

The SPCS SOCIETY

for the promotion of community standards



Incorporated Society

No. 217833

Registered

25/09/75

SOCIETY FOR PROMOTION OF COMMUNITY STANDARDS INC.

Charity No. CC 20268

(Registered 17/12/07)

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The objectives of SPCS –

From Section 2 of the Constitution

(a) To encourage self-respect and the dignity of the human person, made in the image of God.

(b) To uphold the universally held principles: “Every human being has the inherent right to life”.

(c) To promote wholesome personal values, consistent with the moral teachings of the Bible, including strong family life and the benefits of lasting marriage as the foundation for stable communities.

(d) To focus attention on the harmful nature and consequences of sexual promiscuity, obscenity, pornography, violence, fraud, dishonesty in business, exploitation, abuse of alcohol and drugs, and other forms of moral corruption, for the purpose of moral and spiritual improvement.

(e) To foster public awareness of the benefits to social, economic and moral welfare of the maintenance and promotion of good community standards.

[See p. 12 for full list of 7 objectives]

Membership of the Society is by way of a donation for those who commit support to our objectives. (See p. 12 for membership details and/or visit our website www.spcs.org.nz)

Please make a donation online direct to the Society’s ANZ bank account 06-0541-0116866-00 or make a deposit at your nearest ANZ branch. Alternatively, mail us a cheque made out to “SPCS Inc.” (or full Society name) – P.O. Box 13-683, Johnsonville 6440.

Please add a reference note to any online deposit record identifying yourself and/or your organisation AND send us a stamp addressed letter if you wish to receive a receipt for your donation for tax rebate purposes.

Milestones



19 Nov. 2016 marked 3YEARS since -

the Society gained Bronze level membership status of the anti-corruption organisation



17 Dec. 2015 marked 9 YEARS since -

the Society was registered as a charity under the Charities Act 2005.

Brief News Items 2016

SPCS is planning to submit to the Transparency International NZ Board¹ shortly, a number of detailed reports completed in 2016 relating to the need for the Ministry of Business Innovation and Employment to ensure greater integrity and transparency of its website following recent amendments to the Companies Act 1993. One report relates to a High Court decision dealt with on page 10 of this newsletter.

Dr Andrew Jack (photo below), appointed New Zealand's Chief Censor on 22 December 2010, argues that censorship is more important than ever because of the *sheer volume* of entertainment now available *online*.



To Be Replaced Soon

Now in his sixth year in the role, he has stated:

“If I’m watching pornography that’s R18, there’s nothing wrong with that. Except that if I watch large quantities of it, it may be influencing the way I interact with real life people.”

In a Media Release dated 22 September 2016 Dr Jack said the Classification Office is viewing an increasing amount of horrific and gratuitous sexual violence in mainstream entertainment targeting young people.

¹ Note: The anti-corruption objectives of TINZ Inc. dovetail with those of SPCS. The latter include: “to focus attention on the harmful nature and consequences of fraud, dishonesty in business ... and other forms of moral corruption, for the purpose of moral and spiritual improvement.” See: www.spcs.org.nz/objectives/

"Violent media is helping to shape a violent New Zealand," says Dr Jack.*²

The Minister of Internal Affairs is seeking applications from suitably qualified candidates to be considered for appointment as Chief Censor of Film and Literature Classification.

Applications closed: 5PM, Friday 30/09/16.

The year 2016 marked 100 years since the Cinematographic Film Censorship Act passed making it illegal to show any film in New Zealand without it first being passed by the censor. Nga Taonga Sound & Vision marked the centenary of censorship in NZ with a screenings in Wellington of CENSORED – 100 Years of Film Censorship in NZ, Censorship was introduced in NZ as a response from church groups, educators and activists that Kiwis could be morally corrupted by watching objectionable content.

Broadcasting Minister Amy Adams has stated that she wants to make the rules governing traditional and online media more consistent. The new rules would be fairer she said. The Government will introduce a **Digital Convergence Bill**, giving effect to the changes, which will also extend to the Broadcasting Act to cover on-demand content. That will have implications for the way services such as Spark internet television service Lightbox and Netflix classify their programmes. The classification of broadcast and on-line content would be handled the same way under the Broadcasting Act, with complaints handled by the Broadcasting Standards Authority (BSA), Adams said.

