



Queensland

Associations Incorporation and Other Legislation Amendment Bill 2006



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Associations Incorporation and Other Legislation Amendment Bill 2006

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A Bill

for

An Act to amend the Associations Incorporation Act 1981, the Classification of Computer Games and Images Act 1995 and the Classification of Publications Act 1991

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The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Associations Incorporation and
Other Legislation Amendment Act 2006*. 4
5

Clause 2 Commencement 6

This Act commences on a day to be fixed by proclamation. 7

**Part 2 Amendment of Associations
Incorporation Act 1981** 8
9

Clause 3 Act amended in pt 2 and schedule 10

This part and the schedule amend the *Associations
Incorporation Act 1981*. 11
12

Clause 4 Insertion of new s 1B 13

After section 1A— 14

insert— 15

**‘1B Act prevails if association’s rules are inconsistent
with Act** 16
17

‘To remove any doubt, it is declared that if a rule of an
association is inconsistent with this Act, this Act prevails to
the extent of the inconsistency.’. 18
19
20

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Clause 5	Amendment of s 2 (Definitions)	1
	(1) Section 2, ‘In this Act—’—	2
	<i>omit, insert—</i>	3
	‘The dictionary in the schedule defines particular words used in this Act.’.	4
		5
	(2) Section 2—	6
	<i>insert—</i>	7
	‘accountant see section 58.	8
	approved person see section 58.	9
	auditor see section 58.	10
	audit report see section 59(2)(c).	11
	current assets , for part 6, division 2, see section 58.	12
	end date see section 58.	13
	financial document , of an incorporated association, means any of the following—	14
		15
	(a) the association’s financial statement;	16
	(b) the audit report mentioned in section 59(2)(c);	17
	(c) the statement of an auditor, an accountant or approved person mentioned in section 59A(2)(b)(ii);	18
		19
	(d) the statement of the association’s president or treasurer mentioned in section 59B(2)(b)(ii).	20
		21
	financial statement , for an incorporated association, means a statement containing the following particulars—	22
		23
	(a) the association’s income and expenditure during the financial year to which the statement relates;	24
		25
	(b) the association’s assets and liabilities as at the end date of the financial year to which the statement relates;	26
		27
	(c) the mortgages, charges and securities affecting the association’s property as at the end date of the financial year to which the statement relates.	28
		29
		30

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financial year, for an incorporated association, means the 12 month period adopted by the association as its financial year in its rules.

level 1 incorporated association, for part 6, division 2, see section 58.

level 2 incorporated association, for part 6, division 2, see section 58.

level 3 incorporated association, for part 6, division 2, see section 58.

nominated address, for an incorporated association, see section 17(1).

reportable financial year see section 58A.

total revenue, for part 6, division 2, see section 58.’.

- (3) Section 2, definitions, as amended—
relocate to the schedule, as inserted by this Act.

Clause 6 Amendment of s 6 (Association may resolve to incorporate and adopt proposed rules)

Section 6(1), ‘special resolution’—
omit, insert—
‘resolution passed at a meeting of the association by the votes of at least 3/4 of the association’s members who are present and entitled to vote on the resolution’.

Clause 7 Amendment of s 12 (Chief executive to make decision about application)

Section 12—
insert—
(2) Without limiting the grounds on which the chief executive may refuse an application for incorporation, the chief executive may refuse the application if the chief executive is satisfied that the proposed rules of the association do not comply with this Act.’.

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Clause 8	Amendment of s 16 (Register of incorporated associations)	1 2
	(1) Section 16(2)(b)—	3
	<i>omit, insert—</i>	4
	‘(b) the association’s nominated address;’.	5
	(2) Section 16—	6
	<i>insert—</i>	7
	‘(3) The register must also include the copies of the association’s financial documents given to the chief executive under part 6, division 2.’.	8 9 10
 Clause 9	 Insertion of new s 16A	 11
	After section 16—	12
	<i>insert—</i>	13
‘16A	Use of information on register	14
	‘(1) A person must not—	15
	(a) use information obtained from the register of an incorporated association to contact, or send material to, the association or a member of the association for the purpose of advertising for political, religious, charitable or commercial purposes; or	16 17 18 19 20
	(b) disclose information obtained from the register of an incorporated association to someone else, knowing that the information is likely to be used to contact, or send material to, the association or a member of the association for the purpose of advertising for political, religious, charitable or commercial purposes.	21 22 23 24 25 26
	<i>Example for subsection (1)—</i>	27
	putting a person’s name and address on a mailing list for advertising material	28 29
	Maximum penalty—10 penalty units.	30
	‘(2) Subsection (1) does not apply if the use or disclosure of the information is approved by the incorporated association.’.	31 32

