

Incorporation

What is incorporation, who should become incorporated and why?

Incorporation is the process of registering an organisation as a legal entity, so that it is recognised by law as having an existence in its own name.

Whilst there is no legal necessity for a sport or recreation organisation to become incorporated, if it remains a voluntary organisation incorporation is recommended because it allows an organisation to:

- Have its own 'corporate' identity.
- Protect individual members of the organisation from legal liability.
- Enter into enforceable contracts.
- Purchase and own real estate.
- Enter into tenancy and lease agreements.
- Sue or be sued.
- Accept bequests and gifts.
- Apply for government grants.
- Continually exist until it is disbanded by direct operation of the law.

In addition, organisations should be aware that when groups are not incorporated, all individual members are jointly and collectively liable for debts and actions against the group. The actions of unincorporated groups expose all members to the following risks:

- Liability for the negligence of coaches, and administrator actions.
- Liability for participant's personal injury claims against the organisation.
- Breach of duty-of-care to spectators and facility users.
- Responsibility for the fitness for the purpose of goods and services provided.

Any not-for-profit community organisation involved in commercial transactions, such as owning land or premises, providing activities including some element of risk, borrowing money or holding a licence, should consider incorporation.

It is important to note, the benefits derived from incorporation should not be confused with those from public liability insurance an organisation may take out. Public liability insurance is an arrangement to cover losses outlined in the insurance policy up to a set amount.

Obligations of incorporated organisations

Because of the legal nature of incorporation, incorporated organisations must fulfil the following responsibilities:

- Hold an Annual General Meeting.
- Submit an annual return and financial statement to Consumer, Building and Occupational Services.

Current as at August 2019



- Have the public officer's name and residential address registered with Consumer, Building and Occupational Services.
- Not be without a public officer for more than one month at a time.
- Only change the constitution in a manner prescribed by the *Associations Incorporation Act 1964*.

Please note that following changes to the *Associations Incorporation Act 1964*. In 2016, only incorporated organisations with an annual revenue over \$250,000 are required to lodge audited financial statements.

Steps to incorporation

1. Hold a meeting of members to approve the decision to become incorporated.
2. Appoint a public officer to handle the incorporation process.
3. Approve the name and constitution of the organisation, if they have not previously been approved.
4. Complete the Application for Incorporation of an Association and Public Officer – Notice of Appointment forms. (Note: the name of the association must appear exactly the same on both forms as it appears in the names clause of the constitution).
5. Lodge the forms along with two copies of the constitution and the payable fee.

A Certificate of Incorporation will be issued upon completion of these steps, with approval usually occurring within 14 days of lodging the application.

Where can I get more information?

The *Associations Incorporation Act 1964* outlines the eligibility requirements (Section 2) and what an application for incorporation shall contain and be accompanied (Section 7) with.

The *Associations Incorporation Act 1964* is available at <http://bit.ly/2q4XApe>

For specific enquiries relating to incorporation contact Consumer, Building and Occupational Services on 1300 65 44 99 or visit the website at http://www.consumer.tas.gov.au/registrations/incorporated_associations

Information relating to forms and fees can be found on the Consumer, Building and Occupational Services website at http://www.consumer.tas.gov.au/forms_and_fees