in the relevant market;
- (i) the profile of the Player; and/or
- (j) any other matter which may be considered relevant to determining whether the agreement is a player agreement.

For the avoidance of doubt, a Provincial Union may seek a Determination as to whether any Payment or Benefit is Paid to a Player by a Provincial Union pursuant to a player agreement.

26.3 Where a Provincial Union and a Player enter into a player agreement, the Provincial Union must notify the NZRU Salary Cap Manager of the existence and provide a copy of the agreement within 10 working days.

27 PROVINCIAL UNION TEAM PERFORMANCE INCENTIVES

27.1 Where a Provincial Union’s ITM Cup Competition Team plays in a Finals Round Match in a Contract Year, Provincial Union Team Performance Incentives will be Exempt provided:

- (a) the total amount of all Provincial Union Team Performance Incentives for a Provincial Union:
 - (i) playing an away Match in the semifinals of the ITM Cup Competition in a Contract Year does not exceed \$25,000;
 - (ii) playing a home Match in the semifinals of the ITM Cup Competition in a Contract Year does not exceed \$50,000;
 - (iii) playing an away Match in the final of the ITM Cup Competition in a Contract Year does not exceed \$50,000;
 - (iv) playing a home Match in the final of the ITM Cup Competition in a Contract Year does not exceed \$75,000;
 - (v) winning the final of the ITM Cup Competition in a Contract Year (irrespective of whether the Match is a home or away Match) does not exceed \$25,000,

where the amounts payable are cumulative.

For the avoidance of doubt, these payments apply to the Finals Round Matches in both the Championship and the Premiership.

27.2 Provincial Union Team Performance Incentives must be Paid in the same Contract Year as the ITM Cup Competition to which they relate.

27.3 Payments Paid as Provincial Union Team Performance Incentives in excess of the amounts set out above will be included as Salary Cap Remuneration Payments in equal amounts across all Players on Provincial Union Contracts in that Provincial Union.

28 PLAYER APPAREL

28.1 Player Apparel provided by a Provincial Union to a Player will be Exempt, provided, prior to any amount being Exempt:

- (a) the NZRU is satisfied that the amount of Player Apparel provided by a Provincial Union to a Player is reasonable with regard to the amount of Player Apparel provided to the Provincial Union's other Players and the amount of Player Apparel provided by other Provincial Unions to their Players; and
- (b) the NZRU has been provided with satisfactory evidence of the value of the Player Apparel provided by a Provincial Union to a Player.

28.2 The value of the amount of Player Apparel in excess of what is considered reasonable will be treated by the NZRU as Salary Cap Non-Financial Benefits unless and until the NZRU is satisfied that all Player Apparel provided to a Player by a Provincial Union should be treated as Exempt.

29 RELOCATION EXPENSES

29.1 Relocation Expenses Paid by a Borrowing Provincial Union to a Loan Player will be Exempt, provided the actual amount is fair and reasonable and does not exceed the aggregate of:

- (a) \$1,500 for relocation and travel (including up to three return trips to the Player's home); and
- (b) up to:
 - (i) \$250 per week for single Players; or
 - (ii) up to \$500 per week for Players relocating with their family (i.e. with children),

for the costs of rental accommodation and associated utilities (excluding telephone and food).

29.2 The NZRU may request a Provincial Union to provide it with satisfactory evidence that the actual relocation expenses Paid are fair and reasonable in the circumstances.

29.3 If the NZRU is not satisfied that, based on the evidence provided, the actual relocation expenses Paid are fair and reasonable, the amount of excess expenses will be categorised as Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits.

30 FINANCIAL LOANS

30.1 Any amount advanced by a Provincial Union to a Player in the form of a Financial Loan will be Exempt provided that the NZRU is satisfied that:

- (a) no part of the loan (including all applicable interest) has been waived or otherwise forgiven by the Provincial Union; and
- (b) the interest rate payable in respect of the loan is not less than the Interest Rate.

30.2 For the avoidance of doubt:

(a) where in respect of any Financial Loan:

- (i) no interest is payable; or
- (ii) the interest rate applicable to that loan is less than the Interest Rate; or
- (iii) the full amount of interest due in respect of the loan is not paid,

the difference between the amount of interest payable at the interest rate applicable to the loan and actually paid, and the amount of interest that would be payable at the Interest Rate, will be treated as Salary Cap Remuneration Payments (and will not be Exempt) in the Contract Year in which the benefit of the reduced interest rate or non-payment of interest is received by the Player; and

(b) where a part or all of a Financial Loan has been waived or otherwise forgiven by a Provincial Union the amount waived or forgiven (as the case may be) will be treated as Salary Cap Remuneration Payments (and will not be Exempt) in the Contract Year in which the waiver or forgiveness occurs.

31 EMPLOYMENT SETTLEMENTS

31.1 A Payment Paid by a Provincial Union to a Player in the form of settlement of an Employment Relationship Problem will be Exempt provided the Employment Relationship Problem is genuine and the terms of settlement have been recorded in an agreement signed by a Mediator of the Department of Labour pursuant to the Employment Relations Act 2000.

32 MATCH TICKETS

32.1 Match Tickets provided by a Provincial Union to a Player will be Exempt provided:

- (a) the Player does not receive more than 4 tickets for any Match; and
- (b) the Player does not sell or otherwise dispose of those tickets for any form of Payment.

33 MEALS

33.1 Meals provided by a Provincial Union to a Player will be Exempt provided the meals are ordinarily and necessarily provided in connection with the performance of Employment Services by a Player.

34 TRAVEL ASSISTANCE

34.1 A Payment Paid by a Provincial Union to a Player in the form of travel assistance (including, without limitation, the provision of travel and/or the payment or part payment of any travel expenses) will be Exempt provided the NZRU is satisfied that the Payment is required under the Collective Agreement to be provided in respect of the provision of Employment Services by the Player.

34.2 Under the Collective Agreement, each Provincial Union must arrange, and meet any expenses associated with, any travel and accommodation necessary for its players in the provision of their Employment Services. Provided that such expenses are genuine, they are not included in the calculation of that Provincial Union's Salary Cap Remuneration Payments.

35 EDUCATIONAL FEES

35.1 Educational Fees will be Exempt, provided:

- (a) the Educational Institution has waived the Educational Fees and the Provincial Union has not directly Paid for the Player(s) to attend the course or programme; or
- (b) the Educational Fees are waived by the Educational Institution pursuant to a written sponsorship agreement with that Provincial Union and any course of study to which those waived fees are applied are undertaken by Players on Provincial Union Development Contracts or who are in that Provincial Union's academy; and
- (c) the Provincial Union has clearly set out in the Pre-Season Audit Information (if the fees were Paid or waived prior to the Salary Cap Pre-Audit Date) and the Season End Audit Information that the Educational Fees have been Paid or waived in respect of such Players.