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Clause 10	Amendment of s 17 (Registered office)	1
	(1) Section 17, heading—	2
	<i>omit, insert—</i>	3
‘17	Nominated address for service’.	4
	(2) Section 17(1)—	5
	<i>omit, insert—</i>	6
	‘(1) The members of the management committee of an incorporated association—	7
	(a) must ensure that the association has an address nominated for the service of documents on the association (a <i>nominated address</i>) complying with subsection (2); and	8
	(b) must give the chief executive written notice of the nominated address in the approved form.	9
	Maximum penalty for each member of the management committee—5 penalty units.’.	10
	(3) Section 17(2) and example, ‘registered office’—	11
	<i>omit, insert—</i>	12
	‘nominated address’.	13
	(4) Section 17(4)—	14
	<i>omit, insert—</i>	15
	‘(4) The members of the management committee may change the incorporated association’s nominated address by giving the chief executive notice in the approved form.’.	16
		17
Clause 11	Amendment of s 18 (Inspecting register)	18
	(1) Section 18—	19
	<i>insert—</i>	20
	‘(2A) However, the chief executive may, on the application of an incorporated association or a member of an incorporated association, withhold information about the association or a member of the association from the register available for	21
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inspection by another person if the chief executive has reasonable grounds for believing the disclosure of the information would put the association or member at risk of harm.

Examples of information chief executive may withhold—

- address of a women’s refuge
- address of a member of an incorporated association who is a party to a domestic violence order’.

(2) Section 18(2A) and (3)—
renumber as section 18(3) and (4).

Clause 12 Amendment of s 29 (Name of incorporated association to include ‘incorporated’ etc.)

(1) Section 29, heading—
omit, insert—

‘29 Incorporated association’s name to include ‘incorporated’ and be in English characters’.

(2) Section 29—
insert—

‘(3) The association’s name must be in English characters.’.

Clause 13 Amendment of s 32 (Name of incorporated association to appear on documents)

(1) Section 32, heading, ‘Name’—
omit, insert—

‘Registered name’.

(2) Section 32, ‘name in legible characters’—
omit, insert—

‘registered name in legible English characters’.

Clause 14 Replacement of s 54 (Form in which rules must be kept)

Section 54—

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omit, insert—

		1
'54	Form in which rules must be kept	2
	‘(1) The secretary of an incorporated association must ensure that the association’s rules, as lodged with the chief executive, or a copy of the rules that is given to someone, are set out in printed legible form.	3 4 5
	Maximum penalty—5 penalty units.	6
	‘(2) If an incorporated association’s rules are not written in the English language, the secretary of the association must ensure that a translation of the rules into English, certified by a person to be a correct translation, accompanies any copy of the rules that is given to someone.	7 8 9 10 11
	Maximum penalty—5 penalty units.	12
	‘(3) However, the secretary of an incorporated association does not commit an offence against subsection (2) if the person to whom the copy of the rules is given indicates he or she does not require a translation of the rules.’.	13 14 15 16
Clause 15	Replacement of ss 55 and 56	17
	Sections 55 and 56—	18
	<i>omit, insert—</i>	19
'55	Annual general meetings	20
	‘An incorporated association must hold an annual general meeting within 6 months after the end date of the association’s reportable financial year.	21 22 23
'56	Rules may allow meetings using communication technology	24 25
	‘(1) The rules of an incorporated association may permit the association to hold meetings, or permit members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.	26 27 28 29 30
	<i>Example of use of technology—</i>	31
	teleconferencing	32

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	‘(2) A member who participates in a meeting under subsection (1) is taken to be present at the meeting.’.	1 2
Clause 16	Amendment of s 57 (General meetings)	3
	(1) Section 57, heading—	4
	<i>omit, insert—</i>	5
‘57	Management committee to ensure association complies with its rules for meetings’.	6 7
	(2) Section 57(3)—	8
	<i>omit.</i>	9
Clause 17	Insertion of new ss 57A and 57B	10
	Part 6, division 1, after section 57—	11
	<i>insert—</i>	12
‘57A	Minimum quorum for general meetings	13
	‘(1) The quorum for a general meeting of an incorporated association is at least the number of members elected or appointed to the association’s management committee at the close of the association’s last general meeting plus 1.	14 15 16 17
	‘(2) However, if all members of the association are members of the association’s management committee, the quorum is the total number of members less 1.	18 19 20
	‘(3) If an incorporated association makes a decision at a meeting of the association for which there is no quorum, the decision has no effect.	21 22 23
‘57B	Inspection of minutes	24
	‘(1) If asked by a member of an incorporated association, the association’s secretary must, within 28 days after the request is made—	25 26 27
	(a) make the minute book for a particular general meeting available for inspection by the member at a mutually agreed time and place; and	28 29 30

