

## **New Societies Act: Impact on Pre-existing Societies**

	<b>Current Society Act</b>	<b>New Societies Act</b>
<b>Types of society</b>	<p>Only societies that <u>do not</u> have a charitable purpose:</p> <ul style="list-style-type: none"> <li>• can, on their winding up, distribute assets without restriction, and</li> <li>• can convert to companies.</li> </ul> <p>Otherwise, all societies are treated the same.</p>	<p>Only “member-funded societies” *:</p> <ul style="list-style-type: none"> <li>• can, on winding up, distribute assets without restriction, and</li> <li>• can convert to companies.</li> </ul> <p>As well, member-funded societies are subject to fewer disclosure and accountability measures than other societies.</p> <p>* Member-funded societies are funded primarily by their own members to carry on activities for the benefit of those members. A society cannot be a member-funded society if it receives significant public donations or government funding or is a type of society that is specifically not allowed to be a member-funded society under the Act or the regulations. [See Societies Act section 191 and Societies Regulation sections 12 and 13]</p>
<b>Registry Filings</b>	<p>Most filings are paper-based.</p> <p>All special resolutions must be filed.</p>	<p>Most filings will be electronic.</p> <p>Special resolutions will not be filed.</p>
	<p>For bylaw changes, only the wording altering the bylaws is required to be filed – there is no automatic consolidation of updated bylaws.</p>	<p>Bylaw changes will be automatically consolidated into an evergreen, updated set of bylaws.</p>
	<p>Requires separate filings for changes of directors and registered office, although current registry practice allows changes of directors to be made on annual reports.</p>	<p>Allows for changes of directors and registered office to be made on annual reports as well as by separate filings.</p>
<b>Records</b>	<p>Provides members with access to their society’s corporate records, but allows the bylaws to restrict.</p>	<p>Provides member access to all corporate records, but allows the bylaws to restrict access to directors’ meeting records and accounting records.</p> <p>Directors may restrict members’ access to register of members if access would be harmful to the society or a member.</p>
	<p>Public has right to copies of societies’ financial statements. Otherwise, Act is</p>	<p>Societies, other than “member-funded societies”, must provide</p>

## New Societies Act: Impact on Pre-existing Societies

	silent on public access to societies' corporate records.	copies of financial statements to members of the public upon request. A society's bylaws may provide for public access to other corporate records.
<b>Financial matters</b>	Special resolution required to approve borrowing.	Borrowing left to discretion of directors, but can be restricted by bylaws.
	Act contains no requirement to disclose remuneration.	Societies, other than "member-funded societies", must disclose remuneration paid to directors, and to the highest paid employees and contractors (earning over \$75 000), in their financial statements. [See Societies Regulation section 9]
	Outside of the dissolution process, a society may not dispose of its assets to a member without receiving full consideration in return.	Outside of the dissolution process, a society may not dispose of its assets to any person unless <ul style="list-style-type: none"> <li>• the society receives full consideration in return</li> <li>• the payment is in furtherance of society's purposes</li> <li>• the payment is to a qualified recipient (another asset-locked entity such as a charity)</li> <li>• the payment is otherwise required or authorized by law.</li> </ul>
	Act is silent on the provision of financial assistance.	Allows societies to provide financial assistance if the assistance is disclosed in the financial statements. Financial assistance given in the ordinary course of a society's activities in furtherance of its purposes need not be disclosed.
<b>Directors</b>	Societies must have at least 3 directors, one of whom must be ordinarily resident in BC.	Societies, other than "member-funded societies", must have at least 3 directors, one of whom must be ordinarily resident in BC; "member-funded societies" need only have one director and none of the directors need be ordinarily resident.

## **New Societies Act: Impact on Pre-existing Societies**

	Act contains no qualifications for directors or senior managers.	Directors and senior managers must meet specific qualifications, including that they be at least 18 years of age. (This requirement does not apply until November 28, 2018.)  The regulations allow for directors and senior managers aged 16 and 17 if certain conditions are met. [See Societies Regulation section 10]
	Act contains no board composition requirements.	The majority of the directors of a society, other than a “member-funded society”, must not be employed by or under a contract for services to the society. (This requirement does not apply until November 28, 2018.)
	Act is silent on whether directors may be remunerated.	Directors may not be remunerated unless permitted by the bylaws. (This requirement does not apply until November 28, 2018.)
	Act does not require that directors formally consent to being directors.	The designation, election or appointment of a director is not effective unless the individual consents in writing or the designation, election or appointment occurs at a meeting and the individual does not refuse. (This requirement does not apply until November 28, 2018.)
	Indemnification for directors’ liability only permitted with approval of court.	Indemnification of legal expenses required if director not found liable. Indemnification for directors’ liability is allowed without court approval, but a society may restrict entitlement in its bylaws.
	Directors have fiduciary duty to act in the best interests of the society.	Directors have fiduciary duty to act in the best interests of the society and with a view to its purposes. Directors may be personally liable for unauthorized distribution of society’s money or other assets. Directors may be relieved of liability if they reasonably relied on professional advice, and court may relieve the liability of a director who, in the

## New Societies Act: Impact on Pre-existing Societies

		circumstances of the case, acted honestly and reasonably.
	Directors must disclose interests in proposed contracts.	Directors must disclose material interests in proposed or existing contracts or transactions or in a matter that might put a director's interest in conflict with the director's duties to the society. Disclosures must be recorded and accessible to members.
<b>Members and meetings</b>	Special resolution requires passage by $\frac{3}{4}$ of voting members present at meeting.	Special resolution requires passage by 2/3 of voting members present at meeting, but bylaws of a society may specify a higher threshold. [See Societies Transitional Interim Regulation]
	Unalterable provisions of a society's constitution cannot be altered.	Unalterable provisions must be moved to the society's bylaws on transition. After that, they can be altered by special resolution, with some exceptions. [See Societies Regulation section 18]
	Requires registry approval if society has more non-voting than voting members.	No restriction – different classes of members allowed, as long as classes and their rights are set out in the bylaws.
	AGM must be actually held.	AGM need not actually be held if all voting members consent to the business.
	AGM must be held every year within 15 months of last AGM.	AGM must be held every year with no other timing requirement.
	10% of the voting members may requisition a general meeting.	10% of voting members, or lesser percentage if set out in the bylaws, may requisition a general meeting.  5% of voting members, or lesser percentage if set out in the bylaws, may request that a matter be put on the agenda of an AGM.
<b>Remedies</b>	Court may remedy the consequences of a corporate mistake (e.g., an improperly called meeting). No other court orders are available.	Court remedies/orders include: <ul style="list-style-type: none"> <li>• remedying corporate mistakes</li> <li>• remedies for members that claim to be oppressed by an action of the society</li> </ul>

## New Societies Act: Impact on Pre-existing Societies

		<ul style="list-style-type: none"><li>• derivative actions (to defend or maintain an action on behalf of the society)</li><li>• compliance or restraining orders</li><li>• orders correcting corporate records or declaring the contents of missing records.</li></ul>
	Registrar may order a society to provide copies of financial statements.	Registrar may order a society to provide copies of financial statements, or any other corporate records to which a person has a right of access.

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