

SOUTH AUSTRALIA

**ASSOCIATIONS INCORPORATION REGULATIONS 1993**

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### **APPENDIX**

### **DIVISIONAL PENALTIES AND EXPIATION FEES**

# REGULATIONS UNDER THE ASSOCIATIONS INCORPORATION ACT 1985

## *Associations Incorporation Regulations 1993*

being

No. 88 of 1993: *Gaz.* 20 May 1993, p. 1709<sup>1</sup>

as varied by

No. 72 of 1994: *Gaz.* 2 June 1994, p. 1628<sup>2</sup>

No. 61 of 1995: *Gaz.* 10 May 1995, p. 2014<sup>3</sup>

No. 104 of 1996: *Gaz.* 30 May 1996, p. 2697<sup>4</sup>

No. 72 of 1997: *Gaz.* 13 May 1997, p. 1849<sup>5</sup>

<sup>1</sup> Came into operation 1 June 1993: reg. 2.

<sup>2</sup> Came into operation 1 July 1994: reg. 2.

<sup>3</sup> Came into operation 1 July 1995: reg. 2.

<sup>4</sup> Came into operation 1 July 1996: reg. 2.

<sup>5</sup> Came into operation 1 July 1997: reg. 2.

N.B. The amendments effected to these regulations by Regulation No. 251 of 1997 had not been brought into operation at the date of, and have not been included in, this consolidation.

2.

### **Citation**

1. These regulations may be cited as the *Associations Incorporation Regulations 1993*.

### **Commencement**

2. These regulations will come into operation on 1 June 1993.

### **Revocation**

3. All regulations previously made under the *Associations Incorporation Act 1985* are revoked.

### **Interpretation**

4. In these regulations, unless the contrary intention appears—

"**the Act**" means the *Associations Incorporation Act 1985*.

*Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.*

### **Forms**

5. (1) The forms set out in schedule 1 must—

- (a) be used for the purposes specified in the schedule; and
- (b) contain the information required by and be completed in accordance with the instructions contained in the forms.

(2) The name of a person signing a form set out in schedule 1 must be written legibly under or alongside the signature of that person.

(3) Where a form requires that another document be furnished with the form, the other document must be furnished with the form as so required.

(4) Where a form requires that another document be furnished with the form, or the space provided in a form is insufficient to contain all the required information—

- (a) the document must be furnished as, or the information must be set out in, an annexure to the form; and
- (b) the annexure must have a distinguishing mark such as a letter or numeral; and
- (c) the space in the form must contain the statement "See Annexure" together with the distinguishing mark for the annexure, or words to similar effect.

### **General requirements for documents lodged with Commission**

6. (1) A document lodged with the Commission must—

- (a) be on paper of international sheet size A4; and
- (b) be clearly printed or typewritten in a manner that is permanent and is capable of reproduction by photographic means; and
- (c) be an original or a photocopy; and

3.

- (d) where it consists of two or more sheets, be fastened together securely in the top left-hand corner; and
- (e) have written on the first sheet—
  - (i) the registered number of the association to which the document relates; and
  - (ii) the name of that association; and
  - (iii) the title of the document (being, if the document is a form prescribed by these regulations, the same as the heading to the form); and
  - (iv) the name, address and telephone number of the person by whom or on whose behalf the document is lodged; and
  - (v) the words "Lodged with the Commission on....." (the date of lodgement to be filled in by the Commission).

(2) Where the address of a public officer is required in any document to be lodged with the Commission, the public officer—

- (a) must specify his or her residential address; and
- (b) may, if he or she so desires, specify a postal address.

#### **Fees**

7. The fees set out in schedule 2 are payable as specified in that schedule.

#### **Accounting records**

8. A prescribed association must retain the accounting records kept by it under section 35(1) of the Act for seven years after the completion of the transactions to which they relate.

Penalty: Division 8 fine.

#### **Periodic returns**

9. For the purposes of section 36 of the Act, a prescribed association must lodge with the Commission a periodic return (in the form set out in schedule 1) within six months after the end of each of its financial years.

#### **Modifications, additions and exclusions of applied provisions of the Corporations Law (ss. 40a, 41, 41b, and 61)**

10. (1) For the purposes of sections 40a, 41, 41b and 61 of the Act, the provisions of the *Corporations Law* applied by those sections apply, unless the context otherwise requires—

- (a) as if a reference to "**Commission**" were a reference to the Corporate Affairs Commission;
- (b) as if a reference to "**Court**" were a reference to the Supreme Court of South Australia;
- (c) as if a reference to "**director**" or "**officer**" were a reference to a member of the committee of an incorporated association;

4.