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(b) give the member copies of the minutes of the meeting. 1

‘(2) The incorporated association may require the member to pay 2
the reasonable costs of providing copies of the minutes.’. 3

Clause 18 Replacement of pt 6, div 2 (Audits) 4

Part 6, division 2— 5

omit, insert— 6

**‘Division 2 Financial reporting for incorporated 7
associations 8**

‘58 Definitions for div 2 9

‘In this division— 10

accountant means— 11

(a) a member of CPA Australia who is entitled to use the 12
letters ‘CPA’ or ‘FCPA’; or 13

(b) a member of The Institute of Chartered Accountants in 14
Australia who is entitled to use the letters ‘CA’ or 15
‘FCA’; or 16

(c) a member of the National Institute of Accountants who 17
is entitled to use the letters ‘MNIA’, ‘FNIA’, ‘PNA’ or 18
‘FPNA’. 19

approved person means a person approved for an 20
incorporated association by the chief executive under section 21
59E. 22

auditor means a person registered as an auditor under the 23
Corporations Act. 24

current assets, of an incorporated association, means the 25
assets held by the association as at the end date of the 26
association’s last financial year, other than real property or 27
assets capable of depreciation, and includes amounts held in 28
financial institutions, stocks and debentures. 29

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<i>Examples of assets capable of depreciation—</i>	1
• vehicles	2
• office equipment	3
<i>end date</i> , in relation to an incorporated association’s financial year, means the date stated in the association’s rules to be the end date or closing date of the association’s financial year.	4 5 6
<i>level 1 incorporated association</i> means an incorporated association that has—	7 8
(a) current assets of more than the amount prescribed under a regulation or, if no amount is prescribed, more than \$100000; or	9 10 11
(b) total revenue of more than the amount prescribed under a regulation or, if no amount is prescribed, more than \$100000.	12 13 14
<i>level 2 incorporated association</i> means an incorporated association that is not a level 1 incorporated association or a level 3 incorporated association.	15 16 17
<i>level 3 incorporated association</i> means an incorporated association that has—	18 19
(a) current assets of less than the amount prescribed under a regulation or, if no amount is prescribed, less than \$20000; and	20 21 22
(b) total revenue of less than the amount prescribed under a regulation or, if no amount is prescribed, less than \$20000.	23 24 25
<i>total revenue</i> , of an incorporated association, means the association’s total income during the last financial year from all the association’s activities before any expenses, including the cost to the association of goods sold by the association, are deducted.	26 27 28 29 30

‘58A Meaning of <i>reportable financial year</i>	31
‘(1) An incorporated association’s <i>reportable financial year</i> is the same as the association’s financial year.	32 33
‘(2) However, subsection (1) is subject to subsections (3) to (6).	34

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- ‘(3) If an association is incorporated within 3 months before the end date of the association’s financial year, the association’s first **reportable financial year** is the period starting on the day of incorporation and ending on the second end date after incorporation. 1
2
3
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5
- Example for subsection (3)—* 6
- The end date of an association’s financial year is 30 June 2007. The association was incorporated on 1 April 2007. The period from 1 April 2007 until 30 June 2008 is a reportable financial year. 7
8
9
- ‘(4) If an association is incorporated more than 3 months before the end date of the association’s financial year, the association’s first **reportable financial year** is the period starting on the day of incorporation and ending on the first end date after incorporation. 10
11
12
13
14
- Example for subsection (4)—* 15
- The end date of an association’s financial year is 30 June 2007. The association was incorporated on 1 March 2007. The period from 1 March 2007 until 30 June 2007 is a reportable financial year. 16
17
18
- ‘(5) If an association changes its financial year and the end date of the changed financial year is 15 months or less after the end date of the association’s last financial year, the association has a **reportable financial year** for the period starting on the day after the end date of the association’s last financial year and ending on the end date of the association’s changed financial year. 19
20
21
22
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- Example for subsection (5)—* 26
- The end date of an association’s financial year is 30 June 2007. At a general meeting, the association’s financial year is changed to have an end date of 31 July. The period from 1 July 2007 until 31 July 2008 is a reportable financial year. 27
28
29
30
- ‘(6) If an association changes its financial year and the end date of the changed financial year is more than 15 months after the end date of the association’s last financial year, the association has a **reportable financial year** for the period starting on the day after the end date of the association’s last financial year and ending on the day that is 12 months before the end date of the association’s changed financial year. 31
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Example for subsection (6)—

