

24 February 2021

Advice to Members

Last year, the Board instructed VPIS' solicitors to draft a new constitution (**Draft Constitution**) for VPIS in advance of anticipated changes to incorporated societies legislation. The changes include mandatory requirements for societies' rules. The Board took this opportunity to review and update VPIS' rules to ensure they are workable, modern, and easily understood.

The Draft Constitution has been developed in accordance with the draft Incorporated Societies Bill (**Draft Bill**) with a view to:

- a. compliance with the requirements of the Draft Bill;
- b. achieving VPIS' purposes;
- c. modernisation; and
- d. overall clarification and simplification.

The following is a commentary on the key components of the Draft Constitution as it relates to the Draft Bill and VPIS' existing rules.

Purposes and Powers

Purposes

VPIS' objects have been reorganised for clarity and simplification. In accordance with the recommendation in the Law Commission's Report preceding the Draft Bill, VPIS' "*objects*" are now expressed as "*purposes*".

The previously undefined term "*Veterinary Science*" has been replaced with the term "*Veterinary Services*". "*Veterinary Services*" are defined as "*services relating to the diseases, injuries, and treatment of agricultural and domestic animals*". This change removes an unnecessary term and ensures consistency throughout the Draft Constitution.

The wording of the purposes in rule 4.1.2 has been updated to widen the possible ambit of insurance cover that may be arranged and to make clear such cover can extend to Member's employees and contractors who provide Veterinary Services.

Powers

VPIS' powers are now expressed in terms consistent with the Draft Bill. Clause 17 of the Draft Bill will give incorporated societies full capacity to do any act, carry on or undertake any activity, or enter into any transaction. It is therefore no longer necessary to recite every power in a society's constitution. Only provisions restricting a society's capacity or powers need to be included in the constitution.

Membership

Eligibility and Options

The expression of persons qualified to apply to be a member has been updated for clarity and consistency.

Rule 6 of the Draft Constitution enables the Board to use by-laws to prescribe membership options, requirements for admission to membership options, and the rights attaching to membership options. This wide power achieves the same effect as rule 4.3.1 of the existing rules while also increasing flexibility. Accordingly, the “*Temporary Membership*” rule has been removed.

Admission of Members

Prospective members must apply to the Board for admission. The Board has complete discretion in respect of applications for admissions and the admission process.

Register of Members

The Draft Constitution provides for a Register of Members in accordance with the requirements of the Draft Bill. Currently the Secretary is expressed as being responsible for the Register.

“*Officers*” of VPIS are permitted to access the Register for the performance of their functions and exercise of their powers. The term “*Officers*” is used instead of “*Board Member*” because of the broad definition of “*Officer*” to be included in the Draft Bill. The definition will include persons who can exercise significant influence over the management of the society, not just Board Members.

Fees

Rule 10 of the Draft Constitution enables the Board to use by-laws to determine Members’ fees payable to VPIS. Rule 10 has same effect as existing rule 5.1 while providing additional clarification.

Cessation of Membership

Membership ceases in the usual circumstances. Existing rule 10.2.1 appears to permit termination of membership for default immediately after the due date for payment of fees. This is been clarified in rule 11.3, permitting termination for default when fees have been due and owing for 20 calendar days after the date of a notice requiring payment. The Board still has the discretion to determine due dates for the payment of fees under rule 10.2.

Governance

Board

The Draft Constitution prescribes the composition of the Board and the requirements for Board membership in accordance with existing rule 6. “*Principal*” is now defined as “*a senior Veterinarian appointed as a principal of a Member for the purpose of membership of the Society*”. This ensures consistency across rule 6 and rule 28 as to voting.

Elections and Appointments

Rule 13 of the Draft Constitution prescribes the Board Member election process. The process is expressed in generic terms to permit both postal and electronic ballots. An election is not invalidated by one Member’s failure to receive a call for nominations or a list of nominees, provided the Secretary has conducted the election in good faith.

One new feature in the Draft Bill is the “*contact officer*” role. Currently the Draft Bill requires contact officers to be members of the society’s committee. However, we understand this requirement is going to

be relaxed, making other society personnel eligible for appointment. The Draft Constitution requires the Board to appoint either a Board Member or VPIS Employee to be the contact officer.

Parts of existing rules 6.4 and 6.6 relating to first Board Members have been removed as irrelevant.

Functions and Powers

The functions and powers of the Board are expressed in broad terms, similar to the capacity and powers of VPIS as a society. The Draft Bill will provide society committees with all the powers necessary for running an incorporated society. The Board's powers are expressed in a manner that is consistent with the Draft Bill, maximises Board autonomy, and prevents ultra vires actions.

We have removed the rules relating to the delegation of powers to committees. The Board's powers are expressed in such broad terms as to include forming and delegating powers to subcommittees.

Board Meetings

The provisions for Board Meetings are expressed in terms that ensure compliance with the requirements of the Draft Bill. The Draft Constitution permits electronic participation in Board Meetings, electronic postal voting, and resolutions in lieu of a meeting for both modernisation and general convenience.

Register of Interests

Rule 17 provides for the keeping of a Register of Interests to assist in the identification and management of Officers' conflicts of interest. Maintaining the Register of Interests is mandatory under clause 65 of the Draft Bill. A template Register of Interests is included in Schedule 2 to the Draft Constitution. The term "Officer" is used here instead of "Board Member" for the same reasons given above in respect of the Register of Members.

Finance

The finance provisions are minimal and ensure compliance with the Draft Bill. They reflect the Board's control of VPIS' finances, subject to society resolutions.

The appointment of an auditor has been expressed as compulsory in accordance with rule 13.4 of the existing rules.

General Meetings

The General Meetings provisions of the Draft Constitution are consistent with the timing, process, and content requirements in the Draft Bill. Electronic participation in General Meetings is permitted in the same manner as for Board Meetings.

A General Meeting will not be invalidated because one Member did not receive notice of the meeting, provided that the Secretary has sent a notice to all Members in good faith.

The term "Voting Member" is used in rule 28 to be consistent with the approach to membership options. A "Voting Member" is a member of a membership option that is entitled to vote at General Meetings, in accordance with by-laws issued under rule 6.2.

For clarity, the Draft Constitution requires Members who are not natural persons to appoint a Principal to exercise their vote at a General Meeting. This will avoid problems where there are two or more Principals present.

Dispute Resolution

The dispute resolution provisions have been drafted in accordance with the Draft Bill's requirements for members' complaints against VPIS and members' grievances against VPIS or another member. The

procedures are expressed in very broad terms to meet the minimum requirements in the Draft Bill and also give VPIS and the Board flexibility to deal with disputes as it sees fit. Of note are the commitments to natural justice and impartiality.

Administration

This section of the Draft Constitution contains miscellaneous provisions that are necessary to operate VPIS and comply with the Draft Bill. These rules address matters such as amendments to the constitution, by-laws, winding up, notices, and indemnity and insurance.

Transitional Arrangements

The transitional provisions in the Draft Bill will be amended before the Bill is introduced to Parliament. The updated provisions will provide for a shorter transitional period of two and a half years. During that period societies will be able to amend their constitution and ensure their officers meet new eligibility requirements. At the end of the transitional period all provisions of the new legislation will commence.

The updated provisions will also require societies to actively re-register under the new legislation, rather than automatically coming under it.