- (d) as if a reference to "**Gazette**" were a reference to the *South Australian Government Gazette*.

(2) For the purposes of section 41b of the Act, a reference in section 591 of the *Corporations Law* to a provision of section 289 of that Law is to be read as a reference to a provision of section 35(1) or 39c of the Act.

**Prescribed commission (s. 46)**

11. For the purposes of section 46(3) of the Act, the prescribed commission is five per cent.

**Exception to requirement that name of association be printed, etc, on documents (s. 54)**

12. For the purposes of section 54 of the Act, a chit or ticket evidencing the receipt by an association of an amount not exceeding \$10 is prescribed as a receipt or document to which that section does not apply.

**Commission may destroy documents (s. 67)**

13. (1) The Commission is authorised to destroy any of the following documents lodged with the Commission:

- (a) any periodic return, and any annexure to that return, that has been lodged for not less than seven years;
- (b) any document (other than rules and any amendment to rules) that has been lodged or registered not less than ten years;
- (c) any document in the custody of the Commission relating to an association, or to an association that is to be taken to have been, incorporated under the repealed Act where the association has been dissolved or had its incorporation cancelled for not less than ten years.

(2) For the purposes of this regulation—

"**document**" includes a reference to a transparency of a document produced by photographic or electronic means.

**Copy of court order to be lodged with Commission**

14. An incorporated association must, within seven days of the making by a court of an order under the Act, lodge a copy of the order with the Commission.

Penalty: Division 8 fine.

**Offence to make false or misleading statement**

15. A person must not, in a document lodged with the Commission for the purposes of the Act—

- (a) make a statement that is, to his or her knowledge, false or misleading; or
- (b) omit or authorise the omission from any such document a particular which is, to his or her knowledge, a material particular.

Penalty: Division 8 fine.

5.

**SCHEDULE 1**

*Forms*

*(Regulation 5)*

*Form*

1. Application for incorporation of an association
2. Statutory declaration to accompany application for incorporation
3. Certificate of incorporation of an association
4. Application for amalgamation of incorporated associations
5. Certificate of incorporation on amalgamation
6. Application for registration of alteration to rules
7. Statutory declaration verifying alteration to rules
8. Certificate of incorporation on change of name
9. Periodic return
10. Notice of change of public officer or change of address of public officer
11. Notice of variation or revocation of a trust affecting rules
12. Supplementary document

Form 1  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 19)

**APPLICATION FOR INCORPORATION OF AN ASSOCIATION**

To the Corporate Affairs Commission

1. I .....  
(full name of applicant)  
of .....  
(full address of applicant)  
.....  
am authorised by the association to apply for incorporation of the association under the name: .....  
.....  
(full name of association applying for incorporation)

2. Annexed to this application is—  
· a copy of the rules of the association;  
· a statutory declaration as to the matters set out in section 19(2)(b);  
· \* a copy of any trust instrument referred to in the rules of the association or on which a rule relies for its operation;  
· \* a copy of the settled draft of an instrument prepared to establish a trust of which the association is the proposed trustee where the contemplated trust is referred to in the rules of the association or a rule of the association relies on the contemplated trust for its operation.

3. The association is formed for the purpose of: <sup>(# insert brief description of object/s)</sup> .....  
.....  
and is considered to be an association eligible for incorporation under section 18 of the Act.

4. ....  
(full name of public officer)  
of .....  
(residential address of public officer)  
.....  
(postal address of public officer, if relevant)  
South Australia .....  
(occupation)  
being a person above the age of 18 years, and a resident of South Australia, has consented to be the first public officer of the association.

5. The association is situated (or established) at: .....  
.....  
(address of association)

6. The financial year of the association ends on: .....



7.

7. The application fee is tendered with this application.

Signed: .....  
(Applicant)

Date: .....

Name: .....  
(Block Letters)

*\* delete as necessary*

# *Here, refer to section 18(1) of the Act for a description of the object of the association.*

Form 2  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 19(2)(b))

**STATUTORY DECLARATION TO ACCOMPANY APPLICATION FOR  
INCORPORATION**

I .....  
(full name of applicant)

of .....  
(residential address of applicant)

.....,  
South Australia .....  
(occupation)

do solemnly and sincerely declare that:

- 1. I am the person authorised to apply for the incorporation of an association under the name:  
.....  
(full name of association applying for incorporation)
- 2. The particulars set out in my application for incorporation of the association dated ..... 19 .....,  
are true.
- 3. The document marked 'A' #annexed is a true copy of the rules of the association referred to in my application.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the  
*Oaths Act 1936*.