The end date of an association's financial year is 30 June 2007. At a general meeting, the association's financial year is changed to have an end date of 31 October. The period from 1 July 2007 until 31 October 2007 is a reportable financial year in addition to the period from 1 November 2007 until 31 October 2008.

Note—

An incorporated association's reportable financial year will never be less than 3 months or more than 15 months.

- '59 Level 1 incorporated associations and particular level 2 and 3 incorporated associations**
- (1) This section applies to the following—
- (a) a level 1 incorporated association;
 - (b) a level 2 incorporated association, if the association is required to have an audit conducted under the *Collections Act 1966*, the *Gaming Machine Act 1991* or under any law for any other purpose;
 - (c) a level 3 incorporated association, if the association is required to have an audit conducted under the *Collections Act 1966*, the *Gaming Machine Act 1991* or under any law for any other purpose.
- (2) The members of the management committee of the incorporated association must ensure the association, within 6 months after the end date of each financial year—
- (a) prepares a financial statement for its last reportable financial year; and
 - (b) has the financial statement audited by—
 - (i) for a level 1 incorporated association—an auditor or an accountant; or
 - (ii) for a level 2 or level 3 incorporated association mentioned in subsection (1)(b) or (c)—an auditor, an accountant, or an approved person; and
 - (c) presents the financial statement and the signed report on the audit (*audit report*) to the association's annual general meeting for adoption.

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- | | |
|--|-------------------|
| Maximum penalty— | 1 |
| (a) for each member of the management committee of a level 1 incorporated association—20 penalty units; or | 2
3 |
| (b) for each member of the management committee of a level 2 or level 3 incorporated association—10 penalty units. | 4
5
6 |
| ‘(3) Within 1 month after the financial documents mentioned in subsection (2)(c) are presented to the association’s annual general meeting, the following must be lodged with the chief executive— | 7
8
9
10 |
| (a) a copy of the financial statement for the reportable financial year— | 11
12 |
| (i) as adopted at the annual general meeting, signed and dated by the president or treasurer of the association; or | 13
14
15 |
| (ii) as presented to the annual general meeting, if it is not adopted at the meeting, signed and dated by the president or treasurer of the association; | 16
17
18 |
| (b) a copy of the signed audit report; | 19 |
| (c) a return in the approved form; | 20 |
| (d) the fee prescribed under a regulation. | 21 |
| ‘(4) If subsection (3) is not complied with, each of the following commit an offence— | 22
23 |
| (a) the secretary of the incorporated association; | 24 |
| (b) the president of the incorporated association; | 25 |
| (c) the treasurer of the incorporated association. | 26 |
| Maximum penalty—4 penalty units. | 27 |
| ‘(5) A person must not audit a financial statement for an incorporated association if the person is— | 28
29 |
| (a) the secretary, or a member of the management committee, of the incorporated association; or | 30
31 |
| (b) an employee of the incorporated association; or | 32 |

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- (c) a partner, employer, or employee of the secretary, or a partner, employer or employee of a member of the management committee, of the incorporated association; or
- (d) a spouse of a person mentioned in paragraph (a), (b) or (c); or
- (e) wholly or partly dependent on a person mentioned in paragraph (a), (b) or (c).

Maximum penalty—10 penalty units.

- ‘(6) A person who is a partner in an unincorporated body must not audit a financial statement for an incorporated association if subsection (5) prohibits any of the partners of the unincorporated body from auditing the financial statement.

Maximum penalty for subsection (6)—10 penalty units.

Example for subsection (6)—

A and B are partners in an accounting firm. A can not conduct an audit because, under subsection (5)(a), A is a member of the association’s management committee. B also can not conduct an audit because of subsection (6).