36 COMPULSORY EMPLOYER CONTRIBUTIONS TO KIWISAVER SCHEMES

36.1 The minimum compulsory employer contributions as determined from time to time by Order in Council Paid to a Player's account under the KiwiSaver scheme as set up pursuant to the KiwiSaver Act 2006 will be Exempt.

Part 10 • Valuation of Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits

37 VALUATION OF SALARY CAP REMUNERATION PAYMENTS

37.1 Salary Cap Remuneration Payments Paid by a Provincial Union to a Player in the form of cash will be valued at their Gross amount.

37.2 Salary Cap Remuneration Payments Paid by a Provincial Union to a Player in the form of cash other than in New Zealand currency will be converted to New Zealand currency at the Conversion Rate and valued at the Gross converted amount.

37.3 Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits paid by a Provincial Union to a Player shall be valued on a GST exclusive basis where applicable.

38 MOTOR VEHICLES

38.1 This clause contains the NZRU Valuation Policy in relation to motor vehicles.

38.2 Where any Salary Cap Non-Financial Benefit is in the form of the use of a motor vehicle and that motor vehicle has, as at the date on which it is provided to the Player, a retail value (inclusive of all on road costs) of:

(a) between \$0 and \$20,000, the sum of \$5,000 will be a Salary Cap Non-Financial Benefit for each Contract Year in which the motor vehicle is provided to the Player;

(b) between \$20,001 and \$40,000, the sum of \$10,000 will be a Salary Cap Non-Financial Benefit for each Contract Year in which that motor vehicle is provided to the Player;

(c) between \$40,001 and \$60,000, the sum of \$15,000 will be a Salary Cap Non-Financial Benefit for each Contract Year in which that motor vehicle is provided to the Player;

(d) \$60,001 or more, the NZRU Salary Cap Manager will determine what amount will be a Salary Cap Non-Financial Benefit.

Provided that in the event the motor vehicle is provided to the Player for part of the Contract Year only, the Salary Cap Non-Financial Benefit will be pro-rated based on the number of days the motor vehicle is provided to the Player.

38.3 For the avoidance of doubt, where any Salary Cap Non-Financial Benefit is in the form of the transfer of ownership of a motor vehicle, the full retail value (inclusive of all on road costs) of that motor vehicle as at the date of transfer will be a Salary Cap Non-Financial Benefit in the Contract Year in which the vehicle is transferred to the Player.

38.4 Where:

(a) any Salary Cap Non-Financial Benefit is in the form of the use of a motor vehicle; or

(b) any Salary Cap Non-Financial Benefit is in the form of the transfer of ownership of a motor vehicle,

a Provincial Union will provide the NZRU with evidence in writing of the value of the motor vehicle as at the date it is provided or transferred to a Player (as the case may be).

38.5 If the NZRU is not satisfied with the evidence provided pursuant to clause 38.4, the NZRU may attribute, by reference to the retail market for such a motor vehicle, another value to the vehicle which will be treated as the retail value of that vehicle for the purposes of clause 38.4(a) or 38.4(b) until the NZRU is satisfied otherwise.

38.6 A Provincial Union may apply to the NZRU for a Determination as to the value of a motor vehicle for the purposes of clauses 38.4(a) or 38.4(b), prior to providing:

(a) any Salary Cap Non-Financial Benefit to a Player in the form of the use of a motor vehicle; or

(b) any Salary Cap Non-Financial Benefit to a Player in the form of the transfer of ownership of a motor vehicle.

39 ACCOMMODATION RELOCATION AND TRAVEL EXPENSES

39.1 The value of a Salary Cap Non-Financial Benefit in the form of:

(a) accommodation (including, without limitation, the provision of rental accommodation and/or the payment or part payment of any accommodation expenses);

(b) relocation assistance (including, without limitation, the payment or part payment of any relocation expenses); and/or

(c) travel (including, without limitation, the provision of travel and/or the payment or part payment of any travel expenses),

will be determined in accordance with the NZRU Valuation Policy set out in Compliance Statements issued by the NZRU from time to time.

39.2 Where any Salary Cap Non-Financial Benefit is in one of the forms set out in clause 39.1, a Provincial Union will provide the NZRU with evidence in writing of what it considers to be the fair value of that Salary Cap Non-Financial Benefit as at the date(s) it is Paid.

39.3 Unless the NZRU is satisfied with the evidence provided pursuant to clause 39.2, the NZRU may attribute another value as the fair value of such expenses Paid by the Provincial Union to the Player which will be the value of the Salary Cap Non-Financial Benefits (in which case the NZRU will notify the Provincial Union of such valuation).

40 OTHER FORMS OF SALARY CAP NON-FINANCIAL BENEFITS

40.1 The NZRU may, from time to time, issue Compliance Statements setting out how forms of Salary Cap Non-Financial Benefits not specifically provided for in these Regulations are to be valued. The NZRU Valuation Policies set out in such Compliance Statements will be used to determine the value of the forms of Salary Cap Non-Financial Benefits covered by those statements.

40.2 Where any Salary Cap Non-Financial Benefit in a form not specifically provided for by these Regulations or any Compliance Statement or Determination is Paid by a Provincial Union to a Player, a Provincial Union will provide the NZRU with evidence in writing of what it considers is the fair value of that Salary Cap Non-Financial Benefits as at the date it is Paid.

40.3 If:

(a) the NZRU is satisfied with the evidence provided pursuant to clause 40.2, the value of the Salary Cap Non-Financial Benefit will be that evidenced by the Provincial Union;

(b) the NZRU is not satisfied with the evidence provided pursuant to clause 40.2, the NZRU may attribute, by reference to the fair value of such Salary Cap Non-Financial Benefit, another value which will be deemed to be the value of the Salary Cap Non-Financial Benefit (in which case the NZRU will notify the Provincial Union of the amount to be counted).

40.4 For the avoidance of doubt, a Provincial Union may apply to the NZRU for a Determination as to the value of a Salary Cap Non-Financial Benefit not specifically provided for in these Regulations prior to providing that Salary Cap Non-Financial Benefit. Any such Determination will be conclusive of the value of the Salary Cap Non-Financial Benefit.

