

Disqualification of Officers under the Incorporated Societies Act 2022 (New Zealand)

This document summarises who is disqualified from being an officer of an incorporated society under the Incorporated Societies Act 2022 (NZ). *It is based primarily on section 47 of the Act and is written in plain English for practical governance use.*

1. Under 16 years of age

A person is disqualified if they are under the age of 16. Officers must have sufficient legal capacity to hold governance responsibilities.

Legislative reference: Incorporated Societies Act 2022, section 47(3)(a).

2. Undischarged bankrupt

A person who is currently an undischarged bankrupt cannot be an officer. Once the person is discharged from bankruptcy, this disqualification no longer applies.

Legislative reference: section 47(3)(b).

3. Banned from company or entity management

A person is disqualified if they are prohibited from being a director, promoter, or from taking part in the management of an incorporated or unincorporated body under the Companies Act 1993, Financial Markets Conduct Act 2013, or Takeovers Act 1993.

Legislative reference: section 47(3)(c).

4. Disqualified under the Charities Act 2005

A person is disqualified if they are barred from being an officer of a charitable entity under section 36C of the Charities Act 2005. This often relates to serious wrongdoing or governance failures in a charity.

Legislative reference: section 47(3)(d).

5. Certain criminal convictions within the last 7 years

A person is disqualified if, within the previous seven years, they have been convicted and sentenced for serious governance offences under the Act, crimes involving dishonesty, serious tax offences, equivalent overseas offences, or offences relating to money laundering or the financing of terrorism.

Legislative reference: section 47(3)(e).

6. Subject to specified court or statutory orders

Disqualification applies if a person is subject to certain court or statutory orders, including banning orders, forfeiture orders under criminal proceeds legislation, credit contract management orders, or property management orders due to lack of capacity.

Legislative reference: section 47(3)(f).

7. Comparable overseas orders

A person is also disqualified if they are subject to a substantially similar order made overseas in a jurisdiction prescribed by regulations.

Legislative reference: section 47(3)(g).

8. Failure to meet constitution-specific qualifications

A society's constitution may set additional qualifications for officers. Failure to meet those requirements (for example, membership or independence criteria) results in disqualification for that particular society.

Legislative reference: section 47(3)(h).

Important compliance notes

- Officers must give written consent to their appointment and certify that they are not disqualified.
- If a disqualified person acts as an officer, they are still treated as an officer for the purposes of duties and liabilities under the Act.

Legislative reference: sections 47(2) and 47(4).