

Part 4

Registers, records and official documents

This part of the guide covers the legal requirements for various registers, records and documents (including official and business documents) prepared and kept by incorporated associations in New South Wales.

The secretary is usually responsible for maintaining these registers, records and documents, and some duties under the AI Act are carried out by the public officer.

Summary of key points

What are the main legal requirements for registers, records and official documents?

The legal requirements for incorporated associations to prepare and keep documents, registers and records are outlined in this part of the guide and are found in the AI Act, the AI Regulation and in the association's constitution.

Types of registers

Every incorporated association must have a members register, a committee member register and a register of all disclosures of conflicts of interest. This part of the guide discusses these registers, and other types of registers which an association may choose to have to assist in meeting its legal obligations in line with good governance practice. Sample registers are provided.

NSW Fair Trading's powers of inspection, entry and search

Under the AI Act (Part 8, Sections 85-94), NSW Fair Trading has a number of powers, including to enter premises, to inspect and copy relevant documents of an incorporated association in connection with the affairs of an association and to verify that the AI Act is being complied with.

Can NSW Fair Trading refuse to register documents lodged?

In certain circumstances, NSW Fair Trading can refuse to register an association, or some documents, for example, when it considers a document to be false or misleading, incomplete, incorrect, or unreadable, if some provision is contrary to law or if the AI Act has not been complied with.

What are 'official and business documents' and what information must be included in them?

The AI Act sets out some specific requirements for official and business documents of incorporated associations in NSW. In some circumstances, federal legislation (such as company and tax laws) may also be relevant to an incorporated association.



What are the main legal requirements for keeping registers, records and official documents?

Overview of requirements

The AI Act requires an incorporated association to have:

- a register of committee members (section 29 of the AI Act)
- a register of any conflicts of interest of committee members (section 31(3) of the AI Act)
- records of the association's financial position and meeting minutes (section 50 of the AI Act)
- provisions in the association's constitution about a register of members (Item 2 of Schedule 1 of the AI Act)
- provisions in the association's constitution about the custody (safe keeping) of books, documents and securities of the association (Item 14 of Schedule 1 of the AI Act), and
- provisions about members' inspection of the association's books and documents (Item 15 of Schedule 1 of the AI Act)

An incorporated association may keep records of financial accounts and minutes of proceedings in electronic form, provided the records are able to be converted into hard copy and are able to be made available for inspection within a reasonable time (regulation 14 of the AI Regulation).

Incorporated associations may also need to keep certain records for particular periods of time. The AI Regulation specifies that records of an association's financial position and meeting minutes must be kept for a period of no less than five years (regulation 14 of the AI Regulation). Incorporated associations may also have obligations under taxation or employment legislation to keep certain records for specific periods of time. Additionally, the *Charitable Fundraising Act 1991* (NSW) (the **Fundraising Act**) requires that any association conducting fundraising must retain related documents for a minimum of seven years (section 22 of the Fundraising Act).

Your association's constitution and policies may include additional record-keeping and register-keeping requirements.

Who is responsible for the association's documents, records, registers, books and documents?

- The AI Act doesn't specify who in an association is responsible for keeping and maintaining the association's records, registers, books and documents. In the Model Constitution both the secretary and treasurer have obligations to maintain and update certain types of records (see articles 16 and 17 of the Model Constitution).

However, you should check your own association's constitution, policies and procedures — sometimes the secretary, the treasurer or other members of the committee will be responsible for record keeping (or at least, have an obligation to provide documents to the public officer for safekeeping).

- The custody of books, documents and securities of the association is a matter which must be addressed in an association's constitution (Item 14 of Schedule 1 of the AI Act). Under rule 44 of the Model Constitution, all 'records, books and other documents' must be kept in NSW:
 - at the main premises of the association, in the custody of the public officer or a member of the organisation (as determined by the committee), or
 - if the association has no premises, at the association's official address, in the custody of the public officer.
- To conform with the requirements under the AI Act a committee member or public officer has 14 days to return all association documents after vacating office (sections 28(5) and 35(2) of the AI Act). Keep in mind your association's constitution may have additional provisions about the custody of documents.



Public officer's obligation under applicable taxation legislation

The public officer is responsible for ensuring that the association complies with any applicable obligations under relevant taxation legislation.

Note that, as an incorporated association, the association is taken to be a body corporate for the purposes of that legislation by virtue of s955.1 of the *Income Taxation Assessment Act 1936* (Cth).

