



COVERSHEET

Minister	Hon Scott Simpson	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025	Date to be published	11 February 2025

List of documents that have been proactively released

Date	Title	Author
December 2025	Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025	Office of the Minister of Commerce and Consumer Affairs
11 December 2025	Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025 LEG-25-MIN-0264 Minute	Cabinet Office

Information redacted

NO

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In Confidence

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Legislation Committee

Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025 (the **regulations**).

Policy

- 2 The Incorporated Societies Act 2022 (the **2022 Act**) replaced the Incorporated Societies Act 1908 (the **1908 Act**), putting in place modern governance and administration arrangements for societies. The 2022 Act followed a review of the 1908 Act by the Law Commission. All existing societies must reregister under the new Act, with a compliant constitution, by 5 April 2026.
- 3 One feature of the 2022 Act that differs from the 1908 Act is that the distribution of surplus assets to members when a society winds up is prohibited. This presents a particular challenge to certain residents' associations (**RAs**). RAs are entities structured as incorporated societies that manage, and sometimes also own, common property on behalf of residents in a residential development.
- 4 RAs that own common property on behalf of residents cannot distribute that property back to members if they wind up. In the absence of any intervention, these RAs will either have to restructure into different ownership form, or reregister with a compliant constitution by 5 April 2026. This short timeframe presents a risk that some RAs may become unincorporated on that date.
- 5 The regulations – made under section 256 of the 2022 Act – address this issue by providing for a transitional period to 5 October 2028 for RAs that own common property to decide the best course of action. They will still need to reregister by 5 April 2026 but will be permitted to retain a clause in their constitutions that provides for the distribution of surplus assets to members if they wind up for the duration of the transition period. During this time, they must either restructure into different ownership form or become compliant with the provisions of the 2022 Act.
- 6 Policy decisions for the regulations were obtained in October 2025 [ECO-25-MIN-0157, CAB-25-MIN-0348].

Timing and 28-day rule

- 7 No waiver of the 28-day rule is sought. The regulations will be gazetted following

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Cabinet consideration and come into force 28 days after.

Compliance

- 8 The regulations comply with each of the following:
 - 8.1 the principles of the Treaty of Waitangi;
 - 8.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
 - 8.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 8.4 the principles and guidelines set out in the Privacy Act 2020;
 - 8.5 relevant international standards and obligations;
 - 8.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 9 In order to make regulations under section 256 of the 2022 Act, I must be satisfied that they are:
 - 9.1 necessary or desirable for the orderly implementation of the Act; and
 - 9.2 are consistent with the purposes of the Act.
- 10 I consider that both of these statutory prerequisites are met because:
 - 10.1 there is limited time for RAs to restructure by 5 April 2026 and this presents a risk that they may become unincorporated on that date; and
 - 10.2 the overall intent of these regulations is to preserve the key principle in the 2022 Act that societies should not operate for the financial gain of their members.

Regulations Review Committee

- 11 There are no grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives as a Standing Order requirement.

Certification by Parliamentary Counsel

- 12 The Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025 have been certified by the PCO as being in order for submission to Cabinet, provided that, as required by section 256(2) of the Act, the Minister is satisfied that the regulations:
 - 12.1 are necessary or desirable for the orderly implementation of the Act; and
 - 12.2 are consistent with the purposes of the Act.

Impact Analysis

- 13 The Ministry for Regulation has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts.

Publicity

- 14 I will communicate with stakeholders directly advising them of when the regulations will come into force. The Companies Office will also update its website with this information.

Proactive release

- 15 This paper will be proactively released within 30 business days, subject to redactions as appropriate under the Official Information Act 1982.

Consultation

- 16 The Ministry of Housing and Urban Development, Department of Internal Affairs, Land Information New Zealand, and the Ministry of Justice were consulted on this paper.
- 17 The New Zealand Law Society and the Law Association were consulted on an exposure draft of the regulations and their feedback incorporated.

Recommendations

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

- 1 **note** that, in October 2025, Cabinet agreed to an extended transition period for residents' associations that own common property to comply with the provisions relating to the distribution of surplus assets in the Incorporated Societies Act 2022 if they notify the Registrar [ECO-25-MIN-0157, CAB-25-MIN-0348];
- 2 **note** that the Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025 will give effect to the decisions referred to in paragraph 1;
- 3 **authorise** the submission to the Executive Council of the Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025;
- 4 **note** that the Incorporated Societies (Transitional Arrangements—Disposal of Surplus Assets to Members) Amendment Regulations 2025 come into force 28 days after they are notified in the Gazette;
- 5 **note** that, before recommending making regulations under section 256 of the Incorporated Societies Act 2022, the Minister of Commerce and Consumer Affairs must be satisfied that they are:

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- 5.1 necessary or desirable for the orderly implementation of the Act; and
- 5.2 are consistent with the purposes of the Act;
- 6 **note** the advice of the Minister of Commerce and Consumer Affairs that the requirements in paragraph 5 have been met.

Authorised for lodgement

Hon Scott Simpson

Minister of Commerce and Consumer Affairs