

# Incorporated Associations

Office of Fair Trading

# What is Incorporation

- incorporation is a system of registration
  - legal advantages
  - legal responsibilities
- once incorporated, an association has all the powers of an individual
- incorporated associations should be non-profit organisations.

# What is Incorporation

- an association that remains unincorporated has no separate legal identity
- members of an incorporated association are not personally liable to contribute towards the payment of the debts and liabilities of the association (except as provided for in the rules)
- incorporation provides protection, but this protection is not absolute

# The down side

Obligations include:

- incorporation requires the payment of application fees:
  - \$ 148.00 for a new application
  - \$ 51.70 for annual returns
- proper records and financial statements must be prepared annually

# What is involved

- an incorporated association must have a management committee
- one of the members of the management committee must hold the office of President and another must hold the office of Treasurer
- the management committee members are responsible for conducting the association's affairs

# What is involved

- every incorporated association must have written rules which for your association have been prescribed
- incorporated associations are required by law to hold an annual general meeting within 6 months after the end date of the association's financial year

# What is involved

After incorporation, the association must:

- obtain a common seal (rubber stamp) with the association's full name and the words 'Common Seal'

# What is involved

The association must:

- open an account with a financial institution in the association's name
- the financial institution may require a copy of the rules and/or wish to see the original certificate of incorporation.



# What is involved

## Public liability insurance

- not compulsory unless:
  - An owner or lessee of land or
  - A trustee of trust land under the *Land Act 1994*
- annual assessment of need for insurance
- management committee must decide level
- advise everyone if there is no insurance cover
- check other legislation for public liability requirements

# What is involved

The association must:

- keep a set of books to record the financial transactions of the association and a register of members and committee members
- keep minutes of committee meetings and general meetings
- give a copy of minutes of general meetings to members upon request

# What is involved

- To apply for incorporation, the association must do the following:
  - pass resolutions by at least a  $\frac{3}{4}$  majority deciding to incorporate and adopting proposed rules for the association
  - appoint an individual to prepare, make and lodge the application
  - elect interim officers (president, treasurer, secretary)

# Reporting requirements

- The association must:
  - advise OFT all changes to the positions of president, treasurer and secretary
  - lodge with OFT each year an annual return

# Financial reporting requirements

- Three reporting levels determined by current assets and total revenue
- Current assets does not include real property or assets capable of depreciation such as vehicles
- Total revenue includes funds received as grants
- Other legislative requirements e.g. *Collections Act 1966* and *Gaming Machine Act 1991*

# Financial reporting levels

## Level 1

Current assets greater than \$100,000 **AND/OR**  
total revenue greater than \$100,000

## Level 2

Either current assets between \$20,000 and \$100,000  
OR  
total revenue between \$20,000 and \$100,000

## Level 3

Current assets less than \$ 20,000 AND  
total revenue less than \$ 20,000

# Financial reporting levels

## **Level 1**

Current assets greater than \$100,000 AND/OR  
total revenue greater than \$100,000

- financial statements must be audited by an auditor or accountant
- financial statements must be presented to the Annual General Meeting for adoption
- financial statements must be submitted to OFT within one month of presentation at the AGM

# Financial reporting levels

**Level 2 and Level 3 associations which are required to have an audit conducted under the *Collections Act 1966*, the *Gaming Machine Act 1991* or under any law for any other purpose**

- financial statements must be audited by an auditor, accountant or approved person
- financial statements must be presented to the Annual General Meeting for adoption
- financial statements must be submitted to OFT within one month of presentation at the AGM



# Financial reporting levels

## Level 2

Either current assets between \$20,000 and \$100,000

OR

total revenue between \$20,000 and \$100,000

- financial statements must be verified by an auditor, accountant or approved person
- financial statements must be presented to the Annual General Meeting for adoption
- financial statements must be submitted to OFT within one month of presentation at the AGM

# Financial reporting levels

## Level 2

Either current assets between \$20,000 and \$100,000

OR

total revenue between \$20,000 and \$100,000

Verification statement:

*I have sighted the association's financial records and the association's financial records show that the association has bookkeeping processes in place to adequately record the association's income and expenditure and dealings with its assets and liabilities.*

# Financial reporting levels

## **Level 3**

Current assets less than \$ 20,000 AND  
total revenue less than \$ 20,000

- no external auditing or verification
- financial statements can be verified by treasurer or president
- must be presented at AGM together with a verification statement, completed by the association's president or treasurer for adoption
- financial statements must be submitted to OFT within one month of presentation at the AGM

# Financial reporting levels

## Level 3

Current assets less than \$ 20,000 AND  
total revenue less than \$ 20,000

Verification statement:

*The association keeps financial records in a way that properly records the association's income and expenditure and dealings with its assets and liabilities.*

# Accountant, auditor, approved person

***accountant*** means—

- a member of CPA Australia who is entitled to use the letters 'CPA' or 'FCPA' *or*
- a member of The Institute of Chartered Accountants in Australia who is entitled to use the letters 'CA' or 'FCA' *or*
- a member of the Institute of Public Accountants who is entitled to use the letters 'MIPA' or 'FIPA'

***auditor*** means-

- a person registered as an auditor under the Corporations Act.

***approved person*** means-

- a person approved by OFT

# The role of this Office

- The Office of Fair Trading administers the Associations Incorporation Act
- It is not the role of this Office to intervene in the internal disputes of an association
- We cannot provide legal advice
- If a situation appears unable to be resolved within the association, legal advice should be sought from a solicitor.

# Thank you for coming!

## Contact details

- Fair Trading website – [www.qld.gov.au/fairtrading](http://www.qld.gov.au/fairtrading)
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