

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

Your name and organisation

Name	Claire Barry
Organisation (if applicable)	New Zealand Motor Caravan Association Incorporated
Contact details	[REDACTED]

[Double click on check boxes, then select 'checked' if you wish to select any of the following.]

The Privacy Act 2020 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

MBIE intends to upload submissions received to MBIE's website at www.mbie.govt.nz. If you do not want your submission to be placed on our website, please check the box and type an explanation below.

I do not want my submission placed on MBIE's website because... [\[Insert text\]](#)

Please check if your submission contains confidential information:

I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because... [\[Insert text\]](#)

Responses to questions

Part 2 of the discussion document: section 254

	Matter	Question
1	<i>Prescribing information that must be included or provided</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(a)?
	<p>Yes</p> <p>We agree with the proposals put forward, however are of the view that officer contact details (email, and physical address) should only be publicly available if authorised by the society (who in turn has been authorised by the officer). This is the situation on the Charities Register. Ideally it should be a choice for each of the two contact detail items individually.</p> <p>Therefore, while the details are collected, held and able to be used by the registrar, they are not able to be viewed by the public (unless authorised). This allows officers to maintain their privacy and means that better information is more likely to be collected. If contact details are publicly available by default, officers are more likely to use the societies address and email, which defeats the purpose of collecting these details.</p> <p>Also, if a private address was used by the officer, we do not think it is appropriate for individual members to be able to just turn up at an officers residence.</p>	
2	<i>Prescribing the manner in which things must be done</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(b)?
	No	
3	<i>Authorising the Registrar to determine the manner in which things must be done</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(c)?
	Yes	
4	<i>Declaring persons to be, or not to be, officers</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(d)?

	<p>No</p> <p>We believe that the definition of an officer should be clarified as to how far reaching it is. Clearly an Associations committee and any key positions such as CEO or CFO fall within the definition of officer, however it is less clear for other management or advisor positions.</p> <p>s5(1) of the Incorporated Societies Act 2022 includes those exercising "significant influence over the management or administration of the society". This potentially includes a number of personnel or advisors who are not director-equivalents. The definition is very similar that of the Charities Act 2005 s4(1), however that Act does not impose the wide range of duties/obligations on the registered charities officers, instead it largely imposes these on the entity. The officer-specific offence under the Charities Act relates to knowingly failing to comply with financial reporting standards. Whereas the Incorporated Societies Act 2022 includes qualification of officers and written consent to act s47, notification of changes to officers s52 and officer duties sections s54-61. Without clarification an Association could unwittingly not comply with these sections depending on their interpretation of how far reaching the Officer definition is.</p> <p>We suggest a regulation along the following lines would help clarify this aspect. "A person is not an officer merely because they carry out procedures established by the society's committee or make recommendations to the society's committee."</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>
5	<p>Yes</p> <p>We agree with the proposal put forward to allow national or regional organisations involved in physical recreation and sport, and organisations with operations above a prescribed threshold to not have to apply s45(3) of the Incorporated Societies Act 2022, for the reasons set out in the consultation document.</p> <p>Regarding the thresholds proposed, our preference is as set out in 42(a)(ii) of the consultation documents, that is; Having one threshold that is aligned with audit threshold in the Charities Act 2005: specified in section 42D of the Charities Act 2005 to be operating expenses in excess of \$1.1 million for two years straight.</p> <p>The threshold used for this regulation should be the same as the audit threshold (as discussed in question 12 below).</p> <p>The reason for this view is to add simplicity across the incorporated society/charity sector by having consistent thresholds. We also believe that \$1.1m pa is a significant amount of expenditure where independent committee members can add value. It would still be for individual societies to decide if they would allow a majority of independent committee members, by enabling it in their Constitution.</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>Yes</p> <p>It is our view that a person disqualified from holding office in <u>any</u> jurisdiction should be disqualified from being an officer in New Zealand.</p> <p>While the Companies Office may only have systems in place to check the registers of the Australian states for disqualifications this should not limit the regulation. Since an officer must consent in writing and certify they are not disqualified (s47(3) Incorporated Societies Act 2022) the onus is on the officer to comply.</p> <p>The Companies Office can still check the Australian registers. In the case of banned officers from other jurisdictions, if the regulation included them then remedies would be available under the Act should an issue arise, whereas if the regulation does not include them no remedies would be available.</p>		
7	<table border="1"> <tr> <td data-bbox="244 645 496 869"><i>Prescribing the types of changes in officer information that must be notified</i></td> <td data-bbox="496 645 1401 869">Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(g)?</td> </tr> </table>	<i>Prescribing the types of changes in officer information that must be notified</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(g)?
<i>Prescribing the types of changes in officer information that must be notified</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(g)?		
	<p>Yes</p> <p>We agree that the notification requirements should be consistent with the information held requirements but reiterate our point from question 1 that officer contact details (email, and physical address) should only be publicly available if authorised by the society (who in turn has been authorised by the officer). Ideally it should be a choice for each of the two contact detail items individually.</p>		
8	<table border="1"> <tr> <td data-bbox="244 1099 496 1283"><i>Regulating constitutional provisions on conflicts of interest</i></td> <td data-bbox="496 1099 1401 1283">Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(h)?</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)?
<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)?		
	<p>Yes</p>		
9	<table border="1"> <tr> <td data-bbox="244 1352 496 1576"><i>Prescribing societies that can restrict general meeting attendance to delegates</i></td> <td data-bbox="496 1352 1401 1576">Do you have any suggestions regarding regulations that should be made under section 254(1)(i)?</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)?
<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)?		
	<p>Yes</p> <p>It is our view that societies other than unions should be able to provide in their constitution that attendance at annual general meetings is limited to delegates or other representatives, for the reasons set out in point 66 of the consultation document.</p> <p>A suitable threshold in our view would be 10,000 members.</p>		
10	<table border="1"> <tr> <td data-bbox="244 1827 496 1928"><i>Defining the term 'total current assets'</i></td> <td data-bbox="496 1827 1401 1928">Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(j)?</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)?
<i>Defining the term 'total current assets'</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(j)?		

