

Incorporated Societies Bill

- **Key differences between the Bill and the current Incorporated Societies Act 1908**
- **Timeline that we are looking at**
- **What we don't like**
- **Questions**

Key differences
between

the Bill

and

**the current
Incorporated
Societies Act 1908**



Summary

The Bill recognises the principles that:

- Societies are **organisations with members** who have the **primary responsibility for holding the society to account**; and
- Societies are **private bodies** that should be **self-governing and free from inappropriate Government interference**; and
- Societies should **not distribute profits or financial benefits** to their members.

The **1908 Act** specifies that a society must consist of no less than **15 persons**.

The **Bill** specifies that this must be **10 persons**.

Both the Act and the Bill allow for bodies corporate to be members and they constitute **3 members** for each body.

Key differences between the Bill and the current Incorporated Societies Act 1908.

The **1908 Act is 29** pages long, the **Bill is over 100**.

The Act talks about the **“Rules”** of the society,

The Bill requires the society to have a **“Constitution”**.

Key differences between the Bill and the current Incorporated Societies Act 1908.

The differences between what **must be included in the Rules (1908 Act)** versus **what must be contained in the Constitution (Bill)** are:

- **We must keep a member register up to date**

- Constitution requires information on arrangements for keeping the society's register of members up to date;

- **Member access to other members (or not)**

- Constitution requires information on whether, and if so how, the society will provide access for members to the register;

- **The composition, roles and functions of the committee of the society has been expanded in the Bill**

Key differences between the Bill and the current Incorporated Societies Act 1908.

The differences between what **must be included in the Rules (1908 Act)** versus **what must be contained in the Constitution (Bill)** are:

- **The Constitution (Bill) requires member Grievance procedures**

The Constitution requires procedures for resolving disputes between members and between members and the society, including procedures for investigating and dealing with grievances of members relating to their rights and interests as members, and complaints concerning the misconduct or discipline of members. Schedule 2 of the Bill provides a template of what must be included in this section;

- **The Constitution (Bill) provides for expanded requirements for general meetings compared to the 1908 Act;**

- The Bill does not require the Constitution to describe the powers (if any) of the **society to borrow money.**

- The **1908 Act does not** provide a definition of what constitutes an “**officer**” of the society.

- **The Bill does**

As someone who is a member of the board or governing body of the society or a person occupying a position in the society that allows the person to exercise significant influence over the management or administration of the society (for example a treasurer or chief executive) but then talks about the requirement for the society to have a contact officer. The contact officer is described as being a member of the society’s committee (so not an officer in the manner of a treasurer or chief executive). This requires clarification – as does whether the society should have a “board”, a “committee” or either of these;

Key differences between the Bill and the current Incorporated Societies Act 1908.

Conflict of Interest

- The 1908 Act **does not** address the matter of what constitutes conflicts of interest and how these should be managed.
- **The Bill does and requires that the committee maintain a register of disclosures made by officers.**
- The Bill requires that **a person must consent to become a member** of the society;

Key differences between the Bill and the current Incorporated Societies Act 1908.

AGM

The Bill provides prescriptive requirements as

- to when and how often the society must hold an AGM,
- what information must be presented to members at the AGM,
- how meetings can be held (e.g. in person or by audio-visual or electronic)
- for members to request financial statements and minutes of meetings;

Key differences between the Bill and the current Incorporated Societies Act 1908.

- The Bill provides for the circumstances in which the society may (and may not) **indemnify or insure an officer, member or an employee of the society;**
- **The Bill provides for the way in which accounting records of the society must be kept and what they must contain;**
- **The Bill** provides for a **series of offences for officers of society** and the penalty for committing these. It also includes infringement offences and the circumstances in which a banning order may disqualify officer(s).

Key differences between the Bill and the current Incorporated Societies Act 1908.

Timeline

that we are
looking at:



Timeline that we are looking at:

Bill is formally published on the parliamentary website

First reading (when the Minister debates the Bill in the House for the first time) is about three sitting days.

The revised bill will be submitted to the house in the next few months (undetermined)

Then at the end of the first reading the House decides if the bill should progress and votes on whether it should be 'read a first time'.

If the 'first reading' is agreed, the bill is usually referred to a select committee to be considered in more detail.

The Select Committee usually has 6 months to examine the bill and prepare a report for the House. Select committees normally invite public submissions on a bill.

They will hold public hearings to listen to some of those who made submissions.

After hearing submissions they work through the issues raised, and decide what changes, if any, should be made to the bill.



What we



Contact person

S42

✓ Every society must have at all times a contact officer

The society's contact officer must be—

× **(a) a member of the society's committee** (and, accordingly, must not be disqualified under **section 39(2)**); and

✓ (b) at least 18 years of age; and

✓ (c) ordinarily resident in New Zealand.

