

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

Your name and organisation

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Sent to: societies@mbie.govt.nz

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>Generally, we agree with the proposals, but note that:</p> <ul style="list-style-type: none"> • There may be situations where, under the amalgamation clauses, voting is driven by the percentage of members attending the meeting, or by the total membership. This may require clarification. In most cases, the association's constitution may address this. We recommend a clause that refers associations to the voting rights outlined in their constitution. • 192(c) seeks a membership figure. This is not always easy to calculate; as such, a calculation may not take into account the range of membership types (eg: organisation versus individual, etc)
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)?
		<p>Requiring applications to be filed online may be problematic for some disabled people who do not have access to the necessary equipment</p> <p>Requiring applications to be filed within 20 working days may be problematic for those in isolated areas, and disabled people who might rely on others to mobilise or to complete application. We also note the retrenched mail service around the country. We recommend extending this timeframe to 32 working days.</p>
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)?
		We agree with the proposal.
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)?
		We seek clarity that whether paid staff can be officer or not.

5	<i>Prescribing circumstances related to independent committee members</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(e)?
	It appears that 254(1) is focused on sports associations. If that is the intent, we would ask for a broader view and not limiting this to sports.	
6	<i>Prescribing jurisdictions whose officer disqualifications we will recognise</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(f)?
	<p>254(1)(e) should, in our view, be up to the Association rather than locked into a particular action through regulation.</p> <p>254(1)(f) should have a broader focus than just Australia and might (in our view) consider including Pacific Island nations, particularly those that are New Zealand protectorates.</p>	
7	<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)?
	We would question whether the physical address is required, given that an e-mail address has been supplied.	
8	<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)?
	We agree, there is no need for regulation.	
9	<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)?
	We believe this can quickly over-complicate matters and should be left to the Association through their constitution.	
10	<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>We believe attempting to re-define this over-complicates matters. There is no need to define this and should be left to the generally accepted definition promulgated by the Chartered Accountants Australia & New Zealand (CAANZ).</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>We agree, there is no need for regulation.</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>We believe the regulation should simply require any association with a turnover above \$3m to undergo a financial audit each year.</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>We agree with this proposal, subject to the timeframe changes we proposed in 254(1)(b) above.</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>
	<p>We believe the timeframe is too tight and should be 40 working days instead of 28. For most, the 20th of the following month will be sufficient, but for those associations struggling (hence the infringement and the subsequent penalty), a little more time would be helpful and appropriate.</p> <p>We also believe all forms of payments should be acceptable.</p>	
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>
	<p>We believe the timeframe should be extended from 20 working days to 40 working days, as with our recommendation for 254(1)(n) above.</p>	
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>
	<p>We agree with the proposal.</p>	

17	<i>Prescribing procedural requirements for surplus asset 'resolutions'</i>	Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(q)?
	We agree, there is no need for regulation.	
18	<i>Prescribing how documents must be served on a society</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(r)?
	We believe this clause should be aligned with the Companies Act, and an allowance made for electronic serving of documents.	
19	<i>Prescribing how documents must be served on a person</i>	Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(s)?
	We agree with the proposal.	
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)?
	We agree with the proposal.	
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)?
	We are unsure of the relevance of these proposed clauses and believe the proposed regulations should be general and broad, rather than specifically relating to one or two associations. This is to ensure the regulations are future proofed and any other association established under its own statute will be able to convert to an incorporated society if they wish to and meet the criteria.	

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)?
	We agree with the proposal.	

23	<i>Setting late fees</i>	Do you have any comments on MBIE's proposals regarding regulations under section 255(1)(b)?
	We agree with the proposal.	
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)?
	We agree, there is no need for regulation.	

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)?
	We agree, there is no need for regulation.	
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)?
	We agree, there is no need for regulation.	
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)?
	<p>We note that the purpose of this regulation is to enable time-limited, transitional changes to be made, such as the requirement for all incorporated societies to re-register under the new Act.</p> <p>We believe the time allowed for amendments to a constitution to be given to the Registrar in 25 working days is too short and that this should be extended to 32 working days to allow associations in isolated areas meet the requirements (clause 9(5) of Schedule 1). We note that there is allowance for late submissions, although this isn't clear, only that there is currently no fee.</p> <p>We believe the proposal to introduce a fee for re-registration (5(3)(e) to be reasonable.</p> <p>We believe there must be greater flexibility in the requirement for applications to be filed online as not all parties have ready or reliable access to online technology or capacity to use it (5(3)(f).</p>	

Other comments

<p>Thank you for the opportunity to make a submission on the proposed Regulations for the Incorporated Societies Act 2022. The New Zealand Disability Support Network (NZDSN) supports the objective of the proposed regulations. However, we also believe a number of proposed regulations would benefit from amendment to better reflect the needs and circumstances of associations in New Zealand and the disability community.</p>

About NZDSN

NZDSN is an incorporated society and the national peak body that represents over 160 organisations (many of whom are incorporated societies in their own right) that provide support services to disabled people, mainly through contracts with government. As a membership-based organisation, we lead, and influence changes required to support an inclusive life for disabled people in Aotearoa New Zealand. We represent the Disability Support providers in discussions with various government Ministries and Agencies. We also represent/advocate for Disability Support providers in pay equity negotiations and other relevant issues. Due to our close connection with our members, we have a unique understanding of the issues that the disability community faces.