

Kenepuru & Central Sounds



Residents Association Inc.

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Corporate Government and Intellectual property Policy
Ministry of Business, Innovation & Employment

Andrew Caddie
President KCSRA

Consultation On regulations for the Incorporated
Societies Act 2022

Email: societies@mbie.govt.nz

16 November 2022

Dear Sir / Madam

I am writing in my capacity as President of the Kenepuru and Central Sounds Residents' Society.

The Association was established in 1991 and currently has around 320 household members who live fulltime or part time in the Kenepuru and Pelorus Sounds. The Association's objects include, among others, to coordinate dealings with central and local government and represent members on matters of interest to them.

We are a voluntary organisation with no employees and limited resources. However the Committee (currently 12), as can be seen from our web site (www.kcsra.co.nz), commit a lot of energy and time into carrying out the affairs of the Association on behalf of members.

Background

We have closely monitored the sweeping and extensive proposed changes to the governance and regulation of Incorporated Societies since the release of the Law Commissions initial report and then the likes of the release by MBIE of the exposure draft Bill back in 2016. We actively participated in all stages of the process.

It is fair to say we were concerned at the extensive and sweeping changes proposed with little apparent thought as to the adverse impacts on small (by far the majority) community volunteer societies.

We made the observation these changes seemed targeted at certain issues such as the existence of large resource rich societies. The many thousands of run of the mill but very important fabric of the voluntary community societies were being swept along and into a complicated one size fit all approach. We saw this as potentially detrimental to the on-going existence of community voluntary organisations. The resultant Act is a massive documents over 130 pages long – hardly an easy or accessible read!

However, we are where we are.

We decided to invest scarce time to look at and comment on your consultation draft in the hope that there might be some relaxation of the unfortunate focus on Societies to date as if they were all large, well resourced, professionally staffed and profit led limited liability companies.

Comments

We follow the structure of the consultation document with its sequence of posed questions and respond as appropriate.

Q1. Section 254 regulations

Section 79 is unclear as to what happens when a member resigns or otherwise ceases to be a member of the Society. Is it assumed/permitted that the former members details on the members register are deleted?

Q2. Section 254(1)(b) regulations

We are a little concerned at the focus on online communication. We accept email etc is well used. However, by way of example we note still have up to 10 members who do not supply email contacts. The ability of the Registrar to have discretion is noted. But the use of the word “absolute” seems unnecessarily prescriptive. We **recommend** some softening here to avoid issues of alleged “digital discrimination” eg such discretion to be exercised reasonably.

Q3. Agree

Q4. Agree

Q5. Societies may be required to have Independent Officers)

This seems a very narrow topic (non-member committee members for sports organisations). It is also a little confusing when you suddenly refer to “directors”. It is also difficult to grasp why this is needed, as officers (committee members) do not have to be members unless stated in the constitution (S 47(3)(g)? It seems you are really quietly addressing what MBIE sees as a particular problem for national sports organisations? However we do want to note that it seems extraordinary that this radical approach is being proposed in a relatively obscure consultation document and not the subject of a wider national debate.

However, we note that under our existing constitution the Committee may for reasons such as to fill a vacancy appoint (co –opt) a member onto the Committee. That person acts as such until elected or not at the next AGM. I have not used this method but it does seem useful. As we read the Act such an appointment is still permitted if set out in the Constitution. **Please confirm.**

The second part of this section discusses the proposed **audit threshold**. Audits are very expensive. **We support Option 42 a i** - the proposed threshold of operating expenses being in excess of \$3 million. We **recommend** it be CPI linked.

Q6. Jurisdiction Issue: No comments.

Q7. Officer (Committee member) Change of address: We do not understand the need to refer to an email address here. Many people have several email addresses. The email requirement seems overly prescriptive and burdensome for Societies and should be dropped. **Otherwise we agree.**

Q8. Conflicts of interest – Agree with MBIE proposal – nothing required.

Q9. Not Relevant. Surely a reasonable quorum for AGM's in the Constitution is the best approach?
- See Section 26(k)(vii).

Q10. Agree – exclude fixed assets from the definition of total current assets. However the limit of \$50,000 is rather low and should be increased to \$76,000 and indexed to annual movements in the CPI.

Q11. Agree - no further financial reporting regulations targeting “small societies” required or desirable – too burdensome.

Q12. We Agree with an audit threshold of \$3 million but recommend it be linked to annual movements in the CPI. Note we have our accounts “reviewed”.

Q13. Infringement fees for selected administrative matters – Agree.

Q14. Infringement Notices and Reminders - Agree.

Q15. Removal from the Registrar's Register of a Society. – No Comments.

Q16. Dealing with surplus assets on a wind up. – Agree no regulations required

Q17. Ability to pass resolutions in certain circumstances eg disposal of assets other than in an AGM – **Agree no regulations required** (S 227 – 230).

Q18. Service requirements in legal and non legal matters: We **strongly disagree** that legal proceedings can be properly served by giving **to any** committee member (Officer) (see paragraph 138 (b) or paragraph 140 a(ii)) – **this invites unnecessary confusion and trouble.**

We have a committee of 12 and some would, with all due respect, for sure not notice such a notice. Such serious legal documents are best served at the registered office or to the Societies nominated contact person (the reason behind the requirement to have a contact person surely?) Note the unfortunate references to a company in the suggestion of email service for non-legal matters which - **we also oppose** - in paragraph 140. **This also obviates the need for the references in paragraph 144 d and 145 c. ii.**

Q19. **Service of notices etc** – We **recommend** you replace the reference to Officer (any committee member) with “contact person”. See response to question 18 above. We **recommend** you delete references to email service. See response to Q 18 above.

Q20. **Registrar’s register; No Comment.**

Q21 – **From a Charitable Trust to an Incorporated Society: No Comment** as of no relevance to KCSRA.

Q22 to Q 25 – (prescribing fees, late fees, other fees, transitional regulations) **No comment.**

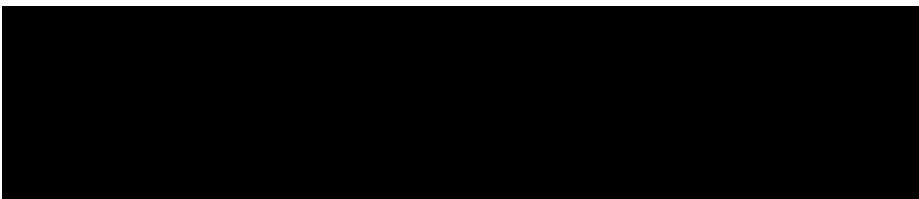
Q 26. – **Registration of an existing Incorporation:** We **respectfully disagree** that no regulations be made to allow an existing society adopt a new Constitution in line with the 2022 Act by way of a postal vote, online vote etc. Review of a new constitution will, for the vast majority of the members of the many thousands of small societies undergoing registration, be a big pain for members. The thought of having to sit through a AGM debating random clauses is nightmarish. **We recommend** an alternative approach be provided for as suggested above. We suggest you review the Covid legislation for drafting.

In terms of setting a fee for re-registration that seems to add insult to injury that an unwanted and, arguably unnecessary, mandatory process like this might also be charged for. **We oppose** any re-registration fee.

We also inquire as to what is the relevance of the reference to “Parts 5 and 6 of the 1920 Act” in this section? Please clarify by more carefully identifying the relevant Act in question. We can then consider a more measured and helpful response.

Trust this assists.

Andrew Caddie



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President Kenepuru and Central Sounds Residents’ Association