Declared before me at .....

this ..... day of .....19

.....  
Declarant

.....  
Justice of the Peace

# [The annexure is to be endorsed by the Justice of the Peace as follows:

"This is the annexure marked 'A' referred to in the statutory declaration of .....made  
on the .....day of .....19....."

Before me:.....  
Justice of the Peace]

9.

Form 3  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 20(1))

**CERTIFICATE OF INCORPORATION OF AN ASSOCIATION**

Reg. No. ....

This is to certify that ..... Incorporated

is incorporated under the *Associations Incorporation Act 1985* on and from

..... 19 .....

Given under the seal of the Corporate Affairs Commission at Adelaide

..... 19 ..

.....  
Commissioner for Corporate Affairs

Form 4  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 22)

**APPLICATION FOR AMALGAMATION OF INCORPORATED  
ASSOCIATIONS**

To the Corporate Affairs Commission

1. I .....  
(full name of public officer)
- of .....  
(residential address of public officer)
- being public officer of .....  
(name of original association) Incorporated
- AND .....  
(full name of public officer)
- of .....  
(residential address of public officer)
- being public officer of .....  
(name of original association) Incorporated

APPLY ON BEHALF OF the above incorporated associations to amalgamate to form a single incorporated association under the name:

.....  
(full name of association to be formed upon amalgamation)

2. Attached to this application are copies of the following documents:
- identified by the letter "A"—the special resolution passed on .....19 at a meeting called and conducted under the registered rules of ..... Incorporated;
  - identified by the letter "B"—the special resolution passed on .....19 at a meeting called and conducted under the registered rules of ..... Incorporated;
  - identified by the letter "C"—the rules of the incorporated association proposed to be formed by the amalgamation;
  - \*identified by the letter "D"—the trust instrument referred to in the rules of the association proposed to be formed by the amalgamation or on which a rule of the association proposed to be formed by the amalgamation relies for its operation;
  - \*identified by the letter "E"—the settled draft of the instrument prepared to establish a trust of which the association proposed to be formed by the amalgamation is the proposed trustee where the contemplated trust is referred to in the rules of the association proposed to be formed by the amalgamation or a rule of the association proposed to be formed by the amalgamation relies on the contemplated trust for its operation.

\* delete as necessary

11.

3. The incorporated Association proposed to be formed by the amalgamation has the following purpose:

.....  
.....  
(#insert brief description of purpose/s)

and is considered to be an association eligible for incorporation under section 18 of the Act.

4. ....  
(full name of public officer)  
.....  
(residential address of public officer)  
.....  
(postal address of public officer, if relevant)

South Australia .....  
(occupation)

being a person above the age of 18 years, and a resident of South Australia, has consented to act as the public officer of the proposed association.

5. The financial year of the proposed association ends on .....

6. The certificates of incorporation of the amalgamating associations are attached.

7. The application fee is tendered with this application.

.....  
..... Incorporated ..... Incorporated

Signed: ..... Signed: .....  
(Public Officer) (Public Officer)

Name ..... Name .....  
(Block Letters) (Block Letters)

Dated the ..... day of ..... 19 .....

Signed: .....  
(Public Officer of proposed new association to sign)

Name .....  
(Block Letters)

# *Here refer to section 18(1) of the Act for a description of the object of the association.*

12.

Form 5  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 22(4))

**CERTIFICATE OF INCORPORATION ON AMALGAMATION**

Reg. No. . . . .

This is to certify that

. . . . . Incorporated  
formed by the amalgamation of  
. . . . . Incorporated and  
. . . . . Incorporated is  
incorporated under the *Associations Incorporation Act 1985* on and from . . . . . 19 .

Given under the seal of the Corporate Affairs Commission at  
Adelaide . . . . . 19 .

. . . . .  
Commissioner for Corporate Affairs

Form 6  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 24(3))

**APPLICATION FOR REGISTRATION OF ALTERATION  
TO RULES**

Reg. No. . . . .  
(to be completed by lodging party)

To the Corporate Affairs Commission

Re: . . . . . Incorporated.  
(full name of association)

1. I . . . . .  
(full name of public officer)

of . . . . .  
(residential address of public officer)

being the public officer of the abovenamed association APPLY on behalf of this association to register the \*alteration/alterations to its rules as set out in clause 2.

2. The proposed \*alteration/alterations \*was/were effected by a resolution the terms of which are \*set out below in clause 5/set out in the annexure marked 'A' annexed.

3. The resolution was passed on . . . . .19 . . . . . at a meeting called and conducted in accordance with the rules of the association.