Source: *Stuff News* Report 21/08/16.

Please visit the SPCS website

www.spcs.org.nz

Presidential Urgent Appeal for Funding Support for 2017



Dear members, friends and supporters of SPCS

As the Society embarks soon on its 17th year of operation since the passing of its founder Patricia Bartlett OBE and its 42nd¹ year since becoming an incorporated society, the executive is very conscious of the challenges it faces to continue the “Stand For Decency” and the “Promotion of Community Standards” begun back in 1970 by our founder and the thousands of financial Society members throughout the country who so valiantly supported her and the national executive.

On behalf of the executive I appeal to you to please help us find funding sources for the Society so we can continue and expand our work into 2017. We are most grateful for some very generous donations received last year which is indicative of the wonderful goodwill that exists among members.

Please Note: The prompt renewal of your membership donations for the current financial year (which commenced on 1/1/17), would be greatly appreciated ! © All donations (\$5 and over) are tax deductible (33% deductible against all taxable income) and we will send you a receipt for your donation if you request it.

The hard working SPCS executive is in good heart and we are always encouraged by your support. Please send your donations – cheques made out to “SPCS Inc” (or use full name) to P.O. Box 13-683 Johnsonville, 6440 marked “Presidential Appeal”. Alternatively YOU CAN MAKE A DONATION DIRECT TO THE SPCS BANK ACCOUNT online, or over the counter at your local ANZ bank. The Society’s Johnsonville ANZ Bank Account number is: **06-0541-0116866-00.**

Kind regards

John Mills - President Elect - SPCS

Update re Pro- Euthanasia Petition



Simon O’Connor – Chair of Health Select Committee considering a Petition from former Labour MP **Hon Maryan Street** and 8,974 others requested:

“That the House of Representatives investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable.”...

The petition was presented by Ms Street and her supporters to MPs on 23 June last 2015 and has garnered cross-party support. The petition asks for a change to existing law. In response the Health Select Committee began the process of undertaking an investigation into ending one’s life in New Zealand.

As of 11 August 2016 The Office of the Clerk had processed a total of 21,436 written submissions.. More than 1800 submitters felt strongly enough about the euthanasia issue that they indicated that they wanted to appear in front of Parliament’s Health Select Committee to speak to MPs directly. Committee chair Simon O’Connor was responsible for the hearings that have been held around New Zealand. A parliamentary issue has not garnered similar levels of public participation since the same sex marriage bill in 2012.³ The euthanasia petition was instigated by the voluntary Euthanasia Society of New Zealand and the former Labour MP Maryan Street following the death of the right-to-die campaigner Lucretia Seales.

³ Labour MP Louisa Wall’s marriage equality bill promoted fierce debate with the select committee receiving more than 20,000 submissions.

The executive summary of the written submission by the SPCS on the euthanasia petition that was submitted to the Health Committee was published in the Society's last newsletter.

A WORD OF THANKS ☺

The SPCS executive is very pleased that many of its members throughout the country made submissions as individuals or as part of various groups, to the Health Select Committee on this Petition. Others acted as catalysts assisting others with information to help them make submissions. Thank you ! ☺ For more information to assist you to understand the case against euthanasia visit:

www.euthanasiadebate.org.nz



Films, Videos, and Publications Classification (Interim Restriction Order Classification) Amendment Bill.

This Private Member's Bill in the name of List National MP Chris Bishop, which was introduced to parliament on 10 November 2016, received its first reading on 7 December and was referred by the House to the Justice Electoral Select Committee for consideration. Submissions on the bill close on 2 February 2017. In his speech to the House Chris Bishop stated:

“Last year Ted Dawe's award-winning novel *Into the River* was **banned in New Zealand**. The reason it was **banned** was a strange anomaly in our censorship laws, and it is that anomaly that this bill seeks to address.”

“... [The] book, which was an award-winning children's book, was published and was, essentially, taken off the shelves and made illegal to possess or to display for 6 weeks because of a strange quirk of the interface between the appeal functions of the Film and Literature Board of Review [“the Board”] and the classification office. Actually, it is incumbent upon Parliament to do something about that, and that is what this bill sets out to do.”