Financial records

You will need to determine whether your association is a 'Tier 1' or a 'Tier 2' association (section 42 of the AI Act). The requirements for financial records vary depending on whether an association is Tier 1 or Tier 2.

An incorporated association must maintain the required accurate financial records that correctly record and explain its financial transactions and position (section 50(1)(a) of the AI Act). The AI Act specifies requirements for the preparation of the financial statements and penalties for non-compliance. Financial statements must also comply with additional information requirements in the AI Regulation.

For more information about financial requirements, see part 8: Reporting to NSW Fair Trading in this guide.



Tip

Check what your association's constitution says about these matters.

Make sure you have the most up-to-date version of your constitution, including any changes that have been registered with NSW Fair Trading.

If you are confused about which requirements apply to you and whether the copy of the constitution you have is up-to-date, contact NSW Fair Trading and request a copy of your association's constitution and purposes.

Requirements to keep and store documents

The AI Act requires the association to include provisions in its constitution addressing storing and providing access to the association's 'books, documents and securities' (Items 14 and 15 of Schedule 1 of the AI Act). If the Model Constitution is adopted, it addresses this requirement.

Relevant documents will include:

- the members register and other membership records
- committee member register
- conflict of interest register
- financial records and statements
- notices and minutes of meetings of members and the committee
- the original application for incorporation
- the certificate of incorporation
- originals of documents lodged with NSW Fair Trading and related correspondence (see part 8: Reporting to NSW Fair Trading), and
- a copy of the association's current constitution

**Tip**

Some documents (such as minutes of meetings) are important historical records of your association. So, it's good practice to keep them permanently – rather than throw them out after five years!

The following documents may also be important to your association:

- certificates of title, documents relating to property (such as leases) and to other transactions, dealings, business activities or property of the association
- government licences and certificates
- insurance policies (including workers' compensation)
- trust deeds
- contracts and other documents relating to transactions
- mortgage and loan agreements
- investment documents (such as deposit notes, share scripts or debentures), and
- Australian Taxation Office correspondence and documents

**Note**

Computer or other electronic data containing any of the above (including back-ups on CDs, DVDs or external hard drives) may be considered documents of the association.

**Tip**

Many associations have a constitutional provision that is similar to Model Constitution clause 44 which gives the public officer the responsibility for keeping all the association's records, books and other documents (except as provided elsewhere by the constitution).

Many associations also have a rule similar to Model Constitution clause 45, which allows a member of the association to:

- inspect free of charge all the association's records, books, financial documents, constitution and minutes of all meetings, and
- take a copy of any of these documents (which may involve a charge)

The public officer is often also responsible for dealing with members' requests to inspect or copy documents.

Keeping documents safe and organised

There is no requirement under the AI Act to keep a register (a list) of all official and relevant documents (other than the committee member and conflict of interest register, which is required – see below). However, you should check your own association's constitution.

Even if the constitution doesn't require your association to maintain a register of important documents, it's best practice to keep such a register. This ensures you can locate documents when they are needed and inspected or copied in accordance with your constitution.



Note

It's good governance practice for the public officer or secretary (with the treasurer) to maintain accurate and up-to-date registers of all the association's relevant documents. Among other things, this will help everyone, especially the secretary or public officer, keep track of important documents as required by the AI Act.

Fundraising Act requirements

Generally, if your association intends to fundraise, the association must hold an authority to fundraise from NSW Fair Trading under the Fundraising Act (Division 2). There are some exceptions to this requirement to hold an authority (for example, religious organisations, local councils, universities, small fundraisers and organisations authorised to marry people).

The Fundraising Act requires all fundraisers to keep certain information and records for at least seven years at the registered office or address of the association (section 22(2)(d) of the AI Act). This information includes details on the income and expenditure involved during a fundraising appeal.



Related resources

For more information about registering as a fundraiser, see:

- Not-for-profit Law's fundraising webpage, and
- NSW Fair Trading's webpage on fundraising



Tip

If your association is authorised as a fundraiser under the Fundraising Act or exempt from the requirement to get an authority, it must keep records containing full details of certain matters about its appeals for support (section 22 of the Fundraising Act and regulation 11 of the Fundraising Regulation).

An organisation that fails to keep the required records can be penalised.

