

FRIENDS OF NELSON HAVEN AND TASMAN BAY INC

24 June 2016

Chief Executive
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140

Email: societies@mbie.govt.nz

Dear Sir/Madam

Submission – Exposure Draft – Incorporated Societies Bill

I submit this on behalf of the Friends of Nelson Haven and Tasman Bay Inc. We think that the reforms to the bill are more appropriate to large societies with significant funds, and are an overkill for small, community based societies which rely on voluntary work.

We have no objection to the release of any information contained in our submission.

Introduction

1. Friends of Nelson Haven and Tasman Bay Inc is an environmental group concerned with the coastal regions of the top of the South Island. We were incorporated in 1976 and gained charitable status in 2008. We have about 100 members. We rely on subs and donations for funds and also apply for grants from time to time. Committee members do thousands of hours of work voluntarily. Our main focus is environmental research, advocacy and education.
2. There must be very many small societies and clubs throughout the country of a similar size to us. The collective voluntary effort of these groups is part of New Zealand society and needs to be encouraged. For many of these small societies, their existing rules under the old law, and most of the old law itself, are probably completely adequate. The new Bill should take this into account as well as providing changes relevant to the larger groups.
3. In this submission we will state what we see as some of the problems in the draft reforms from the perspective of small voluntary organisations such as ourselves.

Comments on the Bill

4. The Bill seems to have been drafted on a “one size fits all” basis, without due consideration to its appropriateness to small voluntary based societies operating on limited funds. For the lay person the draft Bill is complicated and hard to understand with cross references to other acts. Are small societies

expected to be subjected to the time and expense of seeking legal advice as they transition to the new law?

5. **Constitution vs Rules:** A constitution, as described in section 24, seems somewhat heavy weight for small societies. Even the choice of word “constitution” instead of “rules” implies a major organisation. The 1908 Act requires the rules to consist of a lot of the same items as the draft Bill, but it left more flexibility for a society to decide how something should be done rather than imposing stringent requirements. An example is in section 27 (2) (b) of the draft Bill and Schedule 1 section 5 (3) (b) where an amendment to the constitution requires a general meeting of the society. Whereas the old Act required merely that the society’s rules stated the mode for amending those rules. Especially when an amendment is minor, eg concerns a quorum level, having to call a general meeting is unnecessary for small societies. If a constitutional change were more major then a committee would make its own mind up as to whether a general meeting was appropriate.
6. **Disciplinary Procedures:** As currently drafted, section 24 (1)(j) and section 31 of the Bill require that societies must in their constitution have a procedure for resolving disputes. There is nothing in the 1908 Act about this. For small societies like ourselves this is an unnecessary imposition. Any disagreements are dealt with perfectly well now without having to resort to a constitution. Part 4 Enforcement, sections 96 and 97, and whole of Schedule 2 is overkill or even irrelevant for small societies.
7. **Financial Statements and Annual Reporting:** We as a registered charity are not affected by changes in these sections. But again the new Bill requires more work and understanding on the part of the voluntary treasurer. Is it necessary for small societies?
8. **Standard Provisions for Constitutions (draft only):** Although not yet officially open for comment, I would like to draw attention to one part in this section of the Request for Submissions. Rule 5 is a very stringent example of what is required in section 24 (1) (g) of the draft Bill. And similarly rule 9 compared to section 24 (1) (k). For instance rule 5.7 requires committee nominations to be made in writing to the secretary at least five days prior to the AGM. For small societies, if nominations could not be made up until and at the AGM, the society would be lucky to get many new committee members.
9. **Officers of a Society:** Reading parts of the draft Bill covering officers, their duties, and penalties, it is hard to relate such an officer to a volunteer committee member of a small society. For example SubPart 6 – Offences: while the content of Section 113 to 177 is probably important for large organisations, for members of a small society it is all a bit mind-blowing with phrases like “...imprisonment for a term not exceeding 5 years, a fine not exceeding \$200,000, or both.” Also section 46, that a retired officer is always open for liability. Surely a limit of a few years is more reasonable. After all everyone is subject to criminal law, so anything in the draft Bill is in separate from that. Small groups often struggle to get enough volunteers, particularly

young ones, without adding in understanding, and not being put off by, possible personal liability issues advocated in the Bill. Surely a more readable, and applicable wording of these parts, without having to reference the Crimes Act for a definition of “dishonesty” would be helpful for small societies.

Conclusion

10. The draft Bill has given the impression that volunteering to be a committee member of a small community group may no longer be simply a consideration of the time commitment required, but may also require a personal liability risk assessment and even getting legal advice. This seems unreasonable in the context of New Zealand society.
11. We hope that Parliament will understand the difficulty of trying to have a “one size fits all” piece of legislation for societies ranging from 10 members to those of corporate size. And instead use a more tiered approach in the new Bill.

Margot Syms
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