

Queensland



ASSOCIATIONS INCORPORATION ACT 1981

**Reprinted as in force on 26 October 1993
(includes amendments up to Act No. 42 of 1991)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This Act is reprinted as at 26 October 1993. As required by section 5 of the *Reprints Act 1992*, it—

- shows the law as amended by all amendments that commenced on or before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the *Reprints Act 1992*, the reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the *Reprints Act 1992*, to do the following—

- omit the enacting words as permitted by section 7(1)(a) of that Act;
- use citations and references permitted by Division 2 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- use gender neutral office names as permitted by section 25 of that Act;
- correct spelling, and use different spelling consistent with current legislative drafting practice, as permitted by section 26(2) of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- relocate marginal or cite notes as permitted by section 34 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by section 36 of that Act;
- omit unnecessary referential words as permitted by section 41 of that Act;
- use the numbering and renumbering of provisions and references permitted by section 43 of that Act.

Also see Endnotes for—

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

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ASSOCIATIONS INCORPORATION ACT 1981

[as amended by all amendments that commenced on or before 26 October 1993²]

An Act to provide for the incorporation of certain associations, for the regulation of the affairs of incorporated associations, and for connected purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Associations Incorporation Act 1981*³⁻⁵.

Commencement of Act

2. This Act shall commence on a day to be fixed by proclamation.

Repeals and savings

4.(1) The Acts specified in the Schedule to this Act are repealed and in this Act are referred to as the repealed Acts.

(2) Subject to the provisions of this Act, letters patent issued pursuant to the provisions of the repealed Acts will continue to be of full force and effect and be subject to the provisions of those Acts as if this Act had not been passed.

Meaning of terms

- 5.(1)** In this Act—

“**association**” means an association, society, institution or body that is formed or carried on for any lawful object or purpose but not for

pecuniary gain to its members, but does not include—

- (a) a partnership within the meaning of the *Partnership Act 1891*;
- (b) an association, the principle purpose of which is, in the opinion of the Director-General, the holding of property—
 - (i) in which the members have a disposable interest, whether directly or in the form of shares in the capital of the association or otherwise; or
 - (ii) which the members of the association are entitled to divide between them or some of them; or
 - (iii) with a view to the distribution of that property, or of the income derived from that property or the use of that property among the members or persons claiming through or nominated by the members or some of them;
- (c) a corporation;
- (d) an association which is subject to a special Act which incorporates the executive committee or other governing body or the trustees of the property of the association, or provides that the association may sue or be sued or hold property in the name of the association or in the name of an officer of the association or otherwise specially regulates the affairs of the association;
- (e) a trade union within the meaning of the *Industrial Relations Act 1990*;
- (f) a society or branch required to be registered under the *Friendly Societies Act 1913*, or which has been registered under that Act;
- (g) a body 1 of the objects of which includes the raising of a fund by subscription of members of that body and the making of loans from that fund to the members of that body;
- (h) a Parents' and Citizens' Association formed under the *Education Act 1964*;

“branch”, in relation to an incorporated association, means any number of members of an incorporated association controlled by a central body who have a separate fund administered by themselves or by a committee or officers appointed by themselves;

“Commissioner” means the Commissioner for Corporate Affairs under the *Companies (Administration) Act 1981*;

“committee”, in relation to an association which is not an incorporated association, means the committee of the association or, if there is no committee thereof, the persons, however styled, having the management of the affairs of the association, and a committee shall consist of not less than 3 persons;

“Court” means the Supreme Court or a Judge thereof;

“Director-General” means the chief executive by whatever title of office the chief executive is known, of the department of government of Queensland within which this Act is administered and includes any officer temporarily discharging the responsibilities of the chief executive;

“incorporated association” means an association incorporated under this Act;

“legal practitioner” means a duly qualified barrister or solicitor of the Supreme Court of this State;

“legal proceeding” means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration;

“management committee” means a management committee within the meaning of section 32;

“Minister” includes any Minister of the Crown for the time being performing the duties of the Minister;

“officer”, in relation to an incorporated association, extends to a secretary, treasurer, a member of the management committee and to any manager appointed by the management committee;

“property” includes real and personal property and any estate, share, and interest in any property, real or personal, and any debt, and anything in action, and any other right or interest, whether in possession or not;