Fundraising laws are not discussed further in this guide, but see the Checklist for records of fundraising appeals at the end of this part of the guide.

Keeping registers

A register is simply a list (or database) of information. An incorporated association must keep several types of registers.

Every association must have a register of its:

- members
- committee members, and
- any declared conflicts of interest

Your association may choose to keep other registers, depending on the size of the association and how the association is run.

Register of members

Your association's constitution must contain provisions regarding a register of members (Item 2 Schedule 1 of the AI Act). Rule 7 of the Model Constitution sets out an example of what information could be recorded in the members register - that is:

- each member's name and postal, residential or email address
- the date that person became a member, and
- when a person leaves the association, the date that person ceased to be a member



Note

Under the Model Constitution, a member may request that information contained in the members register about them (other than their name) not be available for inspection (see clause 7 (5)).

Your association may also have provisions in the constitution about members requesting that their personal details be restricted from the register.

If a member has requested that their details be restricted in accordance with your association's constitution, the association must take care that this information can't be accessed when the register is provided for copying or inspection, so long as the provisions of the constitution are not contrary to any law.



Tip

Check your association's own constitution (and any policies) about the members' register. You may have different or extra requirements to those in the Model Constitution. For example, your association's constitution may require the secretary or public officer to record the membership fees each member pays, or the date they paid it.

What is the purpose of the members' register?

The members' register (and the proper maintenance of it) is important because, among other things, it may help the association work out:

- who should be sent notices of the association's meetings
- who is eligible to vote at general meetings of the association
- the number of members at the end of each financial year, and
- the number of members in any or all classes of membership (if your constitution allows different classes)

The members' register may be open for inspection by members (see rule 7(3) of the Model Constitution). This enables transparency about who belongs to the association.

Note that the Model Constitution allows members to request that their entry on the register (other than the member's name) be kept private. If your association has such private entries, you will need to keep a full register that is protected from inspection, and a register available for inspection with restricted entries removed or redacted. See above 'What are the main tasks and legal obligations of a public officer?' and 'What are the legal duties of a public officer (and other committee members)?'

Your association's constitution must contain provisions concerning how the members' register is to be set up and maintained. If provisions are not included in your association's constitution the Model constitution will apply. An example of a members register is provided at the end of this part of the guide.



Register of committee members

An association must keep a register of committee members (section 29 of the AI Act). This register must contain (section 29(2) of the AI Act):

- the committee member's name, date of birth and residential address
- the name of committee members who hold the positions (if any) of president, vice-president, secretary or treasurer and the dates they hold the position
- the date on which the committee member takes office, and
- the date on which the committee member vacates office

This register must be kept in NSW at either the association's main premises or at the address that is recorded in the Register of Incorporated Associations as the association's official address (section 29(3) of the AI Act).

Any change in the committee's membership must be recorded on the register within one month (section 29(4) of the AI Act). Unlike other documents the AI Act mandates that the committee member register be available for inspection, free of charge, by any person (section 29(5) of the AI Act).

An example of a committee member register is provided at the end of this part of the guide.

Register of disclosed conflicts of interest

If a committee member has a conflict of interest in a matter being considered by the committee, that member must as soon as possible disclose the nature of this conflict of interest (section 31(1) of the AI Act).

The details of any disclosure of a conflict of interest must be recorded by the committee in a book specifically kept to record such disclosures (section 31(3) of the AI Act). This book must be available for inspection by any member of the association on payment of a fee, the fee to be determined by the committee but must not exceed \$5 (section 31(3) of the AI Act and Schedule 5 of the AI Regulation). This book must be kept with the register of committee members (section 31(4) of the AI Act).

An example of a disclosure of interests register is provided at the end of this part of the guide.

What registers *should* be kept?

Documents register (optional)

As discussed above, it's good practice for the association to maintain a register of documents to keep track of the documents it must keep.

In some associations (particularly small, recently incorporated ones) it may be enough for the secretary or public officer to keep a simple register of all documents of the association (see the table below).

This single register approach may not work for larger associations, or those that have been running for many years simply because of the sheer volume of relevant documents. In associations with many documents, the association can maintain 'sub-registers' (see further below) to make finding documents easier.

