

Incorporated societies

Change is on its way

1908 was a great year for New Zealand. The first passengers travelled by train on the North Island main trunk line, the legendary Edmonds Cookery Book was published, and New Zealanders competed in the Olympic Games for the first time. 1908 was also the year our Incorporated Societies Act was introduced.



STORY

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The Incorporated Societies Act 1908 has governed the operation of incorporated societies for 111 years now. Much has changed since 1908 and the Government has decided that the 1908 Act requires modernising to ensure it keeps up to speed with these changes.

What are incorporated societies and what does the 1908 Act require?

Incorporated societies are groups or organisations registered under the Incorporated Societies Act 1908, which are authorised by

law to run their affairs as though they were an individual person. This means that:

- Members are not personally liable for the society's debts, contracts or other obligations; and
- Members do not have any personal interest in any property or assets owned by the society.

There are more than 23,000 incorporated societies currently on the Incorporated Societies Register, including sports clubs, social clubs, and special interest groups. The register can be searched at www.societies.govt.nz/cms.



Photo by Laura Fuhrman on Unsplash
Club racing, Auckland Harbour, New Zealand, 1909, Auckland, by Muir & Moodie studio, Te Papa (PS.000927/02)
Albert Park, showing Northern Club, Auckland, circa 1912, Auckland, by Muir & Moodie studio, Te Papa (O.019320)
Bowling club members, Circa 1910, maker unknown. Te Papa (C.001988)

What's changing?

A draft Incorporated Societies Bill, which proposed a broad range of changes to the way incorporated societies operate, was open for public consultation from October 2015 to June 2016. 116 submissions were received from organisations as diverse as Master Plumbers, NZ Winegrowers, Federated Farmers, Acupuncture New Zealand and the Cycling Action Network. The Ministry of Business Innovation and Employment (MBIE) considered these submissions and, in May 2019, the Government's Cabinet Economic Development Committee reviewed the proposals and announced its intended amendments to the draft Bill¹. The Bill is expected to be introduced into Parliament later this year.

Reporting requirements

Under the 1908 Act, incorporated societies have reporting requirements but are not required to prepare financial reports in accordance with any prescribed standards or format, which results in a wide variety of reporting. Consequently, there can be a lack of transparency over the financial affairs of incorporated societies and financial information is often difficult to compare and understand. Under the proposed changes, incorporated societies that are not registered charities will be required to report using standards issued by the External Reporting Board (XRB) when they satisfy one or more of the following criteria:

- Annual payments of \$10,000 or more
- Assets of \$30,000 or more
- Donee status under the Income Tax Act 2007.

About one-third of all incorporated societies are also registered charities. All registered charities have been required to report under the XRB standards since 2016. Entities applying the not-for-profit standards are required, or will soon be required, to prepare non-financial information, to help readers understand what the entity has achieved, and provide transparency alongside the financial information.

Research² on incorporated societies undertaken in March 2016 found that 42% of entities had expenditure of less than \$10,000. As such, setting the threshold at \$10,000 payments is likely to remove the requirement to prepare financial statements in accordance with XRB standards for almost half of New Zealand's incorporated societies.

Assurance requirements

There is currently no requirement for incorporated societies to obtain an audit or independent review of their financial reports.

The draft legislation proposes a mandatory audit requirement where incorporated societies, that are not registered charities, satisfy one of the following criteria:

- Annual expenditure over \$2 million
- Assets over \$4 million.

Incorporated societies that do not meet these thresholds may elect to have an audit or review performed, which may provide stakeholders with greater trust and confidence.

Other enhancements

The proposals will clarify the roles and responsibilities of officers and introduce new eligibility requirements. This will ensure these volunteers have greater clarity about what is required of them and enable them to focus on advancing their society's purposes.

There will also be rules strengthening the provisions regarding actual and potential conflicts of interest.

Transitional arrangements

Incorporated societies will have at least two full financial years to make the necessary changes to their constitution to ensure all officers meet the eligibility requirements under the new Act and to re-register under the new Act. Re-registration will be actively required, rather than automatically transferred, as initially proposed.

At the end of the transition period, incorporated societies that have not re-registered will be de-registered by the effect of the new Act. However, these societies would be able to apply to be 'restored' (as the same entity) to the new register.

As part of the transition process, the Companies Office have committed to:

- Enhance the Register of Incorporated Societies
- Undertake an education campaign to let people know about the new regime.

What can we learn from the experience of registered charities?

Several commonalities exist between registered charities and incorporated societies, which means they are likely to face similar issues in transitioning to using the XRB standards. These include raising awareness of the need to comply with the new standards and engaging competent people to help prepare the required financial and non-financial information.

One of the issues experienced by registered charities was identifying control relationships that require financial information to be consolidated for accounting purposes. Scouts New Zealand was one charity that had to undergo this exercise, consolidating the financial information of 391 Scout groups across New Zealand into one set of financial statements. A number of religious groups also found themselves in a similar situation.

If you are involved with an incorporated society, it will be important to consider whether control relationships exist between your society and other entities. This exists where your society has the power to control the entity and to benefit from their operations.

If you have any questions about how the new proposals are likely to impact an incorporated society you are involved with, please get in touch with your usual Baker Tilly Staples Rodway advisor.

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1 Details provided on the MBIE Incorporated Societies project page
2 Riordan, S., Typical Transactions in Incorporated Societies that are not registered charities, March 2016