

## Licensing, Regulation and Alcohol Strategy

### Information and Procedures to Incorporate an Association

#### *Associations Act 2003*

To become incorporated, the objects or purposes of an association, society, institution or body must fall within the following:

- i. a religious, educational, benevolent or charitable purpose;
- ii. the purpose of providing medical treatment or attention;
- iii. the purpose of promoting or encouraging literature, science, art or a cultural activity;
- iv. the purpose of recreation or amusement; or
- v. the purpose of beautifying or improving a community centre and these objects and purposes must be carried on, in whole or in part, in the Northern Territory;

If an association's objects and purposes do not fall within these bounds an application to incorporate may still be made to the Minister, through Licensing, Regulation and Alcohol Strategy. This application attracts an additional fee.

#### **Effect Of Incorporation**

Upon an association becoming incorporated under the *Associations Act 2003* (the Act), the association –

- a) becomes a body corporate with perpetual succession and a common seal;
- b) may acquire, and subject to the Act and other laws, may hold and dispose of real and personal property; and
- c) is capable of suing and being sued in its name.

#### **The Associations Name**

An Association may not be incorporated under a name that is the same as, or similar to, another incorporated association, current company or business name. In addition there are some names (prescribed unauthorized names) that associations are prevented from using (see Schedule 1 of the *Associations Regulations*).

Should an association wish to include a prescribed unauthorized name in its name, application must be made to the Minister, through Licensing, Regulation and Alcohol Strategy, for consent to use the desired name. Associations

#### LICENSING, REGULATION AND ALCOHOL STRATEGY

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considering the use of such names should contact Licensing, Regulation and Alcohol Strategy for further information.

### **Incorporation**

To incorporate an association must undertake the following steps:

#### Step 1 – The Constitution

The association may adopt the Model Constitution or may draft its own. See Constitution Fact Sheet.

If electing to draft its own constitution the association must ensure that it complies with the provisions of the Act, in particular section 21 which states:

- 1) The constitution of an incorporated association must provide for the following:
  - a) the qualifications of members of the association;
  - b) the creation of the executive offices of the association and the procedure for filling those offices;
  - c) the procedure for the settling of disputes between the association and its members;
  - d) the constitution of the committee of the association and the powers of that committee;
  - e) the procedure for the conduct of meetings of the committee of the association;
  - f) the manner in which the funds of the association are to be managed;
  - g) the method of altering, adding to or rescinding the constitution of the association;
  - h) the method of altering the objects or purposes of the association;
  - i) in the case of an incorporated trading association –
    - i. the rights of members of the association to share in its profits; and
    - ii. the rights of persons who were members of the association at the time of winding up to share in the distribution of surplus assets, if any, resulting from the winding up.

Please Note:

- Where the Association's constitution does not specifically state their financial year, it will default to 30 June as per section 4 of the Act.
- Notification of 21 days is required for Special Resolutions as per section 37 of the Act.
- The *Annual General Meeting* is to be held within 5 months of the end of the financial year of the Association as per section 36 of the Act.
- *Audited Financial Statements* are to be available to members 14 days prior to the AGM for inspection and are required to be presented at the AGM as per section 43 of the Act.

#### Step 2 – Meeting of Members

An association wishing to apply for incorporation must hold a meeting of its members to:

- Adopt it's constitution;
- Appoint Office Bearers;
- Appoint a Public Officer;
- Authorise the Public Officer to lodge the application for incorporation.

### Step 3 – Lodging the Application for Incorporation

To apply for incorporation the Public Officer must lodge the following:

- 1) The application form duly completed and signed by the by the Public Officer;
- 2) The prescribed statutory declaration sworn by the Public Officer (downloaded with the application form above);
- 3) A complete copy of the constitution attached to the statutory declaration of the Public Officer referred to above. Please note in order to legally attach the constitution to the statutory declaration the constitution must be endorsed with the prescribed annexure clause (see application form for wording of the prescribed annexure clause);
- 4) The appropriate fee.

Please note, the applicant will automatically become the association's first Public Officer and no additional forms or fees are required to be lodged or paid in this regard.

On receipt of the application the Licensing, Regulation and Alcohol Strategy checks the constitution to ensure:

- the objects and purpose fall within the definition given in the Act;
- the association's name is appropriate;
- compliance with the Act (see Step 1 above); and
- all documentation is completed and signed / sworn by the Public Officer

If the Commissioner is satisfied that it is appropriate, the Commissioner will issue a Certificate of Incorporation.

An incorporated association has reporting obligations under the *Associations Act* and office bearers should familiarise themselves with the Act and their obligations. These include, but are not limited to, the lodgement of audited annual returns, lodgement of notices in relation to the details of the association's Public Officer, and the way in which the affairs of the association are conducted. The *Associations Act*, *Regulations*, Model Constitution, Proforma Annual Audited Statement of Accounts, forms and fact sheets are available from our web site [www.nt.gov.au/justice/licenreg](http://www.nt.gov.au/justice/licenreg)

Please note all lodgement fees are exempt from GST