



NEW ZEALAND
LAW SOCIETY

NZLS EST 1869

THE NEW ZEALAND BUSINESS NUMBER BILL

18/06/2015

Submission on the New Zealand Business Number Bill

1 Introduction and summary

- 1.1 The New Zealand Law Society (Law Society) welcomes the opportunity to comment on the New Zealand Business Number Bill (NZBN Bill).
- 1.2 The Law Society made a submission in 2014 on the Exposure Draft NZBN Bill.¹ One of the points made in that submission regarding the NZBN Register, and some further comments on the NZBN Bill, are addressed below.

2 NZBN Register

- 2.1 The importance of the accuracy and integrity of the NZBN Register is demonstrated by the offences created in connection with knowingly providing false or misleading information and the significant potential fine (\$200,000).² The Bill and accompanying regulatory analysis emphasise the importance of the Register being a trusted source of data.
- 2.2 The Law Society previously noted that the Exposure Draft Bill required businesses to provide information that is accurate at the time of registration, but did not place any obligation on businesses to maintain the accuracy of the information after registration. Clause 40 of the Bill creates an offence for false or misleading statements made or given to the Registrar, but there is no requirement to notify the Registrar of subsequent changes in the information.
- 2.3 If there is no obligation to maintain the accuracy of the information, the Register will likely become and remain out of date, which will undermine the integrity of the Register itself.
- 2.4 In the Companies and Incorporated Societies contexts there are obligations to notify the relevant registrar of changes, and in some cases it is an offence not to comply with the obligation.³ In the Companies Act context the potential fine for breach of these obligations (\$10,000) is significantly less than the \$200,000 fine available for knowingly making false statements.
- 2.5 The success of the NZBN Register and the purpose of the Bill rely on the accuracy of the information on the Register. The Law Society therefore recommends that the Bill be amended to include:
 - (a) an obligation to notify the Registrar of changes to the details held on the Register; and
 - (b) an offence of failing to comply with this obligation, liable to a lower penalty (comparable to the \$10,000 provided for in the Companies Act context).

3 Additional matters

- 3.1 The examples in clause 12 of the Bill are useful. A more usual example of a small to medium enterprise with 2 to 4 employees may also be helpful.

¹ 30 September 2014, available at http://www.lawsociety.org.nz/_data/assets/pdf_file/0004/83479/l-MBIE-NZBN-ED-Bill-30-9-14.pdf.

² Compare the fine available for false statements under the Companies Act 1993: s 377.

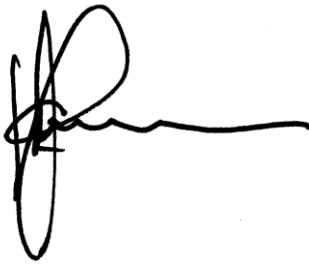
³ Companies Act: ss 32(3) (alteration or revocation of constitution), 159(1) (change of directors), 187(2) (change of registered office); Incorporated Societies Act 1908: ss 18(2) (change of registered office), 21(2) (alteration of rules); Charities Act 2005: s 40 (duty to notify changes).

3.2 For clarity, the Law Society recommends that the words “and continues in effect in accordance with this Act” should be added to the end of clause 1 of Schedule 1.

3.3 For clarity, reference to “Registered address” in Part 1 of Schedule 3 should be “Registered address or Registered office”.

4 Conclusion

4.1 The Law Society does not wish to be heard.

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a horizontal line that tapers to the right.

Chris Moore
President
18 June 2015