Part 11 • Discounting of Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits

41 DISCOUNTING OF SALARY CAP REMUNERATION PAYMENTS AND SALARY CAP NON-FINANCIAL BENEFITS

41.1 For the purpose of calculating a Provincial Union's Salary Cap Payments the following will apply:

(a) where the total of all Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits provided to a Player in a Contract Year (prior to any discounts applicable in (c)-(e) below) are less than \$7,500, the sum of \$0 will be counted; and

(b) where the total of all Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits provided to a Player in a Contract Year (prior to any discounts applicable in (c)-(e) below) are \$7,500 or more, the full amount of the Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits (and not just the amount above \$7,500) will be counted; and

(c) where a Player is a Current All Black, the value of all Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits Paid to that Player will be discounted by 90% with the balance being counted. For the avoidance of doubt, a Current All Black's discounted Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits are to be included in a Provincial Union's Salary Cap Payments irrespective of whether that Player is Available or not. For the avoidance of doubt, if a Current All Black plays one or more games in the current Premier Competition, the value of all Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits Paid to that Player will still be discounted by 90%;

(d) where a Player is a Former All Black, the value of all Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits Paid to that Player will be discounted by 40% with the balance being counted; and

(e) where a player is a Veteran Player, the value of all Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits Paid to that Player will be discounted by 40% with the balance being counted.

42 NZRU NOTICE

42.1 The NZRU Salary Cap Manager will:

(a) following the commencement of these Regulations, notify Provincial Unions of the Players who are Veteran Players as at the Salary Cap Pre-Audit Date;

(b) by 20 December each year, notify Provincial Unions of the Players who will be, as from 1 January the following year, Veteran Players;

(c) as soon as practicable after the Salary Cap Pre-Audit Date each year notify Provincial Unions of the Players who are, in that Contract Year:

(i) Current All Blacks; and

(ii) Former All Blacks.

42.2 For the avoidance of doubt, a Player's status may change for the current Contract Year following the notification referred to in clause 42.1 where that Player becomes a Current All Black during the Rugby Championship.

Part 12 • Transfers

43 ANTI-AVOIDANCE RULE

43.1 The NZRU may disregard for salary cap purposes (in whole or in part) a Transfer made under the NZRU's Player Movement Regulations where the NZRU Salary Cap Manager determines that the purpose or effect of the Transfer is to undermine or defeat the intention of these Regulations.

43.2 In assessing whether a Transfer has been made to undermine or defeat the intention of these Regulations the NZRU Salary Cap Manager may have regard to the following factors:

- (a) whether the Player actually relocates to the Transferring Provincial Union;
- (b) the number of matches the Player plays for the Transferring Provincial Union;
- (c) the financial arrangements entered into by the Transferring Provincial Union, or any other party including a Super Rugby Franchise, to fund the Player's Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits;
- (d) the financial condition of the Transferring Provincial Union;
- (e) whether the Player is subsequently loaned back to the Transferor Provincial Union; or
- (f) any other matter which may be relevant to determining whether the purpose or effect of the Transfer is to undermine or defeat the intention of these Regulations.

For the avoidance of doubt, when the NZRU Salary Cap Manager determines that the purpose or effect of the Transfer is to undermine or defeat the intention of these Regulations, the NZRU Salary Cap Manager may attribute Salary Cap Remuneration Payments, and Salary Cap Non-Financial Benefits between the Transferring and Transferor Provincial Unions as the NZRU Salary Cap Manager considers appropriate.

Part 13 • Loan Players

44 SEASON LOAN

44.1 Where a Loan is a Season Loan that Player's Salary Cap Remuneration Payments, Salary Cap Non-Financial Benefits (including any additional Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits payable under the Loan Arrangement) will be included in the Borrowing Provincial Union's Salary Cap Payments irrespective of whether the Lending or Borrowing Provincial Union is obliged to make such payments.

45 PART-SEASON LOAN

45.1 Subject to clause 46, where a Loan is a Part-Season Loan the amount to be included in the Borrowing Provincial Union's Salary Cap Payments will be calculated as follows:

- (a) all Salary Cap Remuneration Payments, Salary Cap Non-Financial Benefits under that Player's Provincial Union Contract or Provincial Union Development Contract; plus
- (b) any additional Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits payable under the Loan Arrangement by the Lending Provincial Union; plus
- (c) divided by the number of ITM Cup Round Robin Matches to be played by the Player's Team in that Contract Year, and then multiplied by the number of such Matches the Player's Borrowing Provincial Union's Team played during the Loan Period; plus
- (d) any additional Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits payable under the Loan Arrangement by the Borrowing Provincial Union.

45.2 Subject to clause 46, where a Loan is a Part-Season Loan the amount to be included in the Lending Provincial Union's Salary Cap Payments will be calculated as follows:

- (a) all Salary Cap Remuneration Payments, Salary Cap Non-Financial Benefits under that Player's Provincial Union Contract or Provincial Union Development Contract; plus
- (b) any additional Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits payable under the Loan Arrangement by the Lending Provincial Union;

divided by the number of ITM Cup Round Robin Matches to be played by the Player's Team in that Contract Year, and then multiplied by the number of such Matches the Player's Lending Provincial Union's Team played outside the Loan Period.

46 NZRU REQUIREMENTS

46.1 Before any of the provisions set out in clauses 44 and 45 apply, the NZRU Salary Cap Manager:

- (a) must have received a Loan Arrangement signed by the Borrowing Provincial Union, Lending Provincial Union and the Loan Player; and
- (b) must be satisfied that:
 - (i) the Loan has been conducted in accordance with the Collective Agreement and the *NZRU Player Eligibility Regulations*; and
 - (ii) the Loan has been for legitimate purposes.

46.2 In assessing whether a Loan is for legitimate purposes, the NZRU may have regard to the following factors:

- (a) whether the Player actually relocates to the Borrowing Provincial Union;
- (b) the extent to which the Player participates in playing/training for rugby within the Borrowing Provincial Union;
- (c) whether the Player is selected in a Playing 22 for the Borrowing Provincial Union;
- (d) in the event that the Player is a Current All Black, whether the Player is selected in a Playing 22 for the Borrowing Provincial Union when the Player becomes Available;
- (e) whether the Loan Player plays for the B team of the Borrowing Provincial Union when not selected for the ITM Cup Competition Team; and/or
- (f) any other matter which may be relevant to determining whether the Loan is for legitimate purposes.

For the avoidance of doubt, where the NZRU Salary Cap Manager is not satisfied that the requirements set out in clause 46.1 have been met, a Player's Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits, will be included in the Lending Provincial Union's Salary Cap Payments.