He briefly recounted what he called “the somewhat complicated factual matrix that is the background to this bill.”⁴

In July 2013, the Department of Internal Affairs submitted *Into the River* to the Chief Censor's Office – the Office of Film and Literature Classification Office (“the OFLC”) as a result of complaints from members of the public. On 11 September 2013 the OFLC classified it “unrestricted M – Suitable For Mature Audiences 16 years and over” with the descriptive note “contains sex scenes, offensive language and drug use”. This meant any child or young person could access it from the display shelves of their school or local library and take it out, or purchase it from any bookshop.

Family First NZ, disturbed at this outcome, applied to the Board for a review of the classification *de novo*. On 23 December 2013 it classified the book R14 – **a unique classification that had never previously been assigned under the Films, Videos, and Publications Classification Act 1993 (“the Act)**. The Parental advisory note stated “explicit content”. Board President, Don Mathieson QC, in a robust dissenting view,⁵ argued that it should be classified R18.

In 2014 there was growing dissatisfaction with the R14 classification among some teachers and librarians which led to the book being submitted to the OFLC by Auckland librarians for a reconsideration. On 14 August 2015 the OFLC classified it Unrestricted.⁶ **This was the first time the OFLC had ever reconsidered a decision of the Board of Review and the first time the Chief Censor had allowed a Board decision to be reconsidered under s. 42(3) of the Act.**

⁴ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20161207_20161207_40

⁵ <http://www.censor.org.nz/PDFs/Into-the-River-BOR-dissenting-opinion.pdf>

⁶ <http://www.censor.org.nz/PDFs/Into-the-River-OFLC-reconsideration-decision-2015.pdf>

Section 42(3) allows for an applicant, with the leave of the Chief Censor, to have a classification reconsidered by the OFLC prior to three years elapsing following a previous classification decision being issued by the OFLC or Board.⁷



Bob McCoskrie- Director Family First NZ⁸

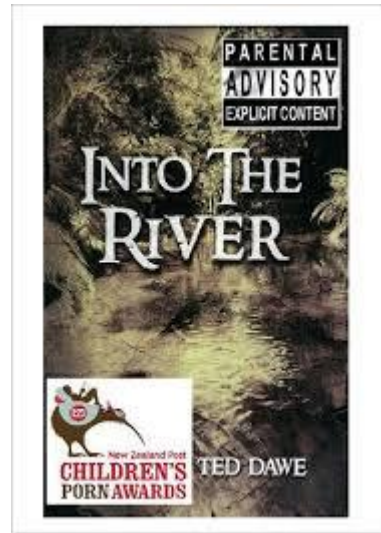
Family First appealed the OFLC decision to the Board for a second time and successfully sought and obtained an interim restriction order which was imposed on the publication on 3 September 2015, and issued by the Board President. **This was the first time such an order had been imposed on a book in New Zealand.** The order made it illegal to supply or display the book within a public place for the six week period, 3 September 2015 to 14 October, during which time the Board reviewed the classification. The media proclaimed this order as a “ban” which it clearly was not. Media hype and public statements by the disgruntled book’s author ensured that the controversy gained world-wide media attention. After six weeks of deliberations the Board issued its Majority decision⁹ classifying the book on 14 October 2015 as “unrestricted” and the order was rescinded. The president again issued a strong dissenting opinion upholding his earlier view that the book warranted a R18 classification, or at the very least an R14 classification.¹⁰

⁷ Reconsiderations applied for under Ss. 42(1) and 42(2) of the Act can only be made after 3 years.

⁸ <http://tvnz.co.nz/breakfast-news/s-two-hours-my-life-i-ll-never-recover-video-6384626>

⁹ <http://www.censor.org.nz/PDFs/Into-the-River-2015-BOR-majority-decision.pdf>

¹⁰ <http://www.censor.org.nz/PDFs/Into%20the%20River-2015-BOR-dissenting-decision.pdf>



Cover Source: [Note “Porn Awards” added by FF]

<https://www.familyfirst.org.nz/2015/09/page/5/>

Section 49 of the Act allows the President to apply an interim restriction order, but before granting it he/she must be persuaded to do so on the basis of the merits of a written submission from the applicant for the appeal, one which demonstrates, that that the order is warranted and is in the public interest, The respondent has the opportunity to set out a case in writing to the President opposing the imposition of such an order, and the President must take this into account, as well as Ss. 6 & 14 of the Bill of Rights Act 1990. Section 67 of the FVPC Act allows a High Court Judge to similarly impose such an order, if the matter of the classification decision issued by the Board is to be reviewed by the High Court..

