

## INCORPORATED ASSOCIATIONS: SUMMARY OF CHANGES TO THE MODEL CONSTITUTION

The model constitution in the Associations Incorporation Regulation 2010 will be replaced with an updated model on 1 September 2016. Below is a summary of the main changes to the model constitution. An association is free to adopt its own constitution if the provisions of the model constitution do not suit its operations.

PROVISION TO 31 AUGUST 2016	NEW OR AMENDED PROVISION FROM 1 SEPTEMBER 2016	REASON FOR THE CHANGE
<p><b>Nomination for membership (cl 3):</b></p> <p>To join an association, a person must be nominated by an association member to become a member.</p> <p>The nomination needs to be in writing and seconded by another member using the form set out in Appendix 1.</p>	<p><b>Application for membership (cl 3):</b></p> <p>A person can make an application if they want to become a member of an association and the committee can determine the form of the application. As a result, Appendix 1 has been deleted as it is unnecessary.</p> <p>The application can be sent by email or other electronic means (i.e. if the committee decides to use either of these methods).</p>	<p>To modernise the application process for membership; making it easier and more practical for people to join an association.</p>
<p><b>Register of members (cl 7):</b></p> <p>The public officer is responsible for maintaining a register of members.</p> <p>Did not provide for an email address for the member or that the register could be kept in electronic form.</p>	<p><b>Register of members (cl 7):</b></p> <p>The association's secretary is responsible for maintaining the register of members.</p> <p>The association register may also include the email address of an association member. The register can be kept in written or electronic form. If kept in electronic form, a current hard copy has to be made available for any member to inspect at the association's main premises or the official address.</p>	<p>For consistency with clause 3, it is more appropriate for the secretary to maintain the register.</p> <p>To provide a more efficient way to maintain the register and an alternative method to communicate with members.</p>
<p><b>Composition and membership of committee (cl 14):</b></p> <p>Did not address the number of terms of office of any office-bearers on the committee.</p>	<p><b>Composition and membership of committee (cl 14):</b></p> <p>Includes a provision that specifies there is no maximum number of consecutive terms for which a committee member may hold office.</p>	<p>To comply with Schedule 1 of the Act.</p> <p>The maximum number of consecutive terms is not limited, so the status quo will be maintained. An association can amend its constitution to specify a maximum number of consecutive terms for committee members or office bearers. An association may wish to specify a maximum number of consecutive terms to ensure a refresh of leadership and to avoid an entrenched management perspective.</p>

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<p><b>Secretary (cl 16):</b></p> <p>Did not deal with electronic communications and record keeping.</p>	<p><b>Secretary (cl 16):</b></p> <p>The provision clarifies that minutes can be kept in written or electronic form and that the chairperson can sign the minutes of meeting proceedings electronically.</p>	<p>This provision recognises modern communication methods and record keeping.</p>
<p>None.</p>	<p><b>Appointment of association members as committee members to constitute quorum (cl 21) - NEW:</b></p> <p>If the number of committee members is less than the number required to make a quorum (i.e. less than 3), then the existing committee members may appoint enough association members to establish a quorum.</p>	<p>To address situations where, for any reason, the committee has insufficient members to establish a quorum. In this way, the remaining committee members will have the ability to form a quorum and act validly.</p>
<p>None.</p>	<p><b>Use of technology at committee meetings (cl 22) - NEW:</b></p> <p>Committee meetings can be held at 2 or more venues using any technology the committee approves. Whatever technology is used, it must give each committee member a reasonable opportunity to participate.</p> <p>Committee members who participate at a committee meeting using such technology have the same rights as members who are present at the meeting, including voting rights.</p>	<p>This provision recognises the availability of technology to make it more convenient for committee members to interact and participate with each other at committee meetings from various locations.</p>
<p><b>Special general meetings-calling of (cl 25):</b></p> <p>Did not deal with electronic communications.</p>	<p><b>Special general meetings-calling of (cl 27):</b></p> <p>Members have the option to make and send their request electronically for a general meeting to be held.</p>	<p>This provision recognises means of modern communication.</p>
<p><b>Making of decisions (cl 30):</b></p> <p>Did not deal with voting at a general meeting that is held using technology.</p>	<p><b>Making of decisions (cl 32):</b></p> <p>A resolution put to a vote at a general meeting being held using technology (as per clause 37) can be decided using a suitable method that the committee determines.</p>	<p>As technology can be used at general meetings (as per clause 37).</p>