Part 14 • Injury Amounts

47 INJURED PLAYERS

47.1 Where a Player is unavailable to play three or more consecutive Matches because of illness or injury (“Injury”), that Player’s Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits, divided by the number of ITM Cup Round Robin matches to be played by the Player’s team in that Contract Year, and then multiplied by the number of such Matches played by the Player’s Team during the period of that Injury, will be an Injury Amount, provided:

(a) prior to any amount being classified as an Injury Amount, a medical certificate is signed by the ITM Cup team doctor and the injured Player and is provided by a Provincial Union to the NZRU Salary Cap Manager and that medical certificate states:

- (i) the continuous period of time over which the Player had the Injury;
- (ii) that the Injury prevented the Player from being available for selection for the Player’s Team; and
- (iii) the nature of the Injury; and

(b) the NZRU Salary Cap Manager is satisfied that, but for having the Injury, the Player would have been available for selection for a Provincial Union’s team during the period of the Injury; and

(c) where the Player is a Current All Black, the NZRU has notified the Provincial Union that the Player is Available (or, but for the Injury, would have been Available); and

(d) the Injury Amount cannot exceed the Player’s Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits.

47.2 The NZRU Salary Cap Manager may require, at their discretion, an Injury to be certified by an independent medical practitioner before any amount is regarded as an Injury Amount. The costs of such independent certification will be met by the NZRU.

47.3 Where a Player is unavailable to play in the ITM Cup because of selection in the All Blacks Sevens team, that Player’s Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits, divided by the number of ITM Cup Regular Season Matches to be played by the Player’s Team in that Contract Year, and then multiplied by the number of matches played by the Player’s Team during the period the Player is unavailable by reason of being assembled with the All Blacks Sevens team will be deemed to be an Injury Amount.

47.4 Where a Player is called into the Rugby Championship Squad as a replacement player, that Player’s Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits, divided by the number of ITM Cup Regular Season Matches to be played by the Player’s Team in that Contract Year, and then multiplied by the number of matches played by the Player’s Team during the period the Player is unavailable by reason of being assembled with the Rugby Championship will be deemed to be an Injury Amount.

48 INJURED PART-SEASON LOAN PLAYERS

48.1 For the purposes of clause 47.1:

(a) if, prior to the Player’s Injury, the Loan Arrangement records that the Loan Player will be Loaned to the Borrowing Provincial Union over the entire period of the subsequent Injury, the Injury Amount will be applicable only to the Borrowing Provincial Union; and

(b) if, prior to the Player’s Injury, the Loan Arrangement records that the Loan Player is Loaned to the Borrowing Provincial Union for part of the period of the subsequent Injury and the Lending Provincial Union for part of the period of that Injury:

(i) the Injury Amount applicable to the Borrowing Provincial Union will be that Player’s Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits, divided by the number of ITM Cup Round Robin matches to be played by the Player’s team in that Contract Year, and then multiplied by the number of such Matches played by the Borrowing Union’s Team over the period of the Injury during the Loan Period; and

(ii) the Injury Amount applicable to the Lending Provincial Union will be that Player’s Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits, divided by the number of ITM Cup Round Robin matches to be played by the Player’s team in that Contract Year, and then multiplied by the number of such Matches played by the Lending Union’s Team over the period of the Injury outside the Loan Period;

provided that in the event that the period of the Injury is more than the number of ITM Cup Round Robin matches to be played by the Player's team in that Contract Year, the Injury Amount will be limited to the Player's Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits and will be apportioned between the Borrowing Provincial Union and Lending Provincial Union based on the number of Matches played by the Borrowing Union's Team and the Lending Union's Team over the Injury Period.

Part 15 • Obligation to Maintain Records

49 PROVINCIAL UNION OBLIGATIONS

49.1 Each Provincial Union will create and maintain full and accurate records of its affairs relating to the contracting and associated activities involving Players and their Agents including the RPC including (without limitation):

- (a) a copy of every Provincial Union Contract, Provincial Union Development Contract and Loan Arrangement entered into by it, and any notice of termination of, or variation to, any such contract;
- (b) copies of every current and every previous written agreement pursuant to which Salary Cap Remuneration Payments and Salary Cap Non-Financial Benefits are Paid by that Provincial Union to a Player;
- (c) written summaries of every current and every previous oral arrangement, agreement, promise, undertaking or commitment pursuant to which Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or any other Payments or Benefits are Paid by that Provincial Union to a Player, signed correct by the parties to those arrangements;
- (d) copies of all notes of discussions, proposals or other verbal negotiations with a Player and/ or that Player's Agent relating to arrangements pursuant to which Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or any other Payments or Benefits are, are to be, or may be, Paid by that Provincial Union to a Player. For the avoidance of doubt, each Provincial Union is obliged to document by way of a file note any substantive discussions, proposals or other verbal negotiations relating to the provision of Payments or Benefits to a Player and retain them on file for access by the NZRU Salary Cap Manager as required;
- (e) copies of every written communication between that Provincial Union and any of its Players or their Agents relating to Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or any other Payments or Benefits;
- (f) file notes of every substantive oral communication relating to Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or any other Payments or Benefits to its Players between:
 - (i) the Provincial Union and any of its Players and any person whom the Provincial Union intended or proposed to employ as a Player;
 - (ii) the Provincial Union and any Agent for any Player or any person whom the Provincial Union intended or proposed to employ as a Player;

For the avoidance of doubt, notes of any substantive oral communication arrangements, negotiations, or communications must be created in order for a Provincial Union to fulfil its obligations under this Part;

- (g) records of all Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or other Payments or Benefits Paid by that Provincial Union to its Players including (without limitation):
 - (i) income tax records;
 - (ii) bank statements;
 - (iii) cash payments journals; and
 - (iv) any other documents kept by or for the Provincial Union relating to the Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or other Payments or Benefits Paid by it to its Players.
- (h) All agreements with Players pursuant to which Payments and Benefits are Paid.

50 PLAYERS TO KEEP RECORDS

50.1 Each Provincial Union will encourage Players to keep all records relating to any Payments or Benefits Paid by the Provincial Union to them including any agreement written or otherwise, any bank statements or other financial records relating to such Payments or Benefits.

Part 16 • Disclosure of Information and Records

51 INFORMATION

51.1 In addition to any other information a Provincial Union may provide the NZRU Salary Cap Manager pursuant to these Regulations, each Provincial Union will:

(a) within 10 Working Days of a Player entering into any Playing Contract or other agreement, undertaking, promise, commitment or other arrangement pursuant to which Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or any other Payments or Benefits are, or are to be, Paid by a Provincial Union to that Player, provide the NZRU Salary Cap Manager with a completed Playing Contract and a copy of any other agreement, undertaking, promise, commitment or arrangement, provided that the Playing Contract must be provided to the Salary Cap Manager prior to the Player playing in the ITM Cup Competition;

(b) within 10 Working Days of a Player entering into any variation of any Playing Contract or other arrangement pursuant to which Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or any other Payments or Benefits are, or are to be, Paid by a Provincial Union to that Player, provide the NZRU Salary Cap Manager with a completed updated Playing Contract and an updated copy of every agreement, undertaking, promise, commitment or arrangement.