Sample documents register

Document type	Document name	Description	Location	Comments (including retention, renewal, review dates where applicable)
Incorporation and governance	Certificate of Incorporation	Certificate based by NSW Fair Trading dated 1 July 2009	Folder 1 in the office	Registration number A1234567A
	Constitution of the association	Current version (with changes as registered with NSW Fair Trading as at 2 December 2009)	Folder 2 in the office	See minutes of meeting of members on 1 November 2009 for special resolution approving changes



	Policies and procedures manual	Contains current policies and procedures	Folder 3 on the office	Date for review 1 January 2018
Documents lodged with NSW Fair Trading	Application for incorporation of association	Lodged with NSW Fair Trading on 1 June 2008	Folder 1 in the office	Retain for 5 years 1 June 2013
	Financial statement (2015)	Lodged with NSW Fair Trading on 2 November 2010	Folder 1 in the office	Retain for 5 years 1 June 2015
	Application for alteration of constitution	Lodged with NSW Fair Trading on 2 November 2016	Folder 2 in the office	Retain for 5 years 1 June 2015
	Financial statement (2016)	Lodged with NSW Fair Trading on 2 November 2016	Folder 3 in the office	Retain for 5 years 1 July 2021
Property	Certificate of title	CT Vol 3603 Fol 150	Kept in safe custody at Mooncorp Bank, 1 George Street, Sydney	Sporting club at 3 Riverside Street, Sydney

If a document is lodged by email (for example a document lodged with NSW Fair Trading), you should keep both the sent email and the attachment (and note these details in the register).

Specific additional registers (optional)

Some associations may find keeping additional registers, such as registers of insurance policies or registers of assets, helpful. A list of possible extra registers is set out in the table below.

It's a good idea to discuss registers and record-keeping generally with your association's auditor (if it has one) or the treasurer, to make sure you take the best approach.

Possible additional registers

Type of register	AI Act requirements	Explanation and tips
Common seal See the sample common seal register at the end of this part of the guide	It's not compulsory to have a common seal, but if your association has one, you may want to include information about its custody and use in your constitution.	A 'common seal' is a rubber stamp with the name of the association on it. It may be used for official purposes, such as signing a lease or title deed to property. (See 'Information and details that must be included on an association's documents and advertising' below). If your association has a common seal, it's good practice to keep a register of when the seal is used. Ideally, the register should cross-reference to the relevant committee minutes authorising its use.
Assets See the sample assets register at the end of this part of the guide	There is no specific requirement to keep a register of any kinds of assets (but see above for requirement to keep financial records). The AI Act covers how any surplus assets will be distributed if the association is wound up or dissolved (section 65 of the AI Act) and where property vests if the association's incorporation is	A register of the association's assets (for example, those worth more than a specific amount) is very helpful when: <ul style="list-style-type: none"> • your association needs to calculate surplus assets (especially if your association is large) • preparing annual accounts • preparing your association's financial summary and statements (to be lodged with



cancelled by NSW Fair Trading (section 77 of the AI Act).

NSW Fair Trading after each annual general meeting see sections 45 and 49 of the AI Act), and

- an auditor wishes to check your financial records and assets (section 51 of the AI Act)

Insurance policies

See the sample insurance register at the end of this part of the guide

There are no specific requirement to obtain, or have rules about, specific insurance cover, but check your association's constitution.

Check your association's constitution, policies and operations for any requirements to take out particular insurance policies – for example, public liability, volunteers insurance, worker's compensation or directors' and officers' liability insurance.

The Council of Social Service NSW (NCOSS) provides insurance programs to non-government community service organisations. For more information visit their website.

Also refer to our guide: Insurance and risk management for community organisations.

Banking details

See the sample register of bank accounts at the end of this part of the guide

Caution:

Bank account details should never be kept in the same place as passwords or 'sample' signatures. It's poor practice and opens up a real risk of fraud.

There are no specific requirement to keep, or have rules about, a register of bank accounts or signatories. However, the constitution must specify the manner in which the funds of the association are to be managed and in particular how cheques are drawn and signed (Item 13 of Schedule 1, and see for example rule 40 of the Model Constitution).

If your association has a number of bank accounts or credit cards, it's good practice for either the secretary or the treasurer to keep a register of them. A register of bank accounts (and details about online banking facilities) can help the treasurer manage the association's cash flow. And, for example, if the association is required to keep a special account for project or trust moneys or fundraising funds, this can be noted this in the register.

Many associations (including those using the Model Constitution) have an article of the constitution requiring cheques to be signed by two members of the committee (usually one of these signatories is the public officer or secretary). To keep track of who is authorised to sign cheques, it's good practice for the association to keep a register of signatories.