4. The nature of the alteration is—  
· \*alteration to/rescission of rules numbered . . . . .  
· \*substitution of a new set of rules  
· \*alteration to the name of the association

5. Resolution for alteration:  
It was resolved that . . . . .  
. . . . .  
. . . . .  
(details of resolution passed)

6. \*If the rules require the resolution to be approved or confirmed by some other person or body, provide details of when and by whom approval or confirmation was given:  
. . . . .  
. . . . .

14.

7. The application fee is tendered with this application.

DATED this ..... day of ..... 19 .. .

Signed: .....  
(Public Officer)

Name .....  
(Block Letters)

*\*Delete as necessary*



Form 7  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 24(3)(b))

**STATUTORY DECLARATION VERIFYING ALTERATION  
TO RULES**

I .....  
(full name of public officer)  
of .....  
(residential address of public officer)  
.....  
South Australia .....  
(occupation)

do solemnly and sincerely declare that:

1. I am the public officer of .....  
..... Incorporated.
2. The particulars of the alteration to the rules of the said incorporated association set out in the  
application for registration of alteration dated ..... 19  
annexed# to this declaration are true.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the  
*Oaths Act 1936*.

Declared before me at .....  
this ..... day of  
..... 19 ..... Signed: .....  
Public Officer  
.....  
Justice of the Peace

# [The annexure is to be endorsed by the Justice of the Peace as follows:  
"This is the annexure marked 'A' referred to in the statutory declaration of .....  
made on the .....day of .....19 ....."  
Before me:.....  
Justice of the Peace]

16.

Form 8  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 24(5)(b))

**CERTIFICATE OF INCORPORATION ON CHANGE OF NAME**

Reg. No . . . . .

**This is to certify that**

. . . . . Incorporated

which was on . . . . . 19

incorporated under the *Associations Incorporation Act 19* resolved on . . . . . 19

to change its name to

. . . . . Incorporated.

Given under the seal of the Corporate Affairs Commission at Adelaide

. . . . . 19 .

. . . . .  
Commissioner for Corporate Affairs

Form 9  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 36(1), Regulation 9)

**PERIODIC RETURN**

Reg. No. ....  
(to be completed by lodging party)

Re ..... Incorporated  
(full name of association)

**BOOKS AND ACCOUNTS**

The books of the Association are located at .....

The following documents (as prepared for the financial year of the association last preceding the due date for lodgement of this return) must be furnished with and annexed to this return:

- a copy of the accounts of the association as required by section 35(2)(a) of the Act
- a copy of the statement of the association's committee as required by section 35(2)(c) of the Act
- a copy of the auditor's report on the accounts as required by section 37(3) of the Act
- a copy of the report of the association's committee as required by section 35(5) of the Act

The accounts and other documents annexed to this return are for the financial year ended ..... 19 ..

\*The accounts were \*adopted/not adopted by the annual general meeting held on ..... 19 ..

\*The rules of the association do not require the holding of an annual general meeting.

**PARTICULARS RELATING TO OPERATIONS OF ASSOCIATION**

\*Business names under which the Association conducts activities: .....

\*Names of subsidiary bodies corporate .....

Principal object of the association: .....

The association has ..... members as at the date of this return.

\*Brief particulars of any alterations to \*rules/trusts affecting rules, which at the date of this return, have not been lodged with the Corporate Affairs Commission are as follows:

.....

*NOTE: Notification of these alterations must still be lodged with the Corporate Affairs Commission on the appropriate forms.*

\*Brief particulars of any exemptions granted to the Association by the Corporate Affairs Commission under the Act:

.....  
.....

*\*Delete as necessary*

**ADMINISTRATION**

Particulars of the members of the committee of the association as at the date of this return:

Full Name/Residential Address/Occupation/Position on Committee

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

Particulars of the public officer of the association as at the date of this return:

Full Name .....

Residential and Business Address .....

.....

Occupation .....

**NOTE: If the public officer has changed, a NOTICE OF CHANGE OF PUBLIC OFFICER (form 10) must be lodged.**

.....

Particulars of the auditor acting under section 35(2) of the Act as at the date of this return:

Full name of auditor: .....

Name of audit firm: .....

Business address: .....

.....

Auditing qualifications: .....

.....

**CERTIFICATE AND STATEMENT**

I certify that the particulars contained in this periodic return are true to the best of my knowledge and belief.

Dated this .....day of ..... 19 ..

