

What Does Incorporation Mean for Sport & Active Recreation Clubs

What does Incorporating mean?

Incorporation of an association establishes an organisation as a legal entity in its own right, separate from its individual members. Incorporation helps protect individual members from the debts and liabilities of the association, and establishes an entity which is considered at law to have a distinct identity that continues, despite changes to its membership.

If your club is not incorporated, it is the individual members and officers, rather than the club, who will be held personally responsible for any debts or other liabilities.

For the protection of your individual members and officers, it is recommended your club consider becoming incorporated. Before it can become incorporated, organisations must meet a number of legislated requirements and statutory obligations.

In regard to legislated requirements, to become an incorporated association under the Associations Incorporation Act 1981 (the Act), an organisation must have at least five members and be a not-for-profit association. To apply for incorporation your organisation must have an appropriate:

- Name
- Statement of Rules and Purposes, Constitution or similar, and
- Rules of the Association

These requirements must be approved both by the Registrar upon applications, and by a meeting of potential members prior to final approval for incorporation being given.

Please note Associations Incorporations legislation is governed at the state rather than federal level, therefore requirements vary between states. Consumer Affairs Victoria (CAV) is the organisation responsible for incorporated associations in Victoria. The CAV website has an excellent range of fact sheets and other information to assist groups with incorporation issues. For further information regarding requirements of, and applications for incorporation, contact:

Consumer Affairs Victoria

P: 1300 361 673

W: <http://www.consumer.vic.gov.au>

To assist sport & active recreation clubs VicSport has also developed a Guide for Incorporating Associations, which can be viewed on the VicSport website at www.vicsport.asn.au

Statutory obligations of incorporated associations

Incorporating an association under the Associations Incorporation Act 1981 gives rise to a number of important statutory obligations. Failure to comply with these obligations may lead to prosecution or a direction from the Registrar to wind up the Association.

A summary of the main statutory obligations follows:

- Conduct annual general meetings - each calendar year, an incorporated association must hold an annual general meeting within 5 months of the end of the association's financial year.
- Lodge annual statements - each year, an incorporated association must lodge an Annual Statement by the Public Officer with the Registrar within one month after the annual general meeting.
- Notify the Registrar of changes to any association details - the incorporated association must let the Registrar know and provide updated details if it:
 - changes its registered address
 - appoints a new Public Officer (or if the Public Officer's address changes)
 - obtains an Australian Business Number (ABN)
- Maintain adequate financial records - every incorporated association must maintain adequate and accurate accounting records of its financial transactions.

A Prescribed Incorporated Association (i.e. one with annual gross revenue of more than \$200,000 or assets in excess of \$500,000), must have its accounts audited at the end of each financial year and retain accounting records for 7 years.

- Make copies of documents available to members on request - an incorporated association must make the following documents available for inspection on request by its members:
 - a copy of its rules
 - a copy of the trust deed of any trust held on behalf of the incorporated association by a person or body other than the association.
- Include registered name in documents - an incorporated association must ensure that its registered name and number appears in all its notices, advertisements, publications and business documents.
- Notify the Registrar of a special resolution - an incorporated association must notify the Registrar of any special resolution to:
 - change its name, its rules or statement of purposes
 - a copy of the trust deed of any trust held on behalf of the incorporated association by a person or body other than the association
 - amalgamate with another incorporated association
 - wind up and distribute assets