‘59A Other level 2 incorporated associations

- ‘(1) This section applies to a level 2 incorporated association that is not required to have an audit conducted under the *Collections Act 1966*, the *Gaming Machine Act 1991* or under any law for any other purpose.
- ‘(2) The members of the management committee of the level 2 incorporated association must ensure the association, within 6 months after the end date of each financial year—
- (a) prepares a financial statement for its last reportable financial year; and
- (b) presents to the association’s annual general meeting for adoption—
- (i) the financial statement; and
- (ii) a statement signed by an auditor, an accountant, or an approved person, that states—

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- | | |
|--|-----------------------|
| (A) the person has sighted the association's financial records; and | 1
2 |
| (B) the association's financial records show that the association has bookkeeping processes in place to adequately record the association's income and expenditure and dealings with its assets and liabilities. | 3
4
5
6
7 |
| Maximum penalty for each member of the management committee—10 penalty units. | 8
9 |
| ‘(3) Within 1 month after the financial documents mentioned in subsection (2)(b) are presented to the association's annual general meeting, the following must be lodged with the chief executive— | 10
11
12
13 |
| (a) a copy of the financial statement for the reportable financial year— | 14
15 |
| (i) as adopted at the annual general meeting, signed and dated by the president or treasurer of the association; or | 16
17
18 |
| (ii) as presented to the annual general meeting, if it is not adopted at the meeting, signed and dated by the president or treasurer of the association; | 19
20
21 |
| (b) a copy of the signed statement mentioned in subsection (2)(b)(ii); | 22
23 |
| (c) a return in the approved form; | 24 |
| (d) the fee prescribed under a regulation. | 25 |
| ‘(4) If subsection (3) is not complied with, each of the following commit an offence— | 26
27 |
| (a) the secretary of the incorporated association; | 28 |
| (b) the president of the incorporated association; | 29 |
| (c) the treasurer of the incorporated association. | 30 |
| Maximum penalty—4 penalty units. | 31 |
| ‘(5) A person must not sign the statement mentioned in subsection (2)(b)(ii) if the person is— | 32
33 |

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(a) the secretary, or a member of the management committee, of the incorporated association; or	1 2
(b) an employee of the incorporated association; or	3
(c) a partner, employer, or employee of the secretary, or a partner, employer or employee of a member of the management committee, of the incorporated association; or	4 5 6 7
(d) a spouse of a person mentioned in paragraph (a), (b) or (c); or	8 9
(e) wholly or partly dependent on a person mentioned in paragraph (a), (b) or (c).	10 11
Maximum penalty for subsection (5)—10 penalty units.	12
‘59B Other level 3 incorporated associations	13
‘(1) This section applies to a level 3 incorporated association that is not required to have an audit conducted under the <i>Collections Act 1966</i> , the <i>Gaming Machine Act 1991</i> or under any law for any other purpose.	14 15 16 17
‘(2) The members of the management committee of the level 3 incorporated association must ensure the association, within 6 months after the end date of each financial year—	18 19 20
(a) prepares a financial statement for its last reportable financial year; and	21 22
(b) presents to the association’s annual general meeting for adoption—	23 24
(i) the financial statement; and	25
(ii) a statement signed by the association’s president or treasurer that states the association keeps financial records in a way that properly records the association’s income and expenditure and dealings with its assets and liabilities.	26 27 28 29 30
Maximum penalty for each member of the management committee—10 penalty units.	31 32

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- ‘(3) Within 1 month after the financial documents mentioned in subsection (2)(b) are presented to the association’s annual general meeting, the following must be lodged with the chief executive—
- (a) a copy of the financial statement for the reportable financial year—
 - (i) as adopted at the annual general meeting, signed and dated by the president or treasurer of the association; or
 - (ii) as presented to the annual general meeting, if it is not adopted at the meeting, signed and dated by the president or treasurer of the association;
 - (b) a copy of the signed statement mentioned in subsection (2)(b)(ii);
 - (c) a return in the approved form;
 - (d) the fee prescribed under a regulation.
- ‘(4) If subsection (3) is not complied with, each of the following commit an offence—
- (a) the secretary of the incorporated association;
 - (b) the president of the incorporated association;
 - (c) the treasurer of the incorporated association.
- Maximum penalty for subsection (4)—4 penalty units.