(c) within 10 Working days of a Player entering into a Playing Contract, or entering into a variation of any Playing Contract, or entering into or varying any other arrangement, agreement, undertaking, promise or commitment pursuant to which Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits or any other Payments or Benefits are, or are to be, Paid by a Provincial Union to that Player, update Rugby Cap with the revised salary cap information.

51.2 In addition to the information provided in accordance with clause 51.1, the NZRU Salary Cap Manager may, where they consider they require further information to determine the Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits (and/or the particular forms of Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits) Paid by a Provincial Union to a Player, request additional information from a Provincial Union. If such a request is made, the Provincial Union will provide that information within 10 Working Days of receiving the request.

51.3 For the avoidance of doubt, for the purposes of clause 51.1 it is irrelevant whether:

(a) the agreement, undertaking, promise, commitment or other arrangement pursuant to which the Player is Paid Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits is in writing or not;

(b) the agreement, undertaking, promise, commitment or other arrangement relates to the Player playing for a Provincial Union team or otherwise.

51.4 The NZRU Salary Cap Manager will keep details received pursuant to clause 51.1 and 51.2 confidential and will not disclose that information other than:

(a) to the Board in respect of any matter referred to it pursuant to these Regulations;

(b) in aggregate form;

(c) to other NZRU employees for the purpose of monitoring, managing and enforcing the Collective Agreement or the Franchise Contracting Regulations;

(d) as required by law;

(e) to its professional advisers, provided it has first obtained an obligation of confidentiality from those advisers;

(f) to the RPC in accordance with Part 23 and the Collective Agreement.

52 OTHER RECORDS - PROVINCIAL UNIONS

52.1 The NZRU Salary Cap Manager may request any of the records (or a copy thereof) a Provincial Union is required to maintain pursuant to clause 49. If the NZRU Salary Cap Manager makes such a request, a Provincial Union will provide those records (or copies) within 10 Working Days of receiving the request.

53 OTHER RECORDS - PLAYERS

53.1 The NZRU Salary Cap Manager may, where it has reasonable grounds to believe that a Provincial Union has Paid to a Player Payments or Benefits other than pursuant to a Provincial Union Contract, or Provincial Union Development Contract or Loan Arrangement, request any records (or a copy thereof) a Player may hold. If the NZRU Salary Cap Manager makes such a request, the Provincial

Union will endeavour to ensure that the Player will provide the records (or copies) within 10 Working Days of the request.

Part 17 • Salary Cap Audits

54 PRE-SEASON DISCLOSURES

54.1 By 4.00pm on the last Friday in July in each Contract Year each Provincial Union will provide the NZRU Salary Cap Manager with:

- (a) the Pre-Season Audit Information for that Contract Year; and
- (b) Pre-Season Statutory Declarations relating to that Pre-Season Audit Information.

55 YEAR-END DISCLOSURES

55.1 By 4.00pm on 20 January in each Contract Year each Provincial Union will provide the NZRU Salary Cap Manager with:

- (a) the Season-End Audit Information in respect of the previous Contract Year; and
- (b) Season-End Statutory Declarations relating to that Season End Information.

Part 18 • NZRU Salary Cap Calculation

56 NZRU SALARY CAP CALCULATION

56.1 The NZRU Salary Cap Manager:

(a) may, at any time, calculate a Provincial Union's Salary Cap Payments; and

(b) will calculate a Provincial Union's Salary Cap Payments:

(i) as soon as reasonably practicable after receiving the Pre-Season Audit Information and Pre-Season Statutory Declarations; and

(ii) as soon as reasonably practicable after receiving the Season-End Audit Information and Season-End Statutory Declarations.

56.2 As soon as practical after making the calculations in clause 56 the NZRU Salary Cap Manager will provide each Provincial Union with a statement that confirms the amount of all that Provincial Union's Salary Cap Payments as at that time.

56.3 As soon as practical after making the calculations in clause 56 the NZRU Salary Cap Manager will provide the RPC with a statement of each Provincial Union's Salary Cap Payments at that time that confirms the amount of all that Provincial Union's Salary Cap Payments as at that time.

57 PRE-SEASON SALARY CAP PAYMENTS

57.1 In calculating a Provincial Union's Salary Cap Payments pursuant to clause 56.1b.i, the NZRU Salary Cap Manager will regard both the Salary Cap Payments Paid by a Provincial Union to its Players up to and including the Salary Cap Pre-Audit Date and the Salary Cap Payments payable by the Provincial Union to its Players from that date to the end of the Contract Year, as being Paid as at the Salary Cap Pre-Audit Date.

58 OTHER INFORMATION

58.1 For the avoidance of doubt, in calculating a Provincial Union's Salary Cap Payments, the NZRU Salary Cap Manager may take into account any information available, and if he or she considers it appropriate having considered that information, include any additional amounts in a Provincial Union's Salary Cap Payments as Salary Cap Remuneration Payments, or Salary Cap Non-Financial Benefits.

Part 19 • Investigations and Information

59 INVESTIGATIONS

59.1 The NZRU Salary Cap Manager:

- (a) may at any time in order to satisfy itself of the accuracy of the information provided to it by a Provincial Union; and
- (b) will if it considers a Provincial Union may breach or may have breached these Regulations (including, without limitation, where they consider a Provincial Union has, or may have, Paid Excess Salary Cap Payments or may pay Excess Salary Cap Payments in the future, or where they consider that a Provincial Union may have breached its Compliance Obligation);
- (i) carry out such preliminary enquiries as it considers fit (“Preliminary Investigations”); or
- (ii) carry out such investigations, interviews and/or audits it considers (in its sole and absolute discretion) appropriate (“Investigations”).

59.2 For the purpose of any Preliminary Investigation or Investigation, the NZRU Salary Cap Manager will be provided by the Provincial Union access to (amongst other things):

- (a) any Provincial Union Contract and Provincial Union Development Contract (together with any agreement varying any such Playing Contract);
- (b) any agreement between a Player and the NZRU, a Super Rugby Franchise or a Provincial Union;
- (c) any arrangement between a Player and a related entity or subsidiary of a Provincial Union (or any other third party) which, on reasonable grounds, might give rise to a breach of the Provincial Union’s Compliance Obligation;
- (d) any other information requested by the NZRU Salary Cap Manager.

60 AUDIT NOTICE

60.1 Where the NZRU Salary Cap Manager conducts an Investigation pursuant to clause 59.1, it will advise the Provincial Union:

- (a) that it intends to undertake an Investigation; and
- (b) of the proposed nature, extent and timeframe of the Investigation (“Audit Notice”).