“Public Trustee” means the Public Trustee within the meaning of the *Public Trustee Act 1978*;

“secretary”, in relation to an incorporated association, means the secretary of that incorporated association appointed in pursuance of section 37;

“special resolution” means a special resolution within the meaning of section 30;

“undesirable name”, in relation to an association, means a name that—

- (a) is the same as a name by which another association is incorporated or deemed to be incorporated under this Act or a name that is registered or incorporated or by which any body or association of persons is registered or incorporated under any other Act or law of the State, or is so similar thereto, as, in the opinion of the Director-General to be mistaken therefor or confused therewith; or
- (b) in the opinion of the Director-General is undesirable or is a name, or a name of a kind, that, pursuant to section 22 of the *Companies Act 1961* or section 9 of the *Business Names Act 1962*, the Commissioner has been directed not to accept for registration; or
- (c) in the opinion of the Director-General is likely to deceive the public as to its nature or identity.

(2) A reference in this Act to the rules of an incorporated association includes a reference to the constitution, regulations and by-laws (if any) of the incorporated association.

PART 2—INCORPORATION OF ASSOCIATION

Incorporation

6. Subject to this Act, an association may, on application being made to the Director-General, be incorporated under this Act.

Pecuniary gain

7.(1) An association shall not be held to be formed or carried on for the purpose of pecuniary gain to the members of the association merely by reason of all or any of the following circumstances, namely—

- (a) that the association itself makes a pecuniary gain, unless that gain

or some part thereof is divided among or received by the members or some of them;

- (b) that the members of the association are entitled to divide between them the property of the association on its dissolution;
- (c) that the association is established for the protection or regulation of some trade, business, industry or calling in which the members are engaged or interested, if the association itself does not engage or take part in any such trade, business, industry or calling, or any part or branch thereof;
- (d) that any member of the association derives pecuniary gain from the association by way of salary as the servant or officer of the association;
- (e) that any member of the association derives from the association any pecuniary gain to which the member would be equally entitled if the member were not a member of the association;
- (f) that the members of the association compete with each other for trophies or prizes other than money prizes;
- (g) that the association may or does itself make a gain from subscriptions or donations or by trading in accordance with paragraph (i) hereof;
- (h) that the association provides facilities or services for its members;
- (i) that the association trades or may trade with its members or with the public, provided that—
 - (i) the trading is ancillary to the principal purpose of the association, and
 - (ii) any trading with the public is not substantial in volume in relation to the other activities of the association;
- (j) that the association charges admission fees to displays, exhibitions, contests, sporting fixtures or other occasions organised for the promotion of the objects of the association.

(2) For the purposes of establishing whether an association, society, institution or body (incorporated or unincorporated) is formed or carried on for pecuniary gain to its members any pecuniary gain that, by reason of a person's membership of the association, society, institution or body is

received by any other person shall be deemed to be pecuniary gain to the person who is a member of the association, society, institution or body and to be pecuniary gain to the person by reason of the person's membership.

Resolution to incorporate

8.(1) Subject to this Act, the members of an association may by special resolution resolve to apply for incorporation of the association under this Act.

(2) Upon the members of an association so resolving to apply for incorporation, they shall by resolution appoint a person to prepare an application for that purpose.

(3) The person so appointed by virtue of the person's appointment shall be empowered to do all such acts and things as may be necessary for the securing of the incorporation of the association.

Application for incorporation

9. An application for the incorporation of an association shall be made to the Director-General in the prescribed form and shall—

- (a) state the name of the association and the name under which it is proposed that it be incorporated;
- (b) annex a statutory declaration, made by the person authorised to prepare the application, verifying—
 - (i) the passing of the special resolution referred to in section 8(1); and
 - (ii) the passing of the resolution referred to in section 8(2);
- (c) annex a copy of the proposed rules;
- (d) be signed by the existing committee members and state their occupations and addresses;
- (e) include such other information or documents as may be prescribed, verified in such manner as may be prescribed.

Penalty for false statements etc.

10. A person shall not, for the purpose of making an application for the incorporation of an association under this Act, make a statement that the person knows to be false in a material particular or that is misleading, in relation to that application.

Maximum penalty—\$500.

Determination by Director-General

11.(1) The Director-General shall on receipt of an application for incorporation and after making such enquiries as the Director-General shall think fit, determine whether—

- (a) to grant the application to incorporate;
- (b) to grant the application to incorporate subject to such conditions as may from time to time be prescribed;
- (c) to refuse the application to incorporate.

(2) For purposes of making such determination, the Director-General may—

- (a) give notice, or require the association to give notice, of the application to such persons and in such manner as the Director-General sees fit or require such advertising of the application to be made as in the circumstances the Director-General sees fit;
- (b) have regard to representations made to the Director-General by persons concerning the application;
- (c) require the applicants to give explanations or further particulars concerning the application.

(3) For the purposes of subsection (2)(a), the advertisement shall stipulate that any person may, within 14 days after the date of the last publication of the notice, object to such incorporation by notice of objection in writing given to the Director-General and that the grounds of objection shall be set out in the notice of objection.

Certificate of incorporation

12.(1) Upon a determination being made that an association shall be incorporated under this Act, the Director-General shall issue to the association a certificate of incorporation in the prescribed form.

(2) Upon such a determination being made, the rules of the incorporated association shall, subject to this Act, be such rules as are in accordance with the provisions of this Act and sanctioned by the Director-General.

Incorporation of association

13.(1) Upon the issue of a certificate of incorporation to an association, the persons who are the members of the association, together with such persons as may from time to time become members of the association, shall become a body corporate by the name contained in the certificate of incorporation with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name and of doing and permitting all such other things as are necessary for the purpose of its constitution.

(2) Notwithstanding the provisions of subsection (1), it is the duty of the secretary, prior to the commencement of any legal proceeding by the incorporated association—

- (a)** to obtain legal advice in writing from a legal practitioner, who is not a member of the incorporated association, in relation to the circumstances in question; and
- (b)** to table that legal advice before a meeting of the management committee.

(3) Upon the commencement of a legal proceeding by an incorporated association, before any further step is taken by the incorporated association in relation to that proceeding, the secretary shall file in the court or other tribunal in which that legal proceeding is commenced, an affidavit verifying compliance with the provisions of subsection (2).

(4) If no such affidavit of compliance is filed within 28 days after the commencement of that legal proceeding, the court or other tribunal in question may, upon the application of the defendant or other party or parties strike out that legal proceeding and may make such order for costs as it sees fit.

Action upon refusal of application

14. Where an application made under section 9 is refused, notification of the refusal shall be given in writing to the applicant association at its address shown in the application.

Ministerial review of determination

15.(1) In the event of an application made under section 9 being granted subject to conditions imposed by the Director-General, or being refused, the Minister may review the determination made with respect to the application, and the Minister's decision upon such review shall be deemed to have been the determination duly made under section 11 with respect to the application.

(2) No appeal shall lie against a decision of the Minister under this section.

Name of association

16.(1) An association shall not be incorporated under a name that is an undesirable name.

(2) An incorporated association shall have the word 'incorporated' or the abbreviation 'inc.' as part of and at the end of its name.

(3) It is sufficient if the abbreviation 'inc.' is used in place of the word 'incorporated' in the name of the association as appearing on its seal.

(4) When the name of an incorporated association is included in any document, it is sufficient if the abbreviation 'inc.' is used in the place of the word 'incorporated'.

(5) Subject to this section, the common seal of an incorporated association is of no effect unless the name of the association is inscribed on the seal in legible characters.

(6) Subject to this section if any person or unincorporated association carries on business under any name or title including the word 'incorporated' or any abbreviation thereof, the person or every member of the committee of such unincorporated association shall be guilty of an offence against this Act.

(7) Where it is established to the satisfaction of the Minister that there is good reason for not requiring an incorporated association to have as part of its name the word ‘incorporated’ or the abbreviation ‘inc.’, the Minister may by licence direct that it be incorporated without such word or abbreviation in its name, and it shall be incorporated accordingly.

Change of name

17.(1) An incorporated association may by special resolution with the approval of the Director-General change its name to a name which is not an undesirable name.

(2) An application for the approval of the Director-General to a change of name pursuant to this section—

- (a) shall be in the prescribed form; and
- (b) shall be verified by the statutory declaration of the secretary; and
- (c) shall be made by the secretary within 14 days after the date of the meeting at which the special resolution for the change of name was passed; and
- (d) shall be lodged with the Director-General together with such other documents as may be prescribed.

(3) Before approving the change of name the Director-General may make such enquiries as the Director-General thinks fit.