Signed:.....  
(signature of public officer)

Name:.....  
(in block letters)

Form 10  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 56(5))

**NOTICE OF CHANGE OF PUBLIC OFFICER OR CHANGE OF  
ADDRESS OF PUBLIC OFFICER**

Reg. No. ....  
(to be completed by lodging party)

To the Corporate Affairs Commission

Re: ..... Incorporated.  
(full name of association)

**\*Change of Public Officer**

Notice is given that I .....  
(full name of new public officer)

of .....  
(residential address)

.....  
(postal address of public officer, if relevant)

South Australia .....  
(occupation)

was appointed public officer of the association on ..... 19 ..

This appointment is in place of .....  
(full name of previous public officer)

who ceased to be the public officer of the association on ..... 19 ..

**\*Change of Address of Public Officer**

Notice is given that I, .....  
(full name of public officer),

the public officer of the association, changed my residential address to .....

.....  
(insert new residential address)

\*My postal address is .....

..... South Australia.

Dated: ..... 19 ..

.....  
(Signature of public officer)

Name .....

(block letters)

*\*Delete as necessary*

Form 11  
ASSOCIATIONS INCORPORATION ACT 1985  
(Section 59(2))

**NOTICE OF VARIATION OR REVOCATION OF A TRUST  
AFFECTING RULES**

Reg. No. ....  
(to be completed by lodging party)

**To the Corporate Affairs Commission**

Re: ..... Incorporated  
(full name of association)

Notice is given that on ..... 19 ,  
the instrument dated ..... 19 ,  
establishing the ..... Trust  
was \*varied in the manner undermentioned/revoked.

\*Full particulars of the variation are:

.....  
.....  
.....

Dated this ..... day of ..... 19 .

Signed: .....  
Public Officer

Name: .....  
(Block Letters)

*\*Delete as necessary*

*(NOTE: Section 59 requires this notice to be given not later than one month after the variation or revocation.)*





**SCHEDULE 2***Fees*

Clause	Matter	Amount \$
1.	For inspection under section 6(2) of the Act of documents lodged by or in relation to an association . . . . .	11
2.	For the supply of an uncertified copy, or the supply of a copy of an extract from, a document held by the Commission in relation to an association (in addition to the fee payable under clause 1)—	
	(a) for one page . . . . .	4
	(b) for each additional page or part of a page . . . . .	1
3.	For the supply of a certified copy of, or the supply of a certified copy of an extract from, a document held by the Commission in relation to an association (in addition to the fee payable under clause 1)—	
	(a) for one page . . . . .	12
	(b) for each additional page or part of a page . . . . .	1
4.	On lodging an application to the Commission (not being an application for which a fee is specified elsewhere in the schedule) to exercise any of the powers conferred on the Commission by the Act, or by those provisions of the <i>Corporations Law</i> applied by the Act to an association	32
5.	On lodging an application to the Minister to exercise any powers conferred on the Minister by the Act . . . . .	32
6.	On lodging an application for incorporation under section 19 of the Act . . . . .	97
7.	On lodging an application for amalgamation under section 22 of the Act . . . . .	97
8.	On lodging an application to register an alteration to rules under section 24 of the Act (including an application to alter the name of an association) . . . . .	33
9.	On lodging a periodic return under section 36 of the Act . . . . .	48
10.	On submitting to the Commission for examination a draft explanatory statement prior to its registration under the provisions of the <i>Corporations Law</i> applied under section 40a of the Act	100
11.	On lodging an application to the Commission to exercise the powers conferred by section 44a or 46 of the Act . . . . .	47
12.	For an act done by the Commission—	
	(a) representing a defunct association or its liquidator under section 44a of the Act . . . . .	47
	(b) under section 46 of the Act . . . . .	47
13.	On lodging an application to the Commission to exercise the power conferred by section 53 of the Act . . . . .	47
14.	On the late lodgment of a document (in addition to any lodgment fee provided by any other clause for the lodging of that document)—	
	(a) if lodged within one month after the prescribed time . . . . .	18
	(b) if lodged more than one month but within three months after the prescribed time . . . . .	35
	(c) if lodged more than three months after the prescribed time . . . . .	78
15.	For the production by the Commission, pursuant to a subpoena, of a document held by it in relation to an association . . . . .	27
	and, in addition, for each two pages or less of the document produced . . . . .	1
16.	For any act that the Commission is required or authorised to do on the request of a person and for which a fee is not prescribed by any other clause . . . . .	18

24.

**APPENDIX 1**

**LEGISLATIVE HISTORY**

Schedule 2:

varied by 72, 1994, reg. 3; 61, 1995, reg. 3; 104, 1996, reg. 3;  
substituted by 72, 1997, reg. 3

**APPENDIX 2****DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25