

Submission on *Consultation on regulations for the Incorporated Societies Act 2022*

Your name and organisation

Name	Tony Walton
Organisation (if applicable)	Federated Mountain Clubs
Contact details	[REDACTED]

This submission is also supported by the Auckland Tramping Club, of which I am also an officer

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Summary of FMC Response

The following points are detailed against the individual sections below - in summary

1. We are opposed to the regulations requiring the residential addresses of all officers of a society, including making them publicly available by virtue of publishing annual returns online. The required contact details for the society, as required by the Act, should be sufficient for all official society contact purposes.
2. Do not write any regulation (EG for re-registration) to require participation of a majority of a society - for existing national and regional societies, it is virtually impossible to engage anywhere near 50% of members. Instead defer to a society's constitution as to how decisions are ratified by members, such as by majority vote of attendees at an AGM where a quorum has been met.

3. In places you assume that what is good for companies is also good for incorporated societies - that is not always correct. They are quite different organisation types, with a large number of societies being run on a part time basis by volunteer members only, not full time employees. Do not expect incorporated societies to be always on the ball to provide details of changes made, especially at that time often there is significant disruption as a result of a single administration focused officer relinquishing their role and a newbie taking over.
4. We submit that the threshold for a “small society” should be set at \$100,000, rather than \$50,000, given that your current assets definition takes in term deposits of any maturity profile.

Responses to questions

Part 2 of the discussion document: section 254

	Matter	Question
1	<i>Prescribing information that must be included or provided</i>	<p>Do you have any comments on MBIE’s proposals regarding regulations under section 254(1)(a)?</p> <p>In our response we have assumed that this will apply to re-incorporation of existing societies under the new act, as well as the establishment of new societies.</p> <p>9(a) re officer details “contact address”. Given privacy and security concerns publishing the physical address for each officer has drawbacks, potentially discouraging officers from taking up a position with the society. For virtually all officers, their only contact (physical) address which is not an email address would be their residential address. If this information is made available on registration but not made available publicly, that could be of assistance. For officers we would suggest that an email address is sufficient information, as is required for the contact person for the society</p> <p>By comparison, Charities also do not require the physical address of the trustees.</p> <p>FMC has an executive committee of 15 people, Auckland Tramping Club 10 people. It should not be necessary for the proper administration of these incorporated societies to maintain and publish the residential addresses of all of these people.</p> <p>Scenario for example. A well published society function at an away venue results in burglaries at the published physical/residential addresses of the society’s officers</p> <p>Auckland Tramping Club stopped publishing officer and member physical address details several years ago, as virtually all communications now are via email and phone. While ATC do hold that information in their membership system.</p> <p>9(a) Re “a majority of the members of the proposed society have consented to the application;” This is impossible to achieve, as worded, for national societies (EG FMC itself) with a widely distributed membership, but also to many more local societies (EG Auckland Tramping Club) where a majority decision based on numbers alone can never be achieved because meeting attendance / response to written requests is unlikely to collect responses from more than around 20% of the membership. Instead this could be worded along the lines of “the application has been approved at a general meeting of the society as per the rules for approving motions as detailed in the society’s constitution” or as per 109(2) “an AGM (or general meeting?) was held and the quorum was met.”</p> <p>An alternative wording used later in the Consultation document is “majority vote at an AGM”</p> <p>33(2) OK</p>

	<p>79(2)(d) OK</p> <p>86(2) OK</p> <p>109(2) re “physical addresses of the society’s officers” – see above 9(a) contact address</p> <p>192(c) re contact person – as per 109(2) change “contact details” to “email address”</p> <p>192(c) re officer contact details – see above 9(a) contact address</p> <p>192(c) re “majority of the members” – see above 9(a) comment on the same topic. Replace majority of members with suitably approved motions</p> <p>193 (a) and (b) OK</p> <p>197(c) OK</p> <p>Sch 3 cl (3)(b) Same comments as per 9(a) re officer address details and a “majority of members”</p>	
	<p><i>Prescribing the manner in which things must be done</i></p>	<p>Do you have any comments on MBIE’s proposals regarding regulations under section 254(1)(b)?</p>
<p>2</p>	<p><u>Communications with Registrar</u></p> <p>9(a)+(f) +(g) OK</p> <p>48 OK</p> <p>52(2) OK</p> <p>109(1) OK</p> <p>111(3) The practicality of para 3 needs consideration. Incorporated societies run by volunteers are less likely to file a change promptly (potentially arising from a change of president / chairperson, only confirmed at an AGM or membership vote, taking effect immediately) – so a delay in registering the change may occur. In this regard, incorporated societies are <u>not</u> administered in a similar manner to companies, partnerships or retirement villages. The registration of the change in address may happen as a backdated change.</p> <p>116(2) OK</p> <p>117(1) OK</p> <p>176(2) OK</p> <p>185(1) +(2) OK</p> <p>216(2)(b) OK</p> <p>Sch 3 cl (3)(f)+(g) OK</p> <p><u>Communications by Registrar</u></p> <p>177(2)(b) OK</p> <p>186(2) OK</p> <p><u>Other communications</u></p> <p>11(3) OK</p> <p>65(1), 66 OK</p>	