The Board president, who had in his dissenting opinion favoured a classification of R18 for the book, sought to remedy the possibility of potential injury to the public good by the unrestricted availability of the book over the six week period of the review process; granted an interim restriction order that put the book out of reach or access to all children and young persons. The Act only allowed him two options (1) to reject the granting of the order or (2) impose a temporary ‘ban’ on the publication. It currently does not allow him to impose a restricted classification (e.g. R14) or limit the availability of the book to a certain defined class of persons, or for a particular purpose, over the period the order is to be put in place.

If Don Mathieson QC had refused to impose the order, which his predecessor Ms Claudia Elliott had done on several occasions with respect to festival films, the book would have retained its classification as “unrestricted” throughout the review process, a situation which denied the applicant the relief sought.

Chris Bishop stated the “anomaly” which he claims to have identified in the Act relating to the issuing of interim restriction order as follows:

“The problem with the regime is that in the case of *Into the River*, the president had only two options. He could either allow the decision of the censor [the OFLC]—that *Into the River* should be unrestricted—to stand while the board made its decision on the appeal, or ban the book entirely until the board had made its decision. What was not available to him, under the existing law, was the power to reinstate either of the two original classifications—i.e., unrestricted M, or R14.”

“The end result, I believe, was clearly a nonsense. **You had a book banned for 6 weeks**, even though three previous censorship decisions across the Office of Film and Literature and the board of review had ruled it should be legally available, albeit with some restrictions. Even the president of the board of review, in his dissent in the initial hearing, would have made the book R18. So what this bill does is propose a simple amendment to section 49 and section 67 of the Act to expand the toolbox of the president, giving the president the same powers available to the classification office and the board of review, which means the ability to restrict a publication based on age or specified classes.”

“What this means in practice is that in the case of *Into the River*, it would have meant the president could have reverted the book back to its R14 status, rather than banning it outright. The president was unable to keep the book available, even with a restricted rating on it, such as R14 or unrestricted M, because that power is not available to the president in the interim restriction regime currently. What this bill will do is it will give the president the power to do that. It will eradicate the binary nature of the president's decision-making options, which are basically: restrict the book completely—ban a publication—or leave it under its existing restriction.”

Chris Bishop was effectively criticised in parliament for his misrepresentation of the interim restriction as an action on the part of Board President Don Mathieson QC to have the “book banned”. Bishop’s claim is “nonsense” (to use his own words).

The judicial restriction (the interim restriction order) constitutes only a *temporary* granting of *relief* – a prior restriction in advance of a substantive board hearing and is only granted if it is judged to be in the public interest and if the grounds under which it is applied for meet strict policy standards.

If the real purpose of Mr Bishop’s bill is to give more flexibility to the Board President and a High Court Judge in the granting of Interim Restriction orders then it could be argued that his bill has some merit. However, it is such a minor issue which has arisen based on perceived problems that have arisen from only one single classification review in the history of censorship in New Zealand. Furthermore, the classification only became a problem because the OFLC created a precedent when it granted the applicant a “reconsideration” of the Board decision under s. 42(3) of the Act. This section requires the Chief Censor to only grant leave for a reconsideration if special circumstances are identified by the applicant that justify a reconsideration before the three year period is up. In this case the applicant did identify such matters.

The final OFLC decision was signed by Ms Nicola McCully, the Deputy Chief Censor at that time, rather than by the Chief Censor. She resigned soon afterwards. By law it is specifically stated that the Chief Censor alone has the authority to grant “leave” for a reconsideration and he/she must be “satisfied that there are special circumstances justifying reconsideration of the decision.” The Deputy Chief Censor can act with the full authority of the Chief Censor in circumstances when he is indisposed. It is noteworthy that the Act allowed for a respondent, such as Ted Dawe, to have appealed the Board’s initial R14 classification to the High Court under s. 58 of the Act if he was dissatisfied with it. He chose not to do so. Bishop’s real agenda appears to be to take away the power of the president to “**ban**” a publication by means of an interim restriction order, for he states: “The problem with interim restrictions is that they give the power to the president of the board of review to **ban a publication outright**, even after that publication has already been assessed and classified by the classification office.”