	<p>Yes</p> <p>While the definition of a small entity does not affect the NZMCA we submit that the definition of 'total current assets' should use the definition formulated by the XRB. This would be for consistency purposes.</p> <p>PBE Standards Glossary of Defined Terms Jan 2017 193573.1 An entity shall classify an asset as a current asset when: (a) It expects to realise the asset, or intends to sell or consume it, in its normal operating cycle; (b) It holds the asset primarily for the purpose of trading it; (c) It expects to realise the asset within twelve months after the reporting period; or (d) The asset is cash or a cash equivalent (as defined in PBE IPSAS 2) unless the asset is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting period.</p>	
11	<p><i>Prescribing additional requirements for the financial statements of small societies</i></p>	<p>Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(k)?</p> <p>Yes</p>
12	<p><i>Determining the class of society that must have its financial statements audited</i></p>	<p>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?</p> <p>Yes</p> <p>In our view the audit threshold should be aligned with audit threshold in the Charities Act 2005: (s42D of the Charities Act 2005) to be operating expenses in excess of \$1.1 million for two years straight, and be aligned with the threshold set by regulation relating to requiring a majority of independent committee members (see question 5 above).</p> <p>The reason for this view is to add simplicity across the incorporated society/charity sector by having consistent thresholds. We also believe that \$1.1m pa is a significant amount of expenditure and therefore an audit is appropriate. Based on the statistics provided in point 95 of the consultation document 93% of societies above \$1m expenditure already have their financial statements audited, therefore using a threshold of \$1.1m expenditure would only affect approximately 7% of those with expenditure at or above this level.</p>
13	<p><i>Setting infringement fees</i></p>	<p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(m)?</p>

	<p>Yes</p> <p>No indication is given of the reminder process that the Companies Office is likely to implement. It would be helpful to understand what this may be. Presumably something like the filing reminders currently sent by the Companies office and the Charities Registrar.</p> <p>Would penalties and late filing fees be imposed immediately after the deadlines or will some leeway be given (particularly initially as volunteer committee members get used to the new requirements)?</p>
14	<p><i>Prescribing the information to be included in infringement and reminder notices</i></p> <p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(n)?</p>
	No
15	<p><i>Removal and restoration of societies from the register</i></p> <p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(o)?</p>
	No
16	<p><i>Prescribing certain matters relating to surplus assets</i></p> <p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(p)?</p>
	No
17	<p><i>Prescribing procedural requirements for surplus asset 'resolutions'</i></p> <p>Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(q)?</p>
	Yes
18	<p><i>Prescribing how documents must be served on a society</i></p> <p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(r)?</p>
	No
19	<p><i>Prescribing how documents must be served on a person</i></p> <p>Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(s)?</p>
	No

20	<i>Prescribing matters relating to the incorporated societies register</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(t)?
	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)?
	<p>Yes</p> <p>Incorporation fees should not be excessive as this would discourage societies from becoming registered, which would in turn means less regulation of societies. Since the goal is for societies to be registered, removing barriers to that occurring is advantageous. Most societies especially when starting, have very limited funds, which should be considered when setting fees.</p>	
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)?
Yes A re-registration fee of \$50 seems reasonable.		

Other comments

--	--