Sometimes limits are made on bank account signatories' authority (for example, they may be authorised to transfer money only up to a specified amount). The association can record these limits in the register. It may also be useful to cross-reference the appointment of a signatory to the minutes of the relevant committee meeting.

Investments

See the sample investments register at the end of this part of the guide

There are no specific requirement to keep, or have rules about, an investments register.

If your association invests any of its funds (for example, in term deposits, managed funds or shares), or has been donated actual assets (for example, paintings), it's good practice for the association to maintain an investments register. It will help the association keep track of its investments (and, for example, the dates on which invested funds mature).

Keys

See the sample key register at the end of this part of the guide

There are no specific requirement to obtain, or have rules about, a register of keys.

If your association has a number of keys – for example, to buildings, filing cabinets, petty cash boxes, vehicles – it's a good security measure for the association to maintain an up-to-date key register.

Administering requests for restricting access to details on members register

As a general rule, members' details are stored in the members register, and that register can be inspected by members of the association (see article 7(3) of the Model Constitution).

The Model Constitution has a provision which allows members to seek to have access to their details on the register restricted (rule 7(5) of the Model Constitution). Under the Model Constitution a member can request, without cause, that all but their name be unavailable for inspection by others. While the Model Constitution doesn't provide a specific form for members to make this request, a request would normally be made in writing to the public officer. Your constitution may have its own rules about who can access information on the members' register and how that information may be restricted.



Example

Sally is a member of an association whose membership is limited to victims of family violence. Sally would prefer that her address telephone number not be available to other members. Sally writes a letter to her public officer, and requests that access to her details on the members register be restricted to her name only.

NSW Fair Trading's powers of inspection, entry and search

NSW Fair Trading may use its powers of inspection, entry and search to establish whether your association is complying with the AI Act and the AI Regulation.

What are Fair Trading's powers?

While Fair Trading's powers under the AI Act are rarely used, they are extensive. NSW Fair Trading has the power to give a written notice requiring your association to provide NSW Fair Trading information and documents possessed in connection with the affairs of your association (AI Act section 85(1)).

An authorised officer from NSW Fair Trading may enter any premises at which an association carries on any activity and may inspect or take copies from any document relating to the carrying on of business at or from the premises. However, an authorised officer may not enter any part of a premises that is used for residential purpose and may not enter the premises outside the ordinary hours of operation for the association (section 86(2) of the AI Act).

Access to the premises may be given either with the consent of the occupier, or without consent in certain circumstances, or in accordance with a search warrant issued by a Magistrate under section 87 of the AI Act. Generally the occupier will be given 24 hours' notice that these powers are to be exercised, however this notice requirement may be waived by NSW Fair Trading in certain circumstances.

Can an association be penalised for failing to comply with NSW Fair Trading requirements regarding inspection, entry and search?

Yes. Under the AI Act it's an offence for an association (or anyone involved in its activities) to:

- refuse or fail to comply with any requirement of an NSW Fair Trading authorised officer, for example, to produce documents related to the affairs of an association (section 85 of the AI Act)
- knowingly give false or misleading information or false or misleading documents or information to NSW Fair Trading (section 85(2) of the AI Act), or
- obstruct or hinder a NSW Fair Trading authorised officer who is exercising their powers under the AI Act (section 92 of the AI Act)

Can NSW Fair Trading refuse to register documents lodged?

NSW Fair Trading can refuse to register or may reject documents lodged by an association for reporting purposes for a number of reasons (section 99 of the AI Act).

These include if NSW Fair Trading:

- considers the document is not complete, is not able to be read (or opened in the case of electronic material), contains an error, alteration or erasure, or doesn't comply with the law or the AI Act, or
- believes the document contains a matter which is false or misleading

For more information, see part 8: Reporting to NSW Fair Trading in this guide.

Information and details that must be included on an association's documents and advertising

What are the requirements for an association's business documents?

The main legal requirements for the official and business documents of an incorporated association in New South Wales arise under the AI Act and various other laws.

To satisfy the requirements under the AI Act your association must always legibly display the full name of the association, including 'Incorporated' or 'Inc' on all official and business documents; such as letters, statements, invoices, notices, publications, orders and receipts (section 41 of the AI Act).