Again Bishop deliberately conflates the temporary remedial nature of the order with an “outright ban” issued by the Censorship authority when a publication is classified “objectionable”. (Note: the terms “ban”, “banning” and “banned” do not appear in the Act!) Under the guise of providing additional ‘tools’ to the toolbox of the president Bishop seeks to deny him the ability to exercise his judgment in accordance with the options currently available to him, which include putting a publication off-limits to ALL members of the public.



Chris Bishop National List MP

Bishop further stated:

“The second reason is that the extraordinary power enjoyed by the president to **ban** a publication in the interim is arguably unnecessary. I got the Parliamentary Library to dig up some cases, and between 2005 and 2012 the board of review altered only seven classifications made by the classification office, out of 101 reviews. Moreover, none of these decisions reclassified a publication as objectionable—i.e., **banned**.”

Bishop was so passionate in winning support for his bill that he engaged in hyperbole and misrepresentation when he referred to the “extraordinary power enjoyed by the President” to “**ban**” publications. The President has no such “power” as pointed out earlier with respect to the interim restriction order. Bishop actually admits that for a publication to be actually **banned** it must be classified “objectionable” by the Board or the OFLC.

In his speech Bishop actually questioned the need for a Board of Review citing in support the Parliamentary Research results he obtained cited earlier, establishing that very few OFLC decisions involving restrictions are upgraded to a classification of “objectionable”. He also called into question the need for interim restriction orders at all.

He claimed that his bill arising from the classification of the book *Into the River* – “... deals with one of the most fundamental rights in our constitution, and that is the freedom of expression.... It was wrong that *Into the River* was not available for 6 weeks because of the misuse of the interim restriction power.”

Conclusion: The SPCS does support the amendment to the Act sought by way of Chris Bishop’s bill, which if it had been part of law prior to Don Mathieson QC issuing an interim restriction order, would have allowed him to impose an age restriction temporarily on the book *Into the River*. However, it does not support (1) any move to restrict a President’s right to have a publication dealt with as if it were “objectionable” if he considers it is in the public interest to do so, or (2) remove an applicant’s right to apply for such an order, or (3) do away with the Board itself.

Addendum: Interim Restriction Orders and SPCS. Parliament’s Justice and Electoral Committee needs to distance itself from false accusations made in the House by Chris Bishop that (1) the SPCS “abused” the interim restriction provision in the Act it used with respect to the Film Festival publications “Bully” and “Visitor Q” and (2) accusations that Board President Don Mathieson “abused” the Act by “banning” the book *Into the River*, by his application of an interim restriction order. The Committee needs to avail itself of the true facts considering the interim restriction order granted by High Court Judge Hammond with respect to the French rape film *Baise-Moi*, successfully applied for by SPCS.

See: -

<https://gazette.govt.nz/notice/id/2002-go2792>

http://www.nzherald.co.nz/lifestyle/news/article.cfm?c_id=6&objectid=1391788

<http://www.scoop.co.nz/stories/CU0204/S00049/review-of-baise-moi-classification-ordered-in-oz.htm>

<http://www.spcs.org.nz/wp-content/uploads/newsletters/SPCSNewsletterDec2004.pdf>

The Office of Film and Literature Classification Annual Report for the year ended 30 June 2016



OFFICE OF FILM
& LITERATURE CLASSIFICATION
Te Tari Whakarōpū Tukuata, Tubitubinga

The OFLC Report for 2015/16 provided classification statistics that are deserving of comment [Note: 2014/15 figures in brackets for comparison].

A total of 2,557 [2,156] publications were submitted for classification in 2015/16. 2,445 [2,355] publications were examined and 2,395 [2,361] decisions registered. Publications received for classification were 12% above the projected maximum estimate.

