

Withheld

From: John Lawson Withheld
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To: Societies
Cc: Withheld
Subject: submission on the Exposure Draft of the Incorporated Societies Bill

From: Whaingaroa Environmental Defence, Secretary John Lawson. 51 Cliff St, Raglan 3225 07 825 7866.

WED would have trouble with lots of the proposals. They're framed for large societies, not smaller ones. Several societies in a small, decile 1, town, such as this, operate without a formal membership system. To do otherwise would preclude many of the people who play an active part in them. In particular, WED would have problems with the proposed rules listed below, unless they were set for larger societies, as measured in terms of geographical coverage, turnover, or employees.

Rule 49 seems problematical for all societies. 'Proper purpose' is not defined in the draft Bill. WED agrees with the statement at IV (2) of http://www.waikato.ac.nz/law/research/waikato_law_review/pubs/volume_2_1994/3, saying, "Of all the enacted directors' duties, this is likely to be the most troublesome. The problem with the provision is its great uncertainty. It appears to be directly contrary to the purpose of the enacted directors' duties, that is, to make it easier for directors to know just what their responsibilities are".

It is not clear why Rule 82 says accounting records must be kept in written form in English, rather than in any official language.

Rules which need to be modified, or limited to larger, wealthier societies -

24 The constitution must contain rules regarding the following:

- (c) how a person becomes a member of the society, including a requirement that a person must consent to be a member; and
- (d) how a person ceases to be a member of the society; and
- (e) arrangements for keeping the society's register of members up to date; and
- (f) whether, and if so how, the society will provide access for members to the register of members; and
- (g) the composition, roles, and functions of the committee of the society, including—
 - (i) the number of members that must or may be on the committee; and
 - (ii) the election or appointment of committee members; and
 - (iii) the terms of office of the committee members; and
 - (iv) the functions and powers of the committee; and
 - (v) grounds for removal from office of committee members; and
 - (vi) how the contact officer will be elected or appointed; and
 - (h) how the society will control and manage its finances; and
 - (i) the control and use of the society's common seal (if it has one); and
 - (j) procedures for resolving disputes between members (in their capacity as members) and between members and the society, including procedures for investigating and dealing with—
 - (i) the grievances of members relating to their rights and interests as members; and
 - (ii) complaints concerning the misconduct or discipline of members; and
 - (k) arrangements and requirements for general meetings, including—
 - (i) the intervals between general meetings; and
 - (ii) the information that must be presented at general meetings; and
 - (iii) when minutes are required to be kept; and

- (iv) the manner of calling meetings; and
- (v) the time within which, and manner in which, notices of general meetings and notices of motion must be notified; and
- (vi) the quorum and procedure, including voting procedures, for general meetings; and

37 Committee (1) Every society must have a committee of at least 3 members.

39 Qualifications of officers

(2) The following persons are disqualified from being appointed or holding office as an officer of a society: (a) a person who is under 16 years of age:

43 Contact officer (1) Every society must at all times have a contact officer.

(2) In the event of a vacancy in the position of contact officer, the society does not breach subsection (1) if the position is filled within 20 working days after the vacancy occurs.

49 Powers to be exercised for proper purpose An officer must exercise a power for a proper purpose.

52 Reckless trading or other activities An officer must not—

- (a) agree to the activities of the society being carried on in a manner likely to create a substantial risk of serious loss to the society's creditors; or
- (b) cause or allow the activities of the society to be carried on in a manner likely to create a substantial risk of serious loss to the society's creditors.

66 Requirement to have at least 10 members (1) A society must continue to have at least 10 members.

69 Liability of members

- (1) A member is not liable for an obligation of the society by reason only of being a member.
- (2) The liability of a member to the society is limited to— (a) any amount unpaid on the membership of the member; (b) any liability expressly provided for in the society's constitution.
- (3) Nothing in this section affects the liability of a member to a society under a contract, or for any tort, or breach of a fiduciary duty, or other actionable wrong committed by the member.

70 Register of members

- (1) Every society must keep a register of its members.
- (2) The register must contain— (a) the name and contact details of each member; and (b) the date when each person became a member; and (c) all other prescribed information (if any).

73 Annual general meetings (1) Every society must call an annual general meeting of members to be held— (a) not later than 6 months after the balance date of the society; and (b) not later than 15 months after the previous annual general meeting.

75 Methods of holding meetings An annual general meeting of a society may be held by a quorum of the members—

- (a) being assembled together at the time and place appointed for the meeting; or
- (b) participating in the meeting by means of audio, audio and visual, or electronic communication;

77 Prohibition on indemnities or insurance for officers, members, or employees

- (1) A society must not, except in accordance with this subpart, indemnify, or directly or indirectly effect insurance for, an officer, a member, or an employee of the society in respect of—
 - (a) liability for any act or omission in his or her capacity as an officer, a member, or an employee; or
 - (b) costs incurred by the officer, member, or employee in defending or settling any claim or proceeding relating to that liability.

83 Annual financial statements must be prepared and registered

(b) dated and signed by or on behalf of the committee by 2 members of the committee.

86 Registered office (1) Every society must have a registered office in New Zealand.

Schedule 1 Transitional, savings, and related provisions

a society can . . . be put into liquidation if its constitution does not comply with this Act . . . at least 4 years from the commencement