‘59C Inspection of financial documents 23

- ‘(1) If asked by a member of an incorporated association, the association’s secretary must, within 28 days after the request is made—
- (a) make the association’s financial documents available for inspection by the member at a mutually convenient time and place; and
 - (b) give the member copies of the documents.
- Maximum penalty—4 penalty units. 31

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‘(2) The incorporated association may require the member to pay the reasonable costs of providing the copies of the documents. 1
2

‘59D Defence 3

‘It is a defence to a prosecution of a member of a management committee of an incorporated association for an offence against a provision of this division to prove the member took all reasonable steps to ensure the provision was complied with. 4
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‘59E Approved persons 9

‘The chief executive may approve a person as an approved person for an incorporated association if the chief executive is satisfied the person has the necessary experience or qualifications to— 10
11
12
13

(a) conduct an audit of an incorporated association under section 59; or 14
15

(b) provide a signed statement mentioned in section 59A(2)(b)(ii).’ 16
17

Clause 19 Amendment of s 62 (Election of management committee) 18

Section 62— 19

insert— 20

‘(3) In this section— 21

casual vacancy, on a management committee, means a vacancy that happens when an elected member of the management committee resigns, dies or otherwise stops holding office.’ 22
23
24
25

**Clause 20 Amendment of s 63 (Meetings of management committee) 26
27**

Section 63(2)— 28

omit. 29

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Clause 21	Insertion of new s 63A	1
	After section 63—	2
	<i>insert—</i>	3
	‘63A Meetings by using communication technology	4
	‘(1) The management committee may hold meetings, or permit members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.	5 6 7 8
	<i>Example of use of technology—</i>	9
	teleconferencing	10
	‘(2) A member of a management committee who participates in a meeting under subsection (1) is taken to be present at the meeting.’.	11 12 13
Clause 22	Amendment of s 66 (Management committee to ensure association has appropriate individual as secretary)	14 15
	Section 66—	16
	<i>insert—</i>	17
	‘(3) It is declared that—	18
	(a) a secretary mentioned in subsection (1)(a) or (b) is a member of the management committee; and	19 20
	(b) a secretary mentioned in subsection (1)(c) is not a member of the management committee.’.	21 22
Clause 23	Replacement of s 67 (Secretary may be appointed or removed at any time)	23 24
	Section 67—	25
	<i>omit, insert—</i>	26
	‘67 Management committee may appoint or remove secretary at any time	27 28
	‘(1) The management committee of an incorporated association may at any time—	29 30
	(a) appoint the association’s secretary; or	31

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(b) remove a person appointed by the committee as the association's secretary. 1
2

'(2) If the management committee removes a secretary who was appointed as mentioned in section 66(1)(b), the removal does not otherwise affect the person's membership of the management committee.' 3
4
5
6

Clause 24 Insertion of new s 69A 7

After section 69— 8

insert— 9

'69A Functions of secretary 10

'(1) The secretary's functions include— 11

(a) calling meetings of the incorporated association, including preparing notices of a meeting and of the business to be conducted at the meeting in consultation with the president of the association; and 12
13
14
15

(b) keeping minutes of each meeting; and 16

(c) keeping copies of all correspondence and other documents relating to the association; and 17
18

(d) maintaining the association's register of members. 19

'(2) Subsection (1)— 20

(a) does not limit any other function the secretary has under any other provision of this Act; and 21
22

(b) does not prevent an association's rules from stating other functions for the secretary.' 23
24

Clause 25 Replacement of s 70 (Insurance) 25

Section 70— 26

omit, insert— 27

'70 Public liability insurance generally 28

'(1) The management committee of an incorporated association must, at least annually, consider whether there is a need for 29
30

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- the incorporated association to take out public liability insurance. 1
2
- ‘(2) The management committee must report its decision about the need for public liability insurance for the association to the association’s members at the association’s next annual general meeting. 3
4
5
6
- ‘(3) If the management committee decides there is no need to take out public liability insurance, the committee must, at the annual general meeting— 7
8
9
- (a) give the association’s members reasons for the committee’s decision; and 10
11
- (b) advise the members that the failure to take out public liability insurance means that the association’s assets would be at risk if there were a successful claim against the association. 12
13
14
15
- ‘(4) The management committee must ensure that— 16
- (a) as soon as practicable after a person applies to become, but before the person becomes, a member of the association, the person is advised— 17
18
19
- (i) whether or not the association has public liability insurance; and 20
21
- (ii) if the association has public liability insurance—the amount of the insurance; and 22
23
- (b) before a person is elected or appointed as a member of the association’s management committee, the person is advised— 24
25
26
- (i) whether or not the association has public liability insurance; and 27
28
- (ii) if the association has public liability insurance—the amount of the insurance. 29
30
- ‘(5) The management committee must ensure that any person or entity with whom the association may have dealings, and which could be expected to have an interest in knowing whether or not the association has public liability insurance, is advised if the association does not have public liability insurance. 31
32
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- ‘(6) This section is subject to section 70A. 1
- Note—* 2
- This section imposes obligations on a management committee but does 3
not impose any criminal penalties in relation to breaches of those 4
obligations. 5
- ‘70A Particular incorporated associations must have 6
public liability insurance 7**
- ‘(1) This section applies if an incorporated association is— 8
- (a) an owner of land; or 9
- (b) a lessee of land; or 10
- (c) a trustee of trust land under the *Land Act 1994*. 11
- ‘(2) The members of the management committee of the 12
incorporated association must ensure— 13
- (a) the association takes out public liability insurance in 14
relation to the land in an amount decided by the 15
management committee; and 16
- (b) the insurance cover is kept current at all times. 17
- Maximum penalty for each member of the management 18
committee—2 penalty units. 19
- ‘(3) It is a defence to a prosecution of a member of a management 20
committee for an offence against subsection (2) for the 21
member to prove the member took all reasonable steps to 22
ensure the association complied with subsection (2).’ 23