Note

Incorporated associations must include the word 'Incorporated' or the letters 'Inc' at the end of their name (section 18(1)(a) of the AI Act).

Your association can be fined for failing to include its full name and registration number legibly on any of the documents listed above.

What if the association is a 'Registered Australian Body' under the Corporations Act?

Some New South Wales associations are registered as a 'Registered Australian Body' with the Australian Securities and Investments Commission (**ASIC**) under Part 5B.2 of the Corporations Act. Through this registration, these associations can operate in any State or Territory in Australia (they are not restricted to operating only in New South Wales). Registration means that associations must meet some Commonwealth Government reporting requirements in addition to reporting requirements for incorporated associations.

If your association is a Registered Australian Body, the association must ensure that particular details are displayed on all of the association's 'public documents' and negotiable instruments (for example, cheques).

'Public documents' under the Corporations Act are defined in section 88A of the Corporations Act and include any document which is signed, issued or published by or on behalf of the association.

The details required to be displayed on public documents and negotiable instruments (in addition to any requirements for incorporated associations generally) are:

- your association's name
- your association's Australian Registered Body Number (**ARBN**) or, if the last 9 digits of your Australian Business Number (**ABN**) are identical to the last 9 digits of its ARBN, the words 'Australian Business Number' followed by your association's ABN
- your association's place of origin (that is, New South Wales), and
- notice of the members' limited liability (section 601DE of the Corporations Act)

The public officer or secretary of an association is usually responsible for ensuring that the association complies with these requirements.



Tip

A Registered Australian Body's details are usually set out on public documents and negotiable instruments (such as cheques) in this form:

*[name of incorporated association] [notice of members' limited liability] [place of origin]
[incorporation registration number] [ABRN/ABN number]*

For example (if the last 9 digits of an association's ABRN are identical to its ABN):

'XYZ Inc Limited Liability (NSW) A1234567A, ABN 123 456 789'

What if the association has an ABN or is registered for GST?

It's not compulsory for an association to have an ABN, unless it has a goods and services tax (**GST**) turnover of \$150,000 or more for non-profit organisations, or over \$75,000 for other businesses, (in which case it is required to register for GST, and must have an ABN to do this). However, even if your association is not required to register for GST, you can still apply for an ABN.

According to the Australian Taxation Office (**ATO**), if an association has an ABN, the ABN should be included on:

- invoices
- quotes
- renewal notices (such as for subscriptions)
- order forms
- receipts
- contracts or lease documents
- letterheads, emails or internet records (web pages)
- records of over-the-phone quotation of an ABN, and
- catalogues (and other promotional documents) the association produces



Related resources

For more information about ABNs, see:

- the ATO website and go to Tax topics - ABN essentials
- Not-for-profit Law's webpage on 'setting up' for a link to an ATO fact sheet on ABNs.

If your association is registered for GST

If your association is registered for GST under Part 2-5 of the GST Act, any invoices issued by the association that are 'tax invoices' must:

- be in the form approved under the GST Act, and
- set out your association's ABN and name (section 29.70 of the GST Act)



Related resources

For further information about GST, see the ATO webpage addressing whether a not-for-profit must pay income tax.

You must meet all other requirements for incorporated associations and (if applicable) Australian Registered Bodies.

What if the association has deductible gift recipient (DGR) status and can receive tax deductible donations from the public?

Some associations are granted DGR status under the Income Tax Act. This status allows them to receive tax deductible donations from the public.



Related Not-for-profit Law resources

For more information on DGR status and tax issues generally, go to Not-for-profit Law's tax webpage.

If your association has DGR status, the receipt for a tax deductible donation must contain the following information (in addition to general requirements for public and business documents):

- your association's ABN
- the date the donation was received
- the name of the organisation or person making the donation
- the name of the fund
- the signature of a person authorised to act on behalf of the fund
- the name of the donor
- type of donation (money or property) and value, and
- if applicable, an indication that the fund is listed on a particular register maintained under subdivision 30-B of the Income Tax Act (such as the Register of Cultural Organisations)

If your association issues a receipt for a donation in relation to an eligible fundraising event, there are extra requirements.



Related resources

For more information go to the ATO's webpage on not-for-profits and tax and fundraising.

