

[REDACTED]

Good afternoon

I am aware that I am a day over the deadline for submissions on the proposed regulations for the Incorporated Societies Act 2022. However I wanted to endorse support for the approach made by New Zealand Amateur Sport Association in their submission sent yesterday.

Specifically this is for the sections set out at the start of the NZASA submission dated 22 November 2022, as below. I also support the comments made by NZASZ on matters 1,3,4,5,10 and 11 of the consultation document.

1. 1.1 The Association can understand a reasonable assumption by Officials and Government that currently incorporated community sport organisations (or “ICSOs”) are fully cognisant of (and compliant with) their obligations under the 1908 Act, as a foundational stepping-stone toward an ICSO’s understanding of its requirements under the 2022 Act, and in respect of the proposed regulations.
  2. 1.2 However, the Association suggests (based on its interaction with ICSOs nationally) that the gap between ICSOs’ actual and assumed understanding and compliance, is much wider than what has been assumed. The associated risk is that for many ICSOs, the gap between the 1908 Act and the 2022 Act becomes too daunting to bridge, with voluntary (or involuntary) dissolution a possible outcome, with the risk of “an extinction-event” for ICSOs unwilling (or unable) to comply.
  3. 1.3 The Association also notes that while the 2022 Act (and the proposed regulations) are based on rubrics contained in the Companies Act 1993, ICSOs (which are largely operated by volunteers on a not-for-profit basis for community benefit) do not operate like companies, with those responsible for their operations often lacking the requisite knowledge, competence, time and skill to fulfil the legislative obligations which would otherwise be required in a regulated corporate environment for good governance.
  4. 1.4 The Association would also like to highlight that (in considering the draft regulations), whereas remediation of involuntary ICSO non-compliance was simpler to resolve in respect of the 1908 Act, it is now more complex with adverse financial and social consequences. Officials should give careful consideration to the consequential risks associated with ICSOs that involuntarily do not re-register and continue to operate irrespective of the new legislation in an unincorporated manner.
- 
1. 2.0 Proposed Carve-Out of Certain “Qualifying ICSOs” From Regulations
  2. 2.1 To ameliorate some of the more challenging legislative requirements of the 2022 Act, as discussed in our recent meeting with the responsible Minister, the Association suggests that the definition of “small society” in the 2022 Act is extended, so that if a “small society” is also an “amateur sport promoter” (as defined in CW46 of the Income Tax Act 2007), then certain provisions of the 2022 Act not apply (or specific regulations apply). Incorporated entities meeting these two criteria are referred to as a “qualifying ICSOs” in this submission.
  3. 2.2 In particular, the Association proposes that:
    1. dispute-resolution management<sup>1</sup> and conflict-of-interest disclosure can be delegated/referred to a centralised service/resource provided by a national sport organisation (“NSO”), or if an ICSO is not affiliated to an NSO, then through a regional sport trust (“RST”) with which the ICSO is registered; and

2. that any incidences of non-compliance with the 2022 Act (if identified by the Registrar) are notified to an ICSO's NSO, (or if the ICSO is not affiliated to an NSO, then through the RST in the ICSO's region with which the ICSO is registered), to minimise the risk of infringement notices, fines, and possible dissolution; and
3. that ICSOs are not subject to s 47 (2) (b) and s 47 (3) of the 2022 Act, if they are "qualifying ICSO" and are affiliated to an NSO, (hereafter referred to as "qualifying, affiliated ICSOs"); and that in such instances, actions of committee members are not personally subject to liability clauses if the NSO also provides "combined association liability insurance" cover for the ICSO.