Increased volumes were driven by commercial factors with commercial submissions exceeding estimates by 26% and prior year submissions by 26%. During 2015/16 there was a disproportionate increase in the submission of single episode and groups of episodes from video-on-demand distributors, in place of DVD and DVD box sets. Episodes have much shorter run time in comparison to DVD and full length films and consequently carry a lower fee.

In contrast the Crown submissions decreased by 45% from the previous year and were 15% less than estimated. The majority of Crown submissions were from the Police and the Department of Internal Affairs. There was a continued drop in court referrals to the Office with no submissions from the Courts during the year [2014/15:16, 2013/14:115].

The Chief Censor also called in eight publications during the period. These were mainly films which had been made unrestricted in Australia and contained violent or sexually violent material. Four of these publications were restricted by the Office. An example of one such film classified by the OFLC is provided in the Report: -

DVD Perfect Sisters. The DVD was cross-rated by the New Zealand Film and Video Labelling Body from its Australian rating of M, with a note for sex scenes and offensive language. The film contained strong suicide references; sex scenes including attempted coercion; and violence, including attempted drowning of a parent in a bath.

The complainant noted that the film (under the title *Deadly Sisters*) is classified 18 in the United Kingdom, with an advisory about "strong violence, suicide references". The Chief Censor called in the DVD for classification under section 13(3) of the Films, Videos and Publications Classification Act 1993.

The film was classified Objectionable except if the availability of the publication is restricted to persons who have attained the age of 18 years with the descriptive note that: "The feature contains depictions of drug use, and two attempted suicides contains drug use, sex scenes and offensive language."

The Chief Censor reported – "Unfortunately, **Perfect Sisters** illustrates a growing divergence between Australia and New Zealand in the tolerance of material that depicts violence and sexual violence."

The OFLC classified the film **Perfect Sisters**. Restricted to persons RESTRICTED 16 Years and over. NOTE. Violence, sexual violence, drug use and offensive language

During 2015/16 the Office registered two decisions issued by the Board of Review which related to two publications. One of these decisions related to the New Zealand novel *Into the River*, winner of the Book of the Year Award at the 2013 New Zealand Post Children's Book Awards.

74 publications were banned in 2015/16 by the Office, compared to 257 in 2014/15. "This lower number reflects the lower number of Crown publications processed during 2015/16. Objectionable publications are predominantly computer files submitted to the Classification Office by Crown agencies.¹¹ However during 2015/16 the Office also banned a 2 Blue Ray disc set of a Japanese manga series which was intended for commercial distribution and five out of nine 'Wicked Camper' campervans which were submitted by the NZ Police."

¹¹ 37 Computer image files; 17 Computer Moving Images and 13 Computer Text Files.



Caption; Wicked Campers founder and owner John Webb has been silently defiant in the face of the latest uproar over his van's slogans Stuff News Report 16/04/16]

72% of material which was banned by the Office dealt with the sexual exploitation of children and young persons, 11% dealt with sexual violence and 11% were banned on the basis of their treatment of violence, cruelty or torture.

619 complaints [cf. 63 in 2014/15] were received during the year 2015/16. The vast majority of complaints (564) were about the classification of the book *Into the River*, and most of these were generated in a response to an email campaign by lobbyist group Family First. 24 (out of the 564) complaints were received from members of the public unhappy with the Film and Literature Board of Review's decision to place an Interim Restriction Order on the book pending a new classification, temporarily banning it from sale or supply.

Aside from this book, complaints covered a range of issues with the classification system and with the classifications of specific publications. Other than *Into the River*, no film, game or other publication classified by the Classification Office received more than one complaint about its classification. 13 complaints were received about films that had been cross-rated from the Australian classification.

For Full Report See:

<http://www.classificationoffice.govt.nz/PDFs/2016-Classification-Office-Annual-Report.pdf>

Publications Banned in 2015/16



[267] publications were banned by the OFLC in 2015/16, under the Films, Videos and Publications Classification Act 1993, all involving computer image and text files. [88%] dealt with the sexual exploitation of children and young persons, [8%] bestiality and [4%] sexual violence.