- Clause 26 Amendment of s 91 (Declaration of applied Corporations 24
legislation) 25**
- Section 91(3)(d), ‘registered office of’— 26
- omit, insert—* 27
- ‘nominated address for’. 28

- Clause 27 Amendment of s 93 (Cancellation of incorporation) 29**
- (1) Section 93(1)(f) to (h)— 30

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renumber as section 93(1)(g) to (i). 1

(2) After section 93(1)(e)— 2

insert— 3

‘(f) an incorporated association has not lodged with the
chief executive the documents required to be lodged
under part 6, division 2;’. 4
5
6

(3) Section 93(1) and (2), ‘by prepaid registered post,’— 7

omit. 8

Clause 28 Amendment of s 113 (Who may make an appeal?) 9

Section 113, ‘this Act’— 10

omit, insert— 11

‘section 112’. 12

Clause 29 Insertion of new s 119A 13

After section 119— 14

insert— 15

**‘119A Chief executive may ask for information or documents 16
17**

‘(1) This section applies if the chief executive receives a complaint
about a possible contravention of this Act. 18
19

‘(2) The chief executive may, by notice given to a relevant person,
require the relevant person to— 20
21

(a) give to the chief executive, within a stated reasonable
time and in a stated reasonable way, information in the
person’s knowledge about a stated matter relating to the
incorporated association; or 22
23
24
25

(b) give to the chief executive, within a stated reasonable
time and in a stated reasonable way, a document in the
person’s possession or control about a stated matter
relating to the incorporated association. 26
27
28
29

‘(3) When making the requirement, the chief executive must warn
the person it is an offence to fail to give the information, or 30
31

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produce the document, unless the person has a reasonable
excuse. 1
2

‘(4) The person must comply with a requirement under subsection
(2), unless the person has a reasonable excuse. 3
4

Maximum penalty—20 penalty units. 5

‘(5) It is a reasonable excuse for an individual to fail to comply
with the requirement if complying with the requirement might
tend to incriminate the individual. 6
7
8

‘(6) In this section— 9

relevant person, in relation to a complaint, means— 10

(a) a person who is, or was, a member of the management
committee; or 11
12

(b) a person who is, or was, an auditor, an accountant or an
approved person who the chief executive believes, on
grounds that are reasonable in the circumstances, has
information or documents relevant to the matter of the
complaint.’. 13
14
15
16
17

Clause 30 Amendment of s 126 (Evidence) 18

Section 126(3), ‘actuary’— 19

omit, insert— 20

‘accountant or approved person’. 21

Clause 31 Amendment of s 127 (Evidentiary provisions) 22

(1) Section 127(1)(a), (b) and (c), ‘specified’— 23

omit, insert— 24

‘stated’. 25

(2) Section 127(1)(d)— 26

omit, insert— 27

‘(d) that, on a date stated in the certificate, a financial
document required to be given to the chief executive 28
29

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	under part 6, division 2 has, or has not, been received by the chief executive;’.	1 2
Clause 32	Amendment of s 129 (Delegation) Section 129(2)— <i>omit.</i>	3 4 5
Clause 33	Insertion of new s 130A After section 130— <i>insert—</i>	6 7 8
	‘130A Documents not in English language	9
	‘(1) If there is a requirement under this Act to lodge a document and the document is in a language other than English, the requirement is taken to include a requirement that a translation of the document into English, certified by a person to be a correct translation, be lodged at the same time.	10 11 12 13 14
	‘(2) For the purpose of the administration of this Act, the English version of a document required for this Act prevails over a version of the document that is not in English.’.	15 16 17
Clause 34	Amendment of s 138 (Service) Section 138(1), before ‘address’— <i>insert—</i> ‘association’s nominated address, or to the’.	18 19 20 21
Clause 35	Insertion of new pt 16, div 1 hdg Part 16, before section 145— <i>insert—</i>	22 23 24
	‘Division 1 Transitional provision for Audit Legislation Amendment Act 2006’.	25 26

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Clause 36	Amendment of s 145 (Transitional provision for Audit Legislation Amendment Act 2006)	1 2
	Section 145, heading—	3
	<i>omit, insert—</i>	4
	‘145 Audits’.	5
 Clause 37	 Insertion of new pt 16, div 2 and schedule	 6
	After section 145—	7
	<i>insert—</i>	8
	‘Division 2 Transitional provisions for Associations Incorporation and Other Legislation Amendment Act 2006	9 10 11 12
	‘146 Nominated address	13
	‘(1) This section applies if, immediately before the commencement of this section, an incorporated association had a registered office complying with section 17(2) as in force immediately before the commencement.	14 15 16 17
	‘(2) On the commencement, the incorporated association’s registered office is taken to be the association’s nominated address.	18 19 20
	‘147 Association’s name	21
	‘(1) This section applies if, on the commencement of this section, an incorporated association’s name does not comply with section 29(3).	22 23 24
	‘(2) The incorporated association is not required to comply with section 29(3) until 3 months after the next annual general meeting of the association after the commencement.	25 26 27

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‘148 Insurance	1
‘(1) This section applies if an incorporated association has an annual general meeting within 3 months after the commencement of this section.	2 3 4
‘(2) The management committee of the incorporated association is not required to comply with section 70(2) and (3) until its second annual general meeting after the commencement.	5 6 7
‘149 Financial reporting	8
‘The provisions of part 6, division 2, as amended by the <i>Associations Incorporation and Other Legislation Amendment Act 2006</i> , only apply to an incorporated association if the end date of the association’s reportable financial year happens after the commencement of this section.	9 10 11 12 13
‘150 Approved persons	14
‘(1) This section applies if, immediately before the commencement of this section, a person was approved by the chief executive under section 59(1)(b)(v), as in force immediately before the commencement, as having appropriate qualifications to audit the financial affairs of an incorporated association.	15 16 17 18 19 20
‘(2) On the commencement, the person is taken to be an approved person for the incorporated association.	21 22
‘Schedule Dictionary	23
	section 2’. 24

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	Part 3	Amendment of Classification of Computer Games and Images Act 1995	1 2 3
Clause 38	Act amended in pt 3		4
		<i>This part amends the Classification of Computer Games and Images Act 1995.</i>	5 6
Clause 39	Amendment of s 5 (Classification of computer games by computer games classification officer)		7 8
	(1)	Section 5(3), fifth dot point— <i>omit, insert—</i>	9 10
		‘• the National Classification Code, to the extent it relates to computer games’.	11 12
	(2)	Section 5— <i>insert—</i>	13 14
	‘(4)	In this section— <i>National Classification Code</i> means the Code under the <i>Classification (Publications, Films and Computer Games) Act 1995 (Cwlth)</i> .’.	15 16 17 18
	Part 4	Amendment of Classification of Publications Act 1991	19 20
Clause 40	Act amended in pt 4		21
		<i>This part amends the Classification of Publications Act 1991.</i>	22

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Clause 41	Amendment of s 32 (Evidentiary provisions)	1
(1)	Section 32(1)(c)— <i>renumber</i> as section 32(1)(d).	2 3
(2)	Section 32(1)— <i>insert</i> —	4 5
	‘(c) a specified publication would, if classified, on a relevant date or during a period of time, have been classified (and specifying the classification); or’.	6 7 8

Schedule	Minor amendments of Associations Incorporation Act 1981	1 2 3
	section 3	4
1	Section 31, heading— <i>omit, insert—</i>	5 6
'31	Registered name on seal'.	7
2	Sections 31, (other than heading), 35(1), 36(1) and (2), 37, 38, 46(2)(a) and 78, before 'name'— <i>insert—</i> 'registered'.	8 9 10 11
3	Sections 35 and 36, heading, before 'name'— <i>insert—</i> 'registered'.	12 13 14