Further information



Not-for-profit Law resources

- Setting up your organisation – for information on applying for an ABN. This page also contains a link to the ATO fact sheet on ABNs.
- Choosing the right incorporated legal structure – download the fact sheet: ‘Incorporated association or a company limited by guarantee?’ This explains Registerable Australian Bodies.
- Tax – overview of tax issues for community associations in New South Wales.
- Fundraising – information about the main legal issues that may arise for community associations when they organise fundraising activities.



Related resources

Legislation

- The *Associations Incorporation Act 2009* (NSW) is the legislation that regulates incorporated associations in New South Wales
- The *Associations Incorporation Regulation 2016* (NSW) contain additional requirements for incorporated associations in New South Wales
- A *New Tax System (Goods and Services Tax) Act 1999* (Cth) establishes the federal system of registration for GST and sets out the law relating to GST
- The *Corporations Act 2001* (Cth) is federal legislation which regulates corporations. An incorporated association is not generally required to comply with the Corporations Act, however an association may be caught by parts of the Corporations Act if they are registered by the Australian Securities and Investments Commission under Part 5B.2 of the Corporations Act (that is, they are a ‘Registered Australian Body’)
- The *Income Tax Assessment Act 1997* (Cth) sets out the law relating to income tax exemptions, DGR and charity tax concessions
- The *Charitable Fundraising Act 1991* (NSW) is the legislation that regulates fundraising in NSW
- The *Charitable Fundraising Regulation 2015* (NSW) contains additional requirements for fundraisers

Government

- The NSW Fair Trading website contains a variety of online resources for NSW incorporated associations.

Other links

- See part 1: The Association in a Nutshell in this guide for links to other associations and online resources to assist you and your association.



Tools

Checklist for records of fundraising appeals

This checklist is for associations that are registered as fundraisers under the *Charitable Fundraising Act 1991* (NSW) (the **Fundraising Act**).

The checklist covers the details your association should include in your association's records of fundraising appeals to satisfy the requirements of the *Fundraising Act and the Fundraising Regulations 2015* (NSW).

Order	Description	Done
1.	Funds and assets received as a result of the appeal	<input type="checkbox"/>
2.	What happened to all those funds and assets	<input type="checkbox"/>
3.	The amount applied to the purposes or objects of the appeal and how it was distributed	<input type="checkbox"/>
4.	Any expenditure on assets	<input type="checkbox"/>
5.	Any expenditure on wages, salaries, commissions and other remuneration in relation to the appeal	<input type="checkbox"/>
6.	Any other administrative expenses related to the appeal	<input type="checkbox"/>
7.	Any other expenditure related to the appeal	<input type="checkbox"/>
8.	The name and address of any commercial fundraiser that conducted or administered part or all of a fundraising appeal on behalf of the association	<input type="checkbox"/>
9.	Details of any condition that has been imposed on your association in accordance with the Fundraising Act and if applicable your authority to fundraise	<input type="checkbox"/>
10.	The name of the person from your association who is responsible for overseeing the association's involvement in the appeal	<input type="checkbox"/>
11.	The name and address of each person who participates in the appeal as a supervisor or manager	<input type="checkbox"/>
12.	The name and address of each person who gained a financial advantage from the appeal (other than as a person for whose benefit the appeal was held or other than as a supplier of goods or services) and details of the reason for, and nature and amount of, that financial advantage	<input type="checkbox"/>
13.	The name and address of every person, or name or description of every class of people, on whose behalf the appeal was made	<input type="checkbox"/>
14.	Copies of the written consent provided by each intended beneficiary of the appeal (if practicable)	<input type="checkbox"/>
15.	The dates on which the appeal started and finished	<input type="checkbox"/>



Sample members register (mandatory)

This is a sample members register for an incorporated association in New South Wales.

Adapt this register as necessary for the purposes and requirements of your own association and its constitution.

Your association must keep a members register, however the content, maintenance and rules regarding inspection may be modified by your constitution. **Remember** – members may have a right under your constitution to have their details suppressed from registers available for copy or inspection (you may choose to keep one full register, and one register for inspection with suppressed entries redacted or removed).

Member number	Name	Address	Date member approved	Membership class (if any)*	Date membership ended	2012			2011		
						Receipt no.	Amt	Date	Receipt No.	Amt	Date
	(i)	(ii)	(iii)	(iv)	(v)	(vi)					
1	Ima PAYE	21 Smith Street Burwood New South Wales	8/1/2008	Ordinary member		2410	\$10	9/1/12	4567	\$15	8/1/11
2	Mei TAN	5 Garden Court Woodend New South Wales	9/1/2012	Ordinary member		2413	\$10	9/1/12			
3	Reg JONES				20/2/2012						

* **Classes of membership.** These will vary, depending on your association's constitution, but may include: ordinary member, associate member, life member, honorary member.

