



## COVERSHEET

<b>Minister</b>	Hon Kris Faafoi	<b>Portfolio</b>	Commerce and Consumer Affairs
<b>Title of Cabinet paper</b>	Supporting the implementation of the New Zealand Business Number – proposals to amend and make regulations	<b>Date to be published</b>	By 29 July 2019

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
12 June 2019	<i>Cabinet Committee minute: DEV-19-MIN-0152</i>	<i>Cabinet Office</i>
Lodged 6 June 2019	<i>Supporting the implementation of the New Zealand Business Number – proposals to amend and make regulations</i>	<i>Office of Minister of Commerce and Consumer Affairs</i>

### Information redacted

**YES / NO** (please select)

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## **In Confidence**

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Economic Development Committee

### **Supporting the implementation of the New Zealand Business Number – proposals to amend and make regulations**

#### **Proposal**

1. This paper seeks agreement to amend the Incorporated Societies Regulations 1979, and to make regulations under the Charitable Trusts Act 1957, in order to support the implementation of the New Zealand Business Number.

#### **Background**

2. The New Zealand Business Number Act 2016 enables a unique identifier (an NZBN) to be assigned to all New Zealand businesses. The NZBN helps businesses better connect and interact with other businesses and government agencies, through a shared network of information.
3. In May 2016, whole-of-government directions were issued setting out the requirements on government agencies to implement NZBNs [CO (16)3 refers]. The directions recognised that widespread use of NZBNs was critical for the benefits of the NZBN to be realised.
4. To this end, in August 2017, Cabinet agreed to amend eight sets of regulations to support the implementation of NZBN on some business entity registers, insolvency registers and consumer protection occupational registers within the Commerce and Consumer Affairs portfolio and the Building and Construction portfolio [EGI-17-MIN-0206]. The amendments ensured that the relevant registrars could:
  - 4.1. include NZBNs in their register; and
  - 4.2. enable register users to search using NZBNs as a search criterion.
5. The eight sets of regulations did not include the Incorporated Societies Regulations 1979 (the IS Regulations).
6. To support the implementation of the NZBN until the adoption of a new Incorporated Societies Act, it is now necessary to provide for the amendment of the IS Regulations.

#### **Proposed amendments to IS Regulations**

7. A small change will be needed to regulation 4 of the IS Regulations.
8. Regulation 4 sets out an exhaustive list of “matters to be recorded in the [incorporated societies] register”, and that list does not include any reference to a

9. In this context, I am seeking Cabinet approval to issue drafting instructions to the Parliamentary Counsel Office, with a view to amending Regulation 4 of the IS Regulations to add a society's NZBN as a "matter to be recorded in the register".

### **Proposal to make regulations under the Charitable Trusts Act 1957**

10. Section 28 of the Charitable Trusts Act 1957 (the CT Act) provides that "the Registrar shall keep a register in which shall be recorded all matters required by this Act or by any regulations under this Act". The CT Act, in its section 11(1), provides for the recording in the register of a few particulars (such as the name of the board) – but only upon registration; there is no provision for adding any particulars to the register (such as an NZBN) at a later date. In addition, no regulations have been made under the CT Act.
11. In this context, with the agreement of the Minister of Justice, who is responsible for the CT Act, I am seeking Cabinet approval to issue drafting instructions to the Parliamentary Counsel Office, with a view to making regulations under section 62 of the CT Act. Those regulations will set out the particulars that the register of boards (also known as the charitable trusts register) must include, namely the particulars currently included plus the NZBN of the board concerned. However, I propose that, during the drafting of those regulations, I should have the authority – in consultation with the Minister of Justice – to make decisions to add or remove certain particulars.

### **Consultation**

12. My officials have consulted the Companies Office, which administers the incorporated societies register and the charitable trusts register. The Companies Office is in favour of the proposed amendment.
13. My officials also consulted with the Ministry of Justice, the Department of Internal Affairs, the Treasury, the Department of the Prime Minister and Cabinet (Policy Advisory Group) and the Office of the Privacy Commissioner.
14. Because the paper has legislative implications, officials also consulted the Parliamentary Counsel Office.

### **Financial Implications**

15. There are no financial implications from these policy proposals.

### **Legislative Implications**

16. The IS Regulations will be amended as a result of the proposals in this paper, and regulations will be made under the CT Act. Approval of the relevant draft regulations will be sought by August 2019. This timeframe is designed to ensure the amendments take effect ahead of a revamp by the Companies Office of the

incorporated societies register and the charitable trusts register on 30 September 2019.

### **Impact Analysis**

17. The regulatory impact analysis requirements do not apply to the proposals in this paper as the proposed changes are minor and technical in nature.

### **Human Rights**

18. There are no human rights implications from these policy proposals.

### **Gender Implications**

19. There are no gender implications from these policy proposals.

### **Disability Perspective**

20. There are no disability implications from these policy proposals.

### **Publicity**

21. No media statements are planned.

### **Proactive Release**

22. I propose to proactively release this paper, in whole, within 30 business days.

### **Recommendations**

The Minister of Commerce and Consumer Affairs recommends that the Committee:

1. **note** that the New Zealand Business Number Act 2016 enables a unique identifier (an NZBN) to be assigned to all New Zealand businesses;
2. **note** that, in August 2017, Cabinet agreed to amend eight sets of regulations to enable corporate governance and occupational registers to include, and be searched by reference to, the NZBNs of registered entities [EGI-17-MIN-0206], but that these did not include any regulations under the Incorporated Societies Act 1908 or the Charitable Trusts Act 1957;
3. **agree** that the Incorporated Societies Regulations 1979 should be amended so that the incorporated societies register must include a society's NZBN;
4. **agree** that regulations should also be made under the Charitable Trusts Act 1957 to set out the particulars that the register of boards must include, by:
  - 4.1. codifying the particulars currently included in the register, subject to minor policy decisions to be determined by the Minister of Commerce and Consumer Affairs in consultation with the Minister of Justice; and
  - 4.2. adding the NZBN of the board concerned;

5. **invite** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to give effect to recommendations 3 and 4; and
6. **authorise** the Minister of Commerce and Consumer Affairs to make minor or technical changes, consistent with the decisions in this paper, on any issues that arise during drafting, where appropriate in consultation with the Minister of Justice.

Authorised for lodgement

Hon Kris Faafoi

Minister of Commerce and Consumer Affairs

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