Appeals from decisions (under section 184)

S187

- A person who is aggrieved by an act or decision of the Registrar under this Act may appeal to the ~~High Court~~ **District Court** within ~~15~~ **28** working days after the date of notification of the act or decision, or within any further time that the court may allow.

Financial Gain

S22.5

- In **subsection (3)(e) and (f)**, salary, wages, or other payments for services, and other transactions, are on **arm's length terms** if— (a) the terms— (i) would be reasonable in the circumstances if the parties were connected or related only by the transaction in question, each acting independently, and each acting in its own best interests; or
- (ii) are less favourable to the member than the terms referred to in
- **subparagraph (i); and**
- **(b) the salary, wages, or other payment for services, or other transaction, does not include any profit share, percentage of revenue, or other reward in connection with the activities of the society.**

What we don't like:

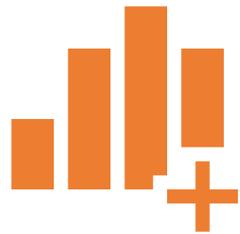
Liability of officers, members, and others to continue S137

- The removal of a society from the register does not affect the liability of any former officer or member of the society or any other person in respect of any act or omission that took place before the society was removed from the register and that liability continues and may be enforced as if the society had not been removed from the register.

Information to be presented

S74

- (1) The committee must, at each annual general meeting, present the following information: (a) an annual report on the affairs of the society during the most recently completed accounting period:
- (b) the financial statements of the society for that period:
- (c) **notice of the disclosures, or types of disclosures, made under section 57 (disclosure of interests) during that period (including a brief summary of the matters, or types of matters, to which those disclosures relate).**



Grievance AND Reporting - *We are just awaiting further information on what the legislative wording is*



Complaints - AuSAE will be utilising its members to ensure that some real templates can be utilised by other members



Electronic Data - We are going to be ensuring that the Bill future proofs any electronic data, and transactions that may occur in the future.



constitution



builder

**The
constitution
must
contain**



(24) The constitution must contain:

Rules regarding the following:

- The name of the society;
- The purposes of the society;
- How a person becomes a member of the society, including a requirement that a person must consent to be a member;
- How a person ceases to be a member of the society;
- Arrangements for keeping the society's register of members up to date;
- Whether, and if so how, the society will provide access for members to the register of members;

(24) The constitution must contain:

Whether, and if so how, the society will provide access for members to the register of members;

The composition, roles, and functions of the committee of the society, including –

- **The number of members that must or may be on the committee;**
- The election or appointment of committee members;
- The terms of office of the committee members
- The functions and powers of the committee;
- **Grounds for removal from office of committee members;**
- **How the contact officer will be elected or appointed;**

(24) The constitution must contain:

Rules regarding the following:

How the society will control and manage its finances;

The control and use of the society's common seal (if it has one);

Procedures for resolving disputes between members (in their capacity as members) and between members and the society, including procedures for investigating and dealing with:

The grievances of members relating to their rights and interests as members;

Complaints concerning the misconduct or discipline of members;

(24) The constitution must contain:

Rules regarding the following:

Arrangements and requirements for general meetings, including:

- The intervals between general meetings;
- The information that must be presented at general meetings;
- When minutes are required to be kept;
- The manner of calling meetings;
- The time within which, and manner in which, notices of general meetings and notices of motion must be notified;
- The quorum and procedure, including voting procedures, for general meetings;

(24) The constitution must contain:

Rules regarding the following:

- The method by which the **constitution may be amended**;
- The nomination of a not-for-profit entity, or a class or description of not-for-profit entities, to which any surplus **assets of the society should be distributed on a liquidation** of the society or the removal of the society from the register;

The constitution must not purport to confer on any member any right, title, or interest (legal or equitable) in the property of the society;

(24) The constitution must contain:

Rules regarding the following:

The arrangements and requirements under the rules the constitution must contain must include arrangements and requirements for **special general meetings**;

A not-for-profit entity means any of the following:

- *A society incorporated under this Act;*
- *A charitable entity within the meaning of the Charities Act 2005;*
- *A society, institution, association, organisation, or trust that is not carried on for the private benefit of an individual, and whose funds are applied entirely or mainly for benevolent, philanthropic, cultural, or public purposes in New Zealand.*

Bylaws, tikanga or culture, and other matters

The constitution may contain any other rules that are not inconsistent with this Act, or any other enactment, or the rules described in section 24(1), including providing for—

whether, and if so how, the society can make bylaws:

the society to express its tikanga or culture:

reasonable penalties to be imposed on any member (and for the consequences of the non-payment of any subscription or penalty):

any other matter relevant to the society's affairs.

A bylaw purportedly made by a society has no effect to the extent that it contravenes, or is inconsistent with, this Act or the society's constitution.

The making, amendment, or replacement of a bylaw is not an amendment of the society's constitution.

Incorporated Societies Bill



Constitution



Every society must have a constitution that complies with the Act.

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