	125(1) and (2) Refer our comments on 2.2.18.1 193(c) OK 225(2) OK
3	<p><i>Authorising the Registrar to determine the manner in which things must be done</i></p> <p>Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(c)?</p> <p>Yes</p>
4	<p><i>Declaring persons to be, or not to be, officers</i></p> <p>Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(d)?</p> <p>Yes</p>
5	<p><i>Prescribing circumstances related to independent committee members</i></p> <p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(e)?</p> <p>34-43 No comment / OK</p> <p>44 Given the subject is Incorporated societies, it would make sense to align thresholds with other incorporated society thresholds, so options 42(a)(i) and 42(b)(i)</p> <p>45-48 No comment</p>
6	<p><i>Prescribing jurisdictions whose officer disqualifications we will recognise</i></p> <p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(f)?</p> <p>49-52 OK and agreed</p> <p>53-54 N/A See our previous response</p>
7	<p><i>Prescribing the types of changes in officer information that must be notified</i></p> <p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(g)?</p> <p>55-56 No comment</p>

	57 and 58(a) As per our comments on s 254(1)(a) 9(a) we request that the residential address details of officers not be held in the register 58(b) OK				
8	<table border="1"> <tr> <td><i>Regulating constitutional provisions on conflicts of interest</i></td> <td>Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(h)?</td> </tr> <tr> <td colspan="2">OK</td> </tr> </table>	<i>Regulating constitutional provisions on conflicts of interest</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(h)?	OK	
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OK					
9	<table border="1"> <tr> <td><i>Prescribing societies that can restrict general meeting attendance to delegates</i></td> <td>Do you have any suggestions regarding regulations that should be made under section 254(1)(i)?</td> </tr> <tr> <td colspan="2">66-69 No comment. Not applicable to FMC or its members</td> </tr> </table>	<i>Prescribing societies that can restrict general meeting attendance to delegates</i>	Do you have any suggestions regarding regulations that should be made under section 254(1)(i)?	66-69 No comment. Not applicable to FMC or its members	
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10	<table border="1"> <tr> <td><i>Defining the term 'total current assets'</i></td> <td>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(j)?</td> </tr> <tr> <td colspan="2">Given that your definition includes term deposits, we consider the threshold is too low, and would recommend a threshold of \$100,000.</td> </tr> </table>	<i>Defining the term 'total current assets'</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(j)?	Given that your definition includes term deposits, we consider the threshold is too low, and would recommend a threshold of \$100,000.	
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11	<table border="1"> <tr> <td><i>Prescribing additional requirements for the financial statements of small societies</i></td> <td>Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(k)?</td> </tr> <tr> <td colspan="2">Yes</td> </tr> </table>	<i>Prescribing additional requirements for the financial statements of small societies</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(k)?	Yes	
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12	<table border="1"> <tr> <td><i>Determining the class of society that must have its financial statements audited</i></td> <td>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(l)? For example, do you agree that focusing on the proportion of societies that should be captured is appropriate?</td> </tr> <tr> <td colspan="2">We agree with your conclusion of a \$3 million or more threshold for auditing financial statements</td> </tr> </table>	<i>Determining the class of society that must have its financial statements audited</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(l)? For example, do you agree that focusing on the proportion of societies that should be captured is appropriate?	We agree with your conclusion of a \$3 million or more threshold for auditing financial statements	
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13	<table border="1"> <tr> <td><i>Setting infringement fees</i></td> <td>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(m)?</td> </tr> <tr> <td colspan="2">No</td> </tr> </table>	<i>Setting infringement fees</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(m)?	No	
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14	<table border="1"> <tr> <td><i>Prescribing the information to be included in infringement and reminder notices</i></td> <td>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(n)?</td> </tr> </table>	<i>Prescribing the information to be included in infringement and reminder notices</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(n)?		
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	No	
15	<i>Removal and restoration of societies from the register</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(o)?
	No	
16	<i>Prescribing certain matters relating to surplus assets</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(p)?
	No	
17	<i>Prescribing procedural requirements for surplus asset 'resolutions'</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(q)?
	Yes	
18	<i>Prescribing how documents must be served on a society</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(r)?
	<p>133-137 No comments</p> <p>138 The registered address and contact person have the primary purpose for accepting documents. To support delivery to an officer would require their address information, which as per our response to 254(1)(a) 9(a) we have submitted should not be provided for privacy and security reasons.</p> <p>It is to be remembered that incorporated societies are not managed in the same way as a company, so a direct transferral of regulations between those organisation types should not carte blanche be assumed as the correct approach</p> <p>These comments apply similarly to 139 to 146</p> <p>140(c) and 144(c) and 145(b) For the coming century it would be best to assume that facsimile technology is a rarity only for incorporated societies, and for the immediate future, email is a primary communication mechanism</p>	
19	<i>Prescribing how documents must be served on a person</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(s)?
	150(b) and 152(b) As per previous comments, we disagree that the physical address of officers who are not the contact person for the society should not be required	
20	<i>Prescribing matters relating to the</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(t)?

	<i>incorporated societies register</i>	
		No
21	<i>Specifying matters concerning conversion into an incorporated society</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(u), (v) or (w)?
		No

Part 3 of the discussion document: section 254

	Matter	Question
22	<i>Setting fees for the performance of functions or the exercise of powers</i>	Do you have any suggestions on regulations that should be made under section 255(1)(a)?
		No comment
23	<i>Setting late fees</i>	Do you have any comments on MBIE's proposals regarding regulations under section 255(1)(b)?
		No
24	<i>Setting other fees</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 255(1)(c)?
		Yes

Part 4 of the discussion document: section 254

	Matter	Question
25	<i>Providing that certain rules apply</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 256(1)(a)?
		Yes
26	<i>Providing that certain legislative rules do not apply</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 256(1)(b)?
		Yes

27	<i>Prescribing matters for the purposes of Part 1 of Schedule 1</i>	Do you have any comments on MBIE's proposals regarding regulations under section 256(1)(c)?
No		

Other comments

	None
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