General notes:

- (i) Member's full name
- (ii) Postal, residential or email address of the member
- (iii) Date of admission
- (iv) See above for class of membership (will vary according to each association's constitution)
- (v) The date the person stopped being a member
- (vi) Membership fees can help to establish whether a member is a 'financial member'. This may have implications for voting at meetings and use of the association's facilities.



Sample committee members register (mandatory)

Year	Committee member name	Position	Date of birth	Residential address	Date member took office	Date member vacated office
2013	Joe Bloggs	President	01/01/1965	4 Yellow Street, Woodvale, NSW	3/3/2010	3/3/2012

Sample disclosure of interests register (mandatory)

Date of entry	Committee member name	Committee meeting date	Details of conflict of interest	Did the committee member take part in related deliberations or decisions?
2/1/2011	Joe Bloggs	03/02/2012	J Bloggs is currently employed by Greener Grass mowing a company that the committee had considered hiring to maintain sporting fields.	No

Sample common seal register (optional)

This is a sample common seal register for an incorporated association in New South Wales. Adapt this register as necessary for the purposes and requirements of your own association.

Date	Document	Authorising signatures	Minute reference	Location
2/1/2011	Contract of purchase of clubhouse at 1 Green Street, Blackfield	Mr J Bloggs, President Ms T Bag, Secretary	Minute No 3 of meeting 1/1/2012	Original document kept in Folder 1.1 in clubhouse office

Sample assets register (optional)

This is a sample assets register for an incorporated association in New South Wales. Adapt this register as necessary for the purposes and requirements of your own association.

Date purchased or acquired	Description of assets	Cost or valuation	Asset ID number	Disposed of...	... at (location)	... date/manner	... for (consideration received)
5/4/10	Overhead Projector (IBM model 246x)	\$1,000.00	1	Club House	2/2/12 by Sam Slick Auctions Pty Ltd at public auction	\$800.00	
5/5/10	Desk (wood veneer) with 3-drawer return	\$600.00	2				



Sample insurance register (optional)

This is a sample insurance register for an incorporated association in New South Wales. Adapt this register as necessary for the purposes and requirements of your own association.

Policy number	Company/ Broker	Type of policy	Premium \$	Date paid	Period of insurance From: — To:	Type of cover and exclusions	Location of original document
0132561	PMA Insurance	Public Liability	\$320	30/6/11	1/7/10 — 30/6/11	Excess of \$200 on fusion and exterior for storm damage	'Insurance' file kept in the office

Sample register of bank accounts (optional)

This is a sample register of bank accounts for an incorporated association in New South Wales. Adapt this as necessary for the purposes and requirements of your own association.

Financial institution	Branch	Account names and number	Signatories	E-banking details	Comments
Mooncorp Building Society	Upper Black Stump (1 Brown Street, Black Stump)	XYZ Club Inc general account BSB-343-01 Acc. 123456	Mr X Ray, Treasurer Ms T Bag, Secretary	User name: XYZINC12938 Password: [known by signatories only]	Overdraft limit of \$5,000 with cheque facilities Delegation of authority to signatories: see minutes of meeting of committee 3 July 2011

Caution: The signatories *must* act in the best interests of the association when signing blank cheques or forms, and should carefully guard passwords for e-banking.

Sample investments register (optional)

This is a sample investments register for an incorporated association in New South Wales. Adapt this register as necessary for the purposes and requirements of your own association.

Financial Institution: Mooncorp Building Society					Branch: Upper Black Stump		
Date	Principal	Rate	Maturity date	Interest earned	Rec/Chq Number	Instructions/Comments	
	Amount invested	Redeemed					
1/1/09	\$100,000	1/5/10	10%	1/6/09	8%	16534	Redeemed by authority of committee minute No 3/2010



Sample key register (optional)

This is a sample key register for an incorporated association in New South Wales. Adapt this register as necessary for the purposes and requirements of your own association.

Date	Key number	Description	Person	Signature	Date of return	Comments
1/1/07	E-1	Master key to club exterior doors	Ima Late	Ima		