60.2 For the avoidance of doubt, the proposed extent and timeframe of any Investigation set out in an Audit Notice may be varied at any time by the NZRU Salary Cap Manager.

61 BREACH NOTICE

61.1 Where the NZRU Salary Cap Manager conducts an Investigation pursuant to clause 59.1, it will:

- (a) advise the Provincial Union of the provisions of these Regulations that it considers the Provincial Union may have breached or may breach in the future (“Breach Notice”);
- (b) set out in the Breach Notice the reasons why the NZRU Salary Cap Manager considers the Provincial Union may breach, may have breached or may in the future breach, these Regulations; and
- (c) provide the Provincial Union with an opportunity to respond in writing to the Breach Notice within 10 Working Days of receiving that notice (or such other longer period as the NZRU considers appropriate).

61.2 The NZRU Salary Cap Manager may continue its Investigation if:

- (a) after receiving a response to a Breach Notice the NZRU Salary Cap Manager still considers that a Provincial Union may breach, may have breached or may in the future breach, these Regulations; or
- (b) the NZRU Salary Cap Manager does not receive a response to a Breach Notice within the required timeframe.

61.3 If the NZRU Salary Cap Manager is, after receiving a response to a Breach Notice within the required timeframe, satisfied that a Provincial Union has not breached or will not breach these Regulations, it may discontinue its Investigation.

62 ASSISTANCE

62.1 Without limiting the other provisions of this Part, to assist the NZRU Salary Cap Manager in any Investigation, a Provincial Union will:

- (a) provide the NZRU Salary Cap Manager (within the timeframes stipulated by the NZRU Salary Cap Manager) with all information, documents and/or records in its possession or control which the NZRU Salary Cap Manager considers relevant to an Investigation;
- (b) make its Chief Executive Officer, Chairman, management and/or employees available to answer any questions in respect of an Investigation;
- (c) provide the NZRU Salary Cap Manager with access to its premises to facilitate the inspection by the NZRU Salary Cap Manager of any information, documents and/or records in the possession or control of the Provincial Union which the NZRU Salary Cap Manager considers relevant to an Investigation.

63 REQUESTS FOR INFORMATION

63.1 In addition to clause 51.2, the NZRU Salary Cap Manager may at any time require a Provincial Union to:

- (a) explain, in writing, the nature of any Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits Paid by it to a Player;
- (b) respond to any query in respect of compliance (or otherwise) with these Regulations;
- (c) provide any records required to be maintained pursuant to clause 49 or such other information, documents and/or records as the NZRU Salary Cap Manager may require which relate to, or which may relate to, Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits Paid by a Provincial Union to a Player;
- (d) provide a copy of any document and/or record in its possession or control certified true and correct by a solicitor which relates to, or which may relate to, Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits Paid by the Provincial Union to a Player.

63.2 Where the NZRU Salary Cap Manager requires a Provincial Union to do anything pursuant to clause 63.1, a Provincial Union will comply with its obligations under that clause:

- (a) within 10 Working Days of receiving the NZRU's Salary Cap Manager request (or such other longer period as may be advised by the NZRU Salary Cap Manager to the Provincial Union); and
- (b) at its own cost.

63.3 In the event that a Provincial Union fails to comply with its obligations under clauses 63.1 and/or 63.2, the NZRU Salary Cap Manager may include the whole or any part of any Salary Cap Remuneration Payments or Salary Cap Non-Financial Benefits about which the NZRU Salary Cap Manager is concerned in the calculation of that Provincial Union's Salary Cap Payments.

64 WARNING NOTICES AND BREACH PROCEEDINGS

64.1 Where, after completing an Investigation, the NZRU Salary Cap Manager considers that:

- (a) a Provincial Union may pay Excess Salary Cap Payments at some point in the future, it may issue a Warning Notice setting out a summary of the findings of the NZRU Salary Cap Manager's Investigation;
- (b) a Provincial Union has Paid Excess Salary Cap Payments, it may refer the matter to the Board ("Breach Proceedings").

64.2 Where, after completing an Investigation, the NZRU Salary Cap Manager considers that a Provincial Union has breached its Compliance Obligation, it may refer the matter to the Board ("Breach Proceedings"). In the event the alleged breach relates to two or more Players the NZRU Salary Cap Manager may include this as part of the same Breach Proceedings.

64.3 For the avoidance of doubt, the NZRU Salary Cap Manager may advise the Board that as a result of further available evidence it no longer considers that a Provincial Union has Paid Excess Salary Cap Payments or breached its Compliance Obligation, in which case the Board will not be required to determine any applicable Breach Proceedings referred to and pursuant to clause 64.1(b).

65 AMBIGUITY OR UNCERTAINTY

65.1 The NZRU Salary Cap Manager may refer any other matter relating to these Regulations to the Board for a decision if it considers that:

- (a) these Regulations do not fully or adequately provide for that matter; or
- (b) these Regulations do not clearly and unambiguously provide for that matter.

65.2 Any difference of opinion regarding any provision of these Regulations will be determined by the Board.

65.3 Subject to clause 72, the Board's decision in respect of any matter referred to it pursuant to clause 65.1 or 65.2 will be final.

Part 20 • Matters Referred to the Board

66 INFORMATION TO BE PROVIDED

66.1 Breach Proceedings referred to the Board by the NZRU Salary Cap Manager pursuant to clause 64.1(b) will be supported by a report compiled by the NZRU Salary Cap Manager setting out:

- (a) a summary of the reasons why the NZRU Salary Cap Manager considers a Provincial Union has Paid Excess Salary Cap Payments or breached its Compliance Obligation;
- (b) a summary of the NZRU Salary Cap Manager's Investigation;
- (c) all relevant material (or copies thereof) the NZRU Salary Cap Manager has in its possession and considers may be required by the Board to determine the Breach Proceedings;
- (d) a summary of any relevant expert advice (including for the avoidance of doubt legal, audit or financial advice) the NZRU Salary Cap Manager has obtained in respect of its Investigation.

66.2 The NZRU Salary Cap Manager will send a copy of the report required pursuant to clause 66.1 to the Provincial Union subject to the Breach Proceedings at the same time it is sent to the Board.

67 PROCEDURES TO BE ADOPTED BY THE BOARD

67.1 The Board may, subject to the express provisions of this Part, in determining any matter referred to it pursuant to these Regulations, regulate its own procedure as it thinks fit provided, however, that the Board observes the rules of natural justice in each instance.

67.2 In determining any Breach Proceedings referred to it pursuant to these Regulations, the Board will, pursuant to the NZRU Constitution, delegate its powers to determine those proceedings to an appropriately qualified independent person ("the Decision Maker").