SPCS Brief Comment on the Report:

As noted in our previous newsletter, and we repeat again, the widespread proliferation of objectionable content on the internet and its easy accessibility to vulnerable young children and young persons who are very competent users of the internet and social media, makes much of the censorship activities of the OFLC largely irrelevant. The OFLC management, politicians, censorship enforcement agencies and legislators must recognise this and urgently address the issues of the accessibility of this harmful content via online platforms and the destructive and toxic nature of it.

SPCS received the following information from the OFLC on 20/12/16 in response to questions it raised

The Board of Review issued 98 decisions in the years 2005-2012. Ten OFLC decisions were altered as a result of Board of Review decisions. This includes: a. Four changes to the primary classification, all to a lower age restriction. b. Ten changes to the descriptive note. The Board classified none of the publications objectionable following the review.

Update: SPCS Efforts to seek a better Regulatory scheme and Enforcement by Ministry of Business, Innovation and Employment (MBIE) relating to amendments made to the Companies Act 1993 that came into force on 28 August 2015.

High Court considers new residency requirement for NZ company directors

Background

In 2015, amendments were made to the Companies Act 1993 to introduce a director residency requirement. From 1 May 2015, every New Zealand incorporated company is required to have a director who:

- lives in New Zealand; or
- is a director of a company incorporated in, and who also lives in, a country with which New Zealand has reciprocal enforcement arrangements with (presently this only includes Australia).

The amendment was introduced as a means of increasing governance of New Zealand incorporated companies.

The High Court has recently considered the issue of whether a director “lives in New Zealand” for the purposes of section 10(d) of the Companies Act 1993¹.

The Registrar of Companies had considered that the sole director of a number of New Zealand registered companies, did not live in New Zealand, and so any of the companies of which he was the sole director were non-compliant with the residency requirement. In taking this view, the Registrar had focused on a threshold requirement (taken from taxation legislation) of residing in New Zealand for 183 days in a year.

The director argued through his Counsel that he habitually spends about one-third of a year in New Zealand and travels extensively for the majority of the year. He owns two residences in New Zealand, owns several parcels of land and has several New Zealand companies which employ staff and which require his supervision. His submission was that the Registrar’s focus on the number of days physically present in New Zealand was not required by the Act and was too narrow.

The High Court decision [7 July 2016]

CIV 2015-404-2666 [2016] NZHC 1536

The High Court held that the director satisfied the requirement for living in New Zealand, despite not satisfying the 183 day threshold. The Court considered that the 183 day threshold was a means by which directors could automatically satisfy the residency requirement, but that a failure to meet the 183 day threshold did not automatically exclude a director from satisfying the residency requirement. It was open to directors to meet the residency test by other means.

The High Court set out a number of relevant matters in determining whether the residency test is satisfied:

- the amount of time a person spends in New Zealand;
- their connection to New Zealand;
- the ties the person has to New Zealand; and
- the manner of the person’s living when in New Zealand.

What is the impact of this decision?

The decision clarifies that directors do not have to be physically present in New Zealand for 183 days a year to satisfy the director residency requirement in the Companies Act, although the requirement may be automatically satisfied by meeting the 183 day threshold. The High Court’s interpretation of the 183 day threshold is consistent with its use in taxation legislation, where the threshold is one method of illustrating ‘residency’, but where failure to meet the threshold does not exclude one from being ‘resident’. The test for residency is wider than just the 183 day threshold, with the ultimate focus being on whether the director can be questioned about the company and whether enforcement of the company’s obligations is possible.

Source: MinterEllisonRuddsWatts

<http://www.minterellison.co.nz/>

Name of company director removed.

Militant euthanasia arm planned for New Zealand

by Tom Hunt. Reporter Dominion Post. Thursday,
December 15, 2016



Philip Nitschke – “Dr Death”

An Australian euthanasia advocate is vowing to set up a new militant arm of his organisation in New Zealand to import large quantities of lethal drugs. Exit International director Philip Nitschke said his members were fed up with politicians' inaction, and would set up ExitAction as a shamelessly criminal group similar to the Aids drug-buying group portrayed in the movie Dallas Buyers Club.

"This is not something you beg for. This is something you take," Nitschke said.

It would mean that people wanting to take their own lives would not have to import euthanasia drugs illegally and – as happened earlier this year – receive visits from police.