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<p><b>Postal ballots (cl 34):</b></p> <p>Did not deal with electronic ballots.</p>	<p><b>Postal or electronic ballots (cl 36):</b></p> <p>Electronic ballots can be conducted to determine any issue or proposal as decided by the committee.</p>	<p>To comply with Schedule 1 of the Act.</p> <p><u>Note:</u> a combination of a general meeting and electronic ballot or postal ballot is not allowed.</p>
<p>None.</p>	<p><b>Use of technology at general meetings (cl 37) – NEW:</b></p> <p>General meetings can be held at 2 or more venues using any technology that the committee approves. Whatever technology is used, it must give each association member a reasonable opportunity to participate.</p> <p>Members who participate at a general meeting using such technology have the same rights as members who are present at the meeting, including voting rights.</p>	<p>This provision recognises the availability of technology to make it more convenient for association members to interact and participate with each other at a general meeting from various locations.</p>
<p>None.</p>	<p><b>Association is non-profit (cl 41) - NEW:</b></p> <p>Provides that an association must apply its funds and assets so as to be consistent with its objectives. An association is prohibited from providing pecuniary gain for any of its members. A ‘pecuniary gain’ is defined in section 5 of the Act.</p>	<p>The Act establishes a registration scheme for associations that are constituted for the purpose of engaging in small-scale, non-profit and non-commercial activities. This new clause clarifies the not-for-profit purpose of the association.</p>
<p>None.</p>	<p><b>Distribution of property on winding-up of association (cl 42) - NEW:</b></p> <p>This provision sets out what happens to the association’s surplus property if it winds up and closes. That is, any surplus property of the association is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its individual members.</p>	<p>Schedule 1 of the Act requires that a constitution contain a winding-up clause.</p>
<p><b>Custody of books etc. (cl 39):</b></p> <p>The public officer has custody of the association’s books, records and other documents except as specified in the constitution.</p>	<p><b>Custody of books etc. (cl 44):</b></p> <p>This provision clarifies that the association’s records etc. must be kept in NSW at the main premises of the association in the custody of the public officer, or a member of the association as the committee determines.</p> <p>If the association does not have any premises, the association’s records etc. must be kept at the association’s official address in the public officer’s custody.</p>	<p>The new clause provides that where an association has premises, it is a convenient location for the records and other documents belonging to the association to be kept.</p> <p>If there are no premises and the documents and the records are to be kept at the official address of an association, this will be the public officer’s address (who is the official contact).</p>

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<p><b>Inspection of books etc. (cl 40):</b></p> <p>No provision to refuse to allow a member to inspect or obtain copies of documents.</p>	<p><b>Inspection of books etc. (cl 45):</b></p> <p>The committee may refuse to allow a member to inspect or obtain copies of records in certain circumstances.</p>	<p>This is a new provision and has been inserted so that the committee can maintain confidentiality. For example, employment records and in relation to personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the association.</p> <p><u>Note:</u> an association can include different requirements in its constitution.</p>
<p>Not applicable.</p>	<p><b>SUBSTITUTE Financial year cl 47 - NEW:</b></p> <p><b>Only</b> applies to a limited number of associations registered immediately before 1 July 2010 whose constitution:</p> <ul style="list-style-type: none"> <li>• does not deal with the financial year, and</li> <li>• has not been amended since 1 July 2010.</li> </ul> <p>The effect of the substitute clause (provided for under clause 19 of the Regulation) is that affected associations will retain their current financial year.</p>	<p>To ensure that section 25 of the Act does not have the effect of changing the financial year for certain associations.</p> <p>The substitute clause is based on the definition of the financial year in the Act, and maintains the status quo of affected associations.</p>

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