67.3 The Board will from time to time issue guidelines as to the process to be followed in hearing and determining such Breach Proceedings referred to the Decision Maker.

68 CONFIDENTIALITY

68.1 The Decision Maker will keep all information, documents and/or records received by it in relation to any Breach Proceedings confidential and will not disclose that information other than:

- (a) as required by law;
- (b) as may be required by the Appeal Council in respect of any appeal made to that council by a Provincial Union pursuant to clause 72;
- (c) to any adviser, expert and/or investigator engaged by the Board in respect of any Breach Proceedings, provided the Board has first obtained an obligation of confidentiality from that adviser, expert and/or investigator;
- (d) to the RPC in accordance with Part 23 and the Collective Agreement.

69 DECISION MAKER MAY RECEIVE AND CALL FOR INFORMATION

69.1 The Decision Maker may receive any information, document and/or record, it considers (in its sole and absolute opinion), may assist it to determine any matter referred to it pursuant to these Regulations.

69.2 The Decision Maker may, if it considers (in its sole and absolute opinion) it requires any information, document or record to determine any Breach Proceedings, require a Provincial Union and/or the NZRU to provide that information, document and/or record within 10 Working Days of the request (or such other longer period as the Decision Maker may allow).

70 DECISION MAKER MAY APPOINT ADVISERS AND INVESTIGATORS

70.1 For the avoidance of doubt, the Decision Maker may engage any expert to advise, investigate and/or assist it in determining any matter referred to it pursuant to these Regulations.

71 COSTS OF BREACH PROCEEDINGS

71.1 Subject to clause 71.3, all costs and disbursements incurred by a Provincial Union in connection with any Breach Proceedings (including, without limitation, all legal, accounting and other expert advice and the costs of appearing before the Decision Maker (if necessary)) will be borne solely by the Provincial Union irrespective of the Decision Maker's decision or whether the NZRU Salary Cap Manager advises the Decision Maker that the matter no longer needs to be determined by it pursuant to clause 64.3.

71.2 If the decision of the Decision Maker is that a Provincial Union has Paid Excess Salary Cap Payments or breached its Compliance Obligation, the Decision Maker may require the actual and reasonable costs and disbursements incurred by the NZRU Salary Cap Manager in connection with its

Investigation and the Breach Proceedings (including, without limitation, all legal, accounting and other expert advice and the costs of appearing before the Board (if necessary)), to be paid by the Provincial Union.

71.3 The Decision Maker may require the actual and reasonable costs and disbursements incurred by a Provincial Union in connection with any Breach Proceedings (including, without limitation, all legal, accounting and other expert advice and the costs of appearing before the Board (if necessary)), to be paid by the NZRU, if the Decision Maker considers it was unreasonable for the NZRU Salary Cap Manager to commence or pursue the Breach Proceedings.

71.4 Subject to clause 72 all costs payable by a Provincial Union pursuant to this Part will be paid to the NZRU within 20 Working Days of notice of the imposition of those costs being received by the Provincial Union.

71.5 If any costs required to be paid by a Provincial Union pursuant to these Regulations are not paid within the timeframe required, the Provincial Union will be required to pay interest to NZRU on the amount of those costs at the Interest Rate.

71.6 If any costs and/or interest owing remain outstanding for 20 Working Days or more after the date of due payment, the NZRU may offset the amount of the costs and any interest owing against any amount owing by the NZRU to the Provincial Union.

72 APPEALS

72.1 A Provincial Union may appeal against the decision of the Decision Maker in respect of any Breach Proceedings or any matter referred to it pursuant to clause 64.1(b) to the Appeal Council in accordance with the NZRU Constitution, provided such appeal is lodged within 20 Working Days of the Board's decision being received by the Provincial Union.

72.2 A decision of the Decision Maker against which an appeal is lodged continues in force unless the Appeal Council determines otherwise, provided however, that no penalty and/or costs imposed by the Board pursuant to these Regulations will be enforceable until the Appeal Council has heard and decided the appeal.

Part 21 • Penalties

73 EXCESS SALARY CAP PAYMENTS

73.1 Where the Decision Maker concludes that a Provincial Union has Paid Excess Salary Cap Payments:

- (a) if the Provincial Union has not, in any of the 5 preceding Contract Years, Paid Excess Salary Cap Payments, the Decision Maker will impose a fine of \$3 for every \$1 of Excess Salary Cap Payments;
- (b) if the Provincial Union has, in any of the 5 preceding Contract Years, Paid Excess Salary Cap Payments in one other Contract Year, the Decision Maker will impose a fine of \$5 for every \$1 of Excess Salary Cap Payments;
- (c) if the Provincial Union has, in any of the 5 preceding Contract Years, Paid Excess Salary Cap Payments in two or more of those Contract Years, the Decision Maker will impose a fine of \$10 for every \$1 of Excess Salary Cap Payments.

73.2 For the avoidance of doubt, for the purposes of clause 73.1 it is irrelevant whether the Decision Maker has concluded that a Provincial Union has Paid Excess Salary Cap Payments in a previous Contract Year in separate Breach Proceedings relating to each Contract Year or single Breach Proceedings relating to a number of Contract Years.

73.3 Where a Provincial Union has received a Warning Notice in accordance with clause 64.1(a) and the Decision Maker concludes that that Provincial Union has Paid Excess Salary Cap Payments in the Contract Year to which the Warning Notice relates, the Decision Maker may (in its sole and absolute discretion) increase any penalty imposed pursuant to clause 73.1 by up to 200%.

73.4 If the Decision Maker concludes that a Provincial Union has intentionally or recklessly Paid Excess Salary Cap Payments, the Decision Maker may, in addition to all other penalties which may be imposed, impose an additional penalty of up to \$10 for every \$1 of Excess Salary Cap Payments.

73.5 The Decision Maker will not impose a penalty of the loss of Premier Competition Points or relegation unless the payment of Excess Salary Cap Payments is found to be deliberate, wilful or as a result of deceptive conduct, in which case the decision maker will consult with the NZRU and RPC but may award a deduction of points or relegation

73.6 The Decision Maker will notify a Provincial Union in writing of any penalties imposed by it.

73.7 The Decision Maker will, notwithstanding clause 73.1, if satisfied that exceptional circumstances exist which render the penalty manifestly disproportionate to the seriousness of the offending conduct, have the discretion to reduce the penalty or decide not to impose a penalty.