"We are not going to sit around for another decade while politicians wax and wane [on legalising euthanasia]," he said from Amsterdam.

When ExitAction was announced internationally earlier this month, Nitschke put out a statement saying access to euthanasia drugs was a right of all competent adults, "regardless of sickness or permission from the medical profession".

Exit members are believed to be concerned that the Government position could change under new Prime Minister Bill English, who is Catholic and a known opponent of voluntary euthanasia. His wife Mary, a Wellington GP, told a health sub-committee hearing on

the subject last month that legalising euthanasia would create ethical issues for doctors.

"A core principle has been that we do not kill our patients."

She repeatedly referred to pro-euthanasia laws by the acronym "MAD", or medically assisted dying. "It would be unsafe for those at risk of suicide."

A spokesman for the prime minister said on Wednesday that the Government's position had not changed.

"It remains the Government's position that euthanasia is a conscience issue.

"As the prime minister has said, he does not personally support euthanasia, but would not stand in the way of members voting according to their conscience, should a member's bill on the matter be drawn.

"A select committee is also currently considering a petition on the matter and is due to report back next year.

"Any New Zealanders considering illegally importing controlled substances should be aware there are consequences for doing so."

Voluntary Euthanasia Society (VES) president Maryan Street currently has a 8974-strong petition asking Parliament to investigate legislation that would permit medically assisted dying, in the event of terminal illness or an irreversible condition that made life unbearable.

She said on Wednesday that Exit's plans were "completely outside the area of activity that my organisation is involved in".

Police said: "The legislation regarding voluntary euthanasia is a matter for Government.

"However, the importation of controlled drugs, along with aiding and abetting suicide, remain serious offences in New Zealand and police will take appropriate steps when we become aware of allegations regarding these offences."

**The Society Welcomes
New Members
How to Become a Member**

Please visit our Society on the Internet to obtain application forms, or email us, or write to us or cut out this form, complete it and send it to us.

Website: <http://www.spcs.org.nz>

Email: spcs.org@gmail.com

Mail – SPCS, PO Box 13-683 Johnsonville 6440

Note: Membership of SPCS is by way of a donation. Cheques should be made out to “SPCS Inc.” or “Society for Promotion of Community Standards Inc.” PLEASE INDICATE IF YOU WANT A RECEIPT SENT TO YOU. Yes/ No (Circle/delete. Please send stamped addressed envelope). We try and acknowledge by letter all those who send donations of \$50 or more.

Having read the Society’s Objectives I wish to support your work and apply for one Full Year’s Membership. I support the Society’s objectives – see inset to the right of this column, or visit <http://www.spcs.org.nz/objectives/>

My Contact details are:

Name.....

Postal Address
.....
.....

Tel. No. and E-mail
.....

Signed.....

My membership donation is enclosed (suggested voluntary minimum is \$45 per individual). Yes/No

Please answer: I would like to recommend as a potential SPCS member (Please provide contact details on separate sheet to us so we can send out information) Yes/No. I wish to receive regular news updates by email Yes/No

**URGENT REMINDER TO ALL
SOCIETY (SPCS) MEMBERS !!!**

**PLEASE ENSURE YOUR ANNUAL
MEMBERSHIP DONATION HAS
BEEN PAID FOR 2017 !!!**

The objectives of SPCS –

From Section 2 of the Constitution

(a) To encourage self-respect and the dignity of the human person, made in the image of God.

(b) To uphold the universally held principles: “Every human being has the inherent right to life”.

(c) To promote wholesome personal values, consistent with the moral teachings of the Bible, including strong family life and the benefits of lasting marriage as the foundation for stable communities.

(d) To focus attention on the harmful nature and consequences of sexual promiscuity, obscenity, pornography, violence, fraud, dishonesty in business, exploitation, abuse of alcohol and drugs, and other forms of moral corruption, for the purpose of moral and spiritual improvement.

(e) To foster public awareness of the benefits to social, economic and moral welfare of the maintenance and promotion of good community standards.

(f) To support responsible freedom of expression which does not injure the public good by degrading, dehumanising or demeaning individuals or classes of people.

(g) To raise money that will be used... to promote the moral and spiritual welfare of sectors of society that need special help.

For more details see our website:

www.spcs.org.nz/objectives/