

ISACA Wellington

Constitution refresh – responding to membership feedback (26 September 2011 Special General Meeting)

Question 1 – Compliance with Incorporated Societies Act

▶ Legal question:

- ▶ Are there any clauses missing that should be included in the constitution in relation to our position as a New Zealand incorporated society?

▶ Legal answer:

- ▶ The proposed Constitution appears to comply with the requirements of section 6 of the Incorporated Societies legislation except for Rules to provide for the control and use of the common seal of the Society

▶ Response:

- ▶ Article VIII has been added to the proposed constitution (refer lines 308 through 313)

Question 2 – Sponsorship

▶ Constitution reference:

- ▶ Line 168 and 169 (current constitution): “(c) seek and secure from any interested individual or organisation recognition and financial support for carrying out the objects of the chapter”

▶ ISACA membership feedback:

- ▶ Whilst this is not something we currently do or need to do, should ISACA Wellington rule out the opportunity to secure future sponsorship for its work?

▶ Legal question:

- ▶ Does the above clause allow us to seek sponsorship for our work?

▶ Legal answer:

- ▶ “I am not convinced that the draft specifically deals with that issue. However, I do not believe there is any prohibition on you obtaining sponsorship for your work and that, therefore, you do not need to specifically address that matter in the Constitution.”

▶ Response:

- ▶ N/A

Question 3 – Borrowing money

▶ Constitution reference:

- ▶ Line 32 to 36 (current constitution): “...raise or borrow money in such manner and upon such security (if any) and in particular upon the security of any mortgage...”

▶ ISACA membership feedback:

- ▶ Should this option be left open, e.g. if funds are required for CACs, but limiting its use to “with the prior approval of an SGM”?

▶ Legal question:

- ▶ Does the proposed constitution, without specific reference to raising or borrowing money, allow us to borrow money using the financial products noted in the constitution?

▶ Legal answer:

- ▶ “The draft Constitution does not appear to specifically deal with the issue of borrowing money.

Section 6 of the Incorporated Societies Legislation provides that in your Rules you shall provide for “the powers (if any) of the Society to borrow money”. My interpretation of that is that if you do not have a specific reference to the borrowing of money that you would be unable to do so.

Question 3 – Borrowing money continued

If you are going to deal with the issue of borrowing money then I would also suggest that you provide an authority for the organisation to provide security over any of its assets.”

▶ Response:

- ▶ A provision to borrow money from any New Zealand bank has been added (refer lines 283 through 285)

Question 4 - Dissolution

▶ Constitution reference:

- ▶ Line 332 to 340 (new constitution): “If dissolution of the Chapter becomes inevitable, these bylaws must be rescinded by a two-thirds (2/3) vote of the **chapter membership...**”

▶ ISACA membership feedback:

- ▶ Given current response rates, will a 2/3 chapter membership vote be achievable, or should this be updated to reflect 2/3 of supplied votes (at a minimum of a quorum) in a favour of dissolution?

▶ Legal question:

- ▶ Is 2/3 of supplied votes (at a minimum of a quorum) in favour of dissolution a viable alternative? If so, how should this be worded?

▶ Legal answer:

- ▶ As dissolution is a very important decision I would suggest that 2/3rds should be a minimum. In some situations, e.g. company law, a special resolution of 75% of shareholders is required

Question 4 – Dissolution continued

▶ Response:

- ▶ No changes have been applied to the draft constitution, i.e. the clause “If dissolution of the Chapter becomes inevitable, these bylaws must be rescinded by a two-thirds (2/3) vote of the chapter membership...” will remain