74 BREACH OF COMPLIANCE OBLIGATION

74.1 Where the Decision Maker concludes that a Provincial Union has breached its Compliance Obligation:

- (a) if the Provincial Union has not, in any of the 5 preceding Contract Years, breached its Compliance Obligation, the Decision Maker will impose a fine of \$5,000;
- (b) if the Provincial Union has, in any of the 5 preceding Contract Years, breached its Compliance Obligation in one other Contract Year, the Decision Maker will impose a fine of \$10,000;
- (c) if the Provincial Union has, in any of the 5 preceding Contract Years, breached its Compliance Obligation in two or more of those Contract Years, the Decision Maker will impose a fine of \$20,000.

74.2 If the Decision Maker concludes that a Provincial Union has intentionally or recklessly breached its Compliance Obligation, the Decision Maker may, in addition to all other penalties which may be imposed, impose an additional penalty of up to \$50,000.

74.3 The Decision Maker will not impose a deduction of Premier Competition points unless a breach of the Compliance Obligation under this sub-Part, is found to be deliberate, wilful or as a result of deceptive conduct, in which case the decision maker will consult with the NZRU and RPC but may award a deduction of points or relegation.

74.4 The Decision Maker will notify a Provincial Union in writing of any penalties imposed by it.

74.5 The Decision Maker will, notwithstanding clause 74.1, if satisfied that exceptional circumstances exist which render the penalty manifestly disproportionate to the seriousness of the offending conduct, have the discretion to reduce the penalty or decide not to impose a penalty.

75 OTHER BREACHES

75.1 If the NZRU Salary Cap Manager concludes that a Provincial Union has breached these Regulations other than in relation to having Paid Excess Salary Cap Payments or breached the Compliance Obligation, the Provincial Union will, wherever possible, immediately remedy that breach and the NZRU may impose a penalty of up to \$5,000 on that Provincial Union in respect of each such breach.

75.2 Examples of breaches to which clause 75.1 relates include (by way of example only and without limitation):

(a) the failure to provide the Pre-Season Audit Information and/or Pre-Season Declarations as required pursuant to clause 54;

(b) the failure to provide the Season End Audit Information and/or Season End Declarations as required pursuant to clause 55;

(c) the failure to provide any records, information and/or documents as may be required pursuant to clauses 51.2, 52, 62 and/or 63;

(d) the failure to maintain records as required pursuant to clause 49;

(e) the failure to provide the Decision Maker with any information, documents and/or records as may be required pursuant to clause 69;

75.3 The NZRU will notify a Provincial Union in writing of any penalties imposed by it.

75.4 Where a penalty is imposed on a Provincial Union by the NZRU for breaching these Regulations other than in relation to having Paid Excess Salary Cap Payments or having breached the Compliance Obligation, and a Provincial Union has not, wherever possible, remedied that breach within 20 Working Days of being notified of the NZRU's decision, the NZRU may impose a further penalty of up to \$2,000 for that breach (for example, where a Provincial Union continues not to provide a Player Contract)

76 PAYMENT

76.1 Subject to clause 72, all penalties imposed pursuant to this Part will be paid to the NZRU within 20 Working Days of notice of the penalty being received by the Provincial Union.

76.2 If any penalty imposed on a Provincial Union pursuant to these Regulations is not paid within the timeframe required by these Regulations, the Provincial Union will be required to pay interest to NZRU on the amount of the penalty at the Interest Rate.

76.3 If any penalties and/or interest owing remain outstanding for 20 Working Days or more after the date of due payment, the NZRU may offset the amount of the penalty and any interest owing against any amount owing by the NZRU to the Provincial Union.

Part 22 • Other

77 NOTICES

77.1 A notice under these Regulations must be in writing and may be delivered personally, sent by post or sent by fax.

77.2 A notice will be deemed to have been received:

- (a) if delivered personally, when delivered;
- (b) if sent by post, three Working Days after being sent by post (postage prepaid);
- (c) if sent by fax, on receipt by the sender of a transmission report indicating that the fax was sent in its entirety to the recipient's correct fax number;

provided, however, a notice delivered personally or sent by fax on a day other than a Working Day, or delivered or sent after 5pm on a Working Day, will be deemed to have been received at 9am on the next Working Day.

Part 23 • Role of Rugby Players Collective

78 INFORMATION

78.1 Prior to the NZRU Salary Cap Manager issuing:

- (a) a Compliance Statement in accordance with clause 11; or
- (b) an Explanatory Notice in accordance with clause 12; or
- (c) a Determination in accordance with clause 13;

the NZRU Salary Cap Manager will consult with the RPC in accordance with this clause with the RPC to respond in a timely manner.

78.2 Following the preparation of any draft Compliance Statement, Explanatory Notice or Determination the NZRU Salary Cap Manager will provide this draft to RPC.

78.3 In the event the RPC disagrees with the draft Compliance Statement, Explanatory Notice or Determination the following will apply:

- (a) the NZRU and RPC must endeavour to resolve the areas of disagreement;
- (b) if agreement can still not be reached, the NZRU Salary Cap Manager may proceed to finalise and issue the Compliance Statement, Explanatory Notice or Determination (provided that, in that event the RPC may seek to rely upon the problem resolution provisions of the Collective Agreement).

79 INVESTIGATIONS

79.1 Where the NZRU undertakes an Investigation of a Provincial Union in accordance with clause 59 the NZRU will notify the RPC at the same time as notice is given to the Provincial Union in accordance with these Regulations.

80 WARNING NOTICE OR BREACH PROCEEDINGS

80.1 Prior to issuing a Warning Notice in accordance with clause 64, or at the same time as a Provincial Union is advised of the commencement of Breach Proceedings in accordance with clause 64, the NZRU will notify the RPC of the nature of the alleged breach and provide the RPC with an opportunity to have input into the investigation of any alleged breach, including any submissions RPC wish to make about penalty.

81 RPC ACCESS TO INFORMATION

81.1 RPC may request access to any of the information it is entitled to under the Collective Agreement or these Regulations.

Schedule 1 • Loan Arrangement

Parties

Player Name:

Lending Provincial Union:

Borrowing Provincial Union:

Loan Period

Loan Start Date:

Date of Expiry of Loan:

Terms of Loan

I DO/DO NOT (*circle one*) wish to return to my Lending Provincial Union in the event of an injury to another Lending Provincial Union Player in a similar position.

Other Terms: (*please list any additional terms here, use the reverse if necessary*)

Consents and Confirmations

.....
(*Signature of Player*) (*Date*)

Name of Lending Provincial Union:

.....
(*Signature of Authorised Person from the Lending Provincial Union*)

Name: Position: Date:

Name of Borrowing Provincial Union:

.....
(*Signature of Authorised Person from the Borrowing Provincial Union*)

Name: Position: Date: