

Southland Community Law Centre

"Providing Free Legal Advice & Information"
Awhi Mana Tohu Tohu Me Mihi Ki Murihiku

Our Ref: 160830

24th July 2016

Ministry of Business Innovation & Employment
Hikina Whakatutuki

Via e-mail: societies@mbie.govt.nz

We make this submission as representatives of the Southland Interagency Forum and the Southland Community Law Centre Incorporated.

We thank you for the opportunity to provide feedback on the exposure draft pertaining to the upcoming changes to the Incorporated Societies Act 1908. The Southland Interagency Forum represents a cross section of social and community sector providers and not-for-profit entities in Southland.

We provide comment in the order of the consultation draft of the proposed new Incorporated Societies Act:

| Section | Subsection | Subject | Comment made |
|------------|---------------------|----------------------------------|---|
| 3 | Purposes | In its entirety | We welcome the addition of strengthened levels of responsibility for Societies as well as the recognition that they are self-governing bodies and therefore are afforded protection under this Act from inappropriate Government interference |
| 4 | Overview | Contact Officer | We welcome this provision in the Act as it should mean consistent reporting and gives some assurance the Societies will have a person in place responsible to ensure the Companies Office/Registrar is kept up to date with matters concerning each individual society. We also note that this Act has been brought into line with the Companies Act in respect of the determination relating to "inability to pay debt". Again this will provide for consistency across the sector. |
| Part2 8 | Eligibility | Numbers required to form an Inc. | The reduction of the number of persons required from 15 to 10 is welcomed. |
| 10 | Naming | Incorporated or Manatopu or both | We welcome this addition. |
| 18 | Validity of Actions | In its entirety | Although we understand that this clause is put in place to protect members affected by decisions made when they honestly are not aware that the Society did not have authority to make those decisions, we are a little concerned that this may |

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| | | | give some Boards a "Carte Blanche" approach to their duties to act in the best interests of the society. We can envisage immense issues if Society decisions were routinely made without reference to the Constitutional rules of those societies. |
| 22 | 3 (d) | Provides benefits to members of the public or of a " <i>certain class</i> ".... | This terminology may be considered highly offensive. We respectfully suggest you remove the highlighted words. |
| 32 | Standard Provisions | In its entirety | We assume that any such "standard provisions" will be reasonable and practicable to ensure that all Societies can be compliant with little effect on their resources. In addition, we are very supportive of standard clauses for Constitutions. We believe that having such requirements will bring all Societies into line and operating with standard mechanisms of governance. |
| 39 | 2 (a) | Exclusion of persons under 16 years of age as Officers | We believe that "Officers" should be 18 years of age, so respectfully suggest that the age limitation be elevated to that. There is no reason why persons under 18 could not be in subcommittees, or on an "apprenticeship" for becoming Officers for Societies. |
| 39 | 2 (g) | In its entirety | Does this actually make sense? What is the purpose of this? |
| 42 | 3 (b) | "at least 18 years of age" | We agree with this age limitation. If 39 (2a) were to be changed to 18, this would provide for consistency within this Act. |
| 46 | Liability | "former officers remain liable for past acts" | Concern has been raised about this clause. We ask if there is a time limitation on liability in the context of this proposed clause? In other words how long would liability sit with a past officer? |
| 66 | All | Number of Members | As stated above, we believe this is acceptable and better than the current requirement for 15 members. |
| 72 | All | Court orders | We have a question – does this section mean that the Court can over-ride the provisions of the Privacy Act 1993? |

We do not wish to be heard in support of our submission.

Yours sincerely
Withheld

Denise Lormans
On behalf of Southland Interagency Forum