

Historic Places amendment toolkit

This toolkit has been prepared as a general guide by the Ministry for Culture and Heritage, aimed at Historic Places Trust Branch committees looking to establish themselves as Charitable Trusts or Incorporated Societies. The toolkit includes guidelines for establishing a Charitable Trust or Incorporated Society, and funding options for heritage institutions.

If a committee or individual wishes to establish a local group to advocate for heritage in their community, they may choose to establish themselves as either a **charitable trust** or an **incorporated society**.

There are a number of differences between charitable trusts and incorporated societies. Some of these differences are set out below. More detail, and information on any of the application processes mentioned in this guide, can be found by visiting the Companies Office website: <http://www.companies.govt.nz/cms> or by calling the freephone number (within New Zealand): 0508 SOCIETIES 0508 762 438.

The Companies Office (part of the Ministry of Economic Development) oversees the registration of charitable trusts and incorporated societies.

Charitable Trusts

To be registered under the Charitable Trust Act 1957, a trust must exist principally or exclusively for a charitable purpose *or* a purpose that is religious or educational.

A charitable trust can operate in almost exactly the same way as an individual person can. A trust can hold property, raise mortgages, hold bank accounts and generally hold all types of assets and investments as long as it operates according to the powers set out in the trust deed.

Where there are five or more trustees they can incorporate as a charitable trust board. Incorporation as a board means the board, and not the trustees, will enter into all obligations, and it, not the trustees, will be sued if some default occurs. The trustees must continue to act to the

high standards that the law requires whether or not they decide to incorporate as a board.

You can find further information at:

www.societies.govt.nz/cms/charitable-trusts or by calling the freephone number referred to above.

Incorporated Society

Key features of becoming an incorporated society are as follows.

- A society becomes a separate legal entity once incorporated.
- An incorporated society can lease, rent, buy and sell property, borrow money and enter contracts in its own name. No member of the society can have personal rights or interests in any of the assets of the society.
- An incorporated society will continue as a separate entity even though its membership changes.
- Members will not be personally liable for the debts, contracts or other obligations of the society unless:
 - The debts or obligations are incurred from activities undertaken to obtain money for pecuniary gain (profit), in which case every member involved will be personally liable for those debts or obligations; or
 - The debts and obligations are incurred through unlawful activities, in which case every member involved will be personally liable for those debts or obligations
- Because the rules governing the incorporated society must meet the minimum requirements set out in the Incorporated Societies Act 1908, members can be assured that there will be certainty to the way the society is run.

You can find further information on Incorporated Societies and practical assistance with forms etc on this link from the Companies Office site: www.societies.govt.nz/cms or by calling the freephone number referred to above. Information on incorporated societies is also [available here](#).

Charitable Status

If you wish to apply for community based funding such as funding from Community Trusts, your organisation will need to have charitable status.

The new group must apply to the Charities Commission to establish itself as having charitable status. Registration as a charity means that the group will be exempt from income tax. In addition supporters or funders will be able to find detailed information about the organisation on the Charities Register. Registration as a charity does not affect an organisation's legal entity status or any of the organisation's other legal obligations if applicable (for example under the Charitable Trusts Act 1957 or the Incorporated Societies Act 1908).

The Charities Commission stipulates that organisations must meet certain requirements in order to be registered as a charity. These include:

- Specifying the sector/s that the organisation operates in, its activities, who benefits from the organisation, and the geographical area the organisation operates in.
- Providing a copy of the rules, trust deed or other governing document
- If the organisation is a trust, specifying the clause or rule numbers in the trust deed that state that the trust is set up to receive income for charitable purposes.

Registration as a charity is straightforward and can be done on the Charities Commission website at www.charities.govt.nz. To apply by post, call the Charities Commission on **0508 242 748** and ask them to post a Registration Information Pack out.

Charities are required to submit Annual Returns to the Charities Commission. The Annual Return asks for a copy of the charity's financial accounts and includes a statement of the financial performance of the charity. Incorporated societies that register with the Charities Commission are not required to send Financial Statements to the Companies Office.

Information on running a charity can be found on the Charities Commission website www.charities.govt.nz or by calling **0508 242 748**.

Funding options for heritage institutions and projects

A large number of people and organisations make grants and offer funding in New Zealand – more than 700.

The Funding Information Service offers a database, FundView, which lists funders and funds that groups can apply to. In many places access is free through the local community (such as in the library or at the local council, or at a university). Email or call Funding Information Service to ask where is the closest free site. Their website is at www.fis.org.nz and phone number is 04 471 8900.

Access to this site, and broader funding information for the arts, culture and heritage sector is also available on the [Ministry for Culture and Heritage website](#).

Department of Internal Affairs lists gaming machine funders on its [website](#).

Where to go for more help

The websites mentioned in this document provide information on registration processes and related facts.

For specific, free advice you can visit your local community law centre. To find your local community law centre visit the [Legal Services Agency website](#).

Copyright and disclaimer

This guide draws substantially on content from the Societies and Trusts Website (Companies Office) and the Charities Commission Website. This content is protected by New Zealand Crown copyright. Whilst every effort has been made to ensure its accuracy, the Crown will not be liable for the provision of any incorrect or incomplete information. Specific advice should be sought before applying any of the information.