(4) If the Director-General approves the change of name the Director-General shall issue a fresh certificate of incorporation in the new name upon the return of the old certificate or on proof of its loss or destruction as prescribed.

(4A) The Director-General may direct such notice of the change to be published in such manner as the Director-General thinks fit.

(5) Change of name pursuant to this Act shall not affect the identity of the association, or any rights or obligations of the association or render defective any legal proceedings by or against the association, and any legal proceeding that might have been continued or commenced by or against it by its former name, may be continued or commenced by or against it by its new name.

Name of incorporated association to appear on documents

18. An incorporated association shall cause every notice, bill of exchange, promissory note, endorsement, order, way-bill, invoice, receipt, letter or other document given, published, drawn, endorsed or issued by it or any advertising material whatsoever, to contain the name of the incorporated association in legible characters.

Incorporation of branches

19.(1) A local branch of an incorporated association or a group or groups of local branches of an incorporated association may, with the consent in writing of that incorporated association, apply in accordance with this Act, to be incorporated.

(2) No application for the incorporation of such a branch shall be made unless the members of that branch resolve in accordance with section 8, and no application for the incorporation of such a group of branches shall be made unless the members thereof resolve in accordance with section 8.

(3) Any group of local branches may be incorporated notwithstanding that the whole or any number of such branches may be already incorporated.

(4) All the provisions of this Act relating to incorporated associations (including the powers conferred upon such associations to hold land) shall, so far as applicable and with the necessary modifications, apply to branches of associations or to groups of such branches applying to be incorporated or incorporated under this Act.

(5) The incorporation of a branch under the control of an incorporated association under this Act shall not relieve the members of that branch from any liabilities or obligations incidental to their membership of the controlling incorporated association, whether under the Act, or the rules of the controlling incorporated association, or otherwise howsoever.

(6) For the purposes of this Act membership of a branch under the control of an incorporated association shall be determined in accordance with the rules of the controlling incorporated association and the special rules (if any) of the branch in that behalf, and not otherwise, and every member of a branch shall be deemed to be a member of the controlling incorporated association and liable to all the obligations of such membership.

(7) Every application for the incorporation of a branch or group of branches of an incorporated association, shall, so far as applicable, and with all necessary modifications, comply with the requirements of an application of an association for incorporation under this Act.

(8) A branch upon incorporation shall have as part of its name the word 'Branch' and other words identifying it as a branch whether by reference to locality or otherwise.

Amalgamation of incorporated associations

20.(1) Two or more incorporated associations may, by special resolution of both or all of those incorporated associations passed in accordance with the rules of each incorporated association respectively, amalgamate and become 1 incorporated association with or without a dissolution or division of the funds of those incorporated associations or any of them.

(2) The secretary of each of the incorporated associations to be amalgamated shall lodge with the Director-General notice in the prescribed form of the passing of the special resolution and of the name of the incorporated association proposed to be created by the amalgamation.

(3) The Director-General may direct the secretary of each incorporated association to be amalgamated to give notice of such proposal to the creditors thereof, and a creditor may notify the Director-General that the creditor is opposed to such amalgamation.

(3A) If such a notice is received by the Director-General the Director-General shall not issue a certificate of incorporation to the amalgamated association without the sanction of the Court.

(4) Upon receipt of a notice under subsection (2) the Director-General, if satisfied that the incorporated association to be created by the amalgamation is desirable and is able to be incorporated without contravention of this Act, shall issue a certificate of incorporation upon the return of the old certificates or on proof of their loss or destruction, as prescribed.

(5) Upon the issue of a certificate of incorporation pursuant to subsection (4) the provisions of this Act shall apply to the incorporated association created by the amalgamation and, without limiting the generality of the foregoing, all the property of the amalgamated incorporated associations shall vest in the incorporated association created by the

amalgamation and the provisions of section 21, with necessary adaptations, shall apply to and in relation to that property accordingly.

(6) The amalgamation of 2 or more incorporated associations does not prejudice any right of a creditor of, or any person having a claim against, any of the amalgamated incorporated associations, and any such right or claim may be enforced against the incorporated association created by the amalgamation.

PART 3—EFFECTS OF INCORPORATION

Vesting of property in incorporated association

21.(1) Upon the incorporation of an association under this Act, any property held by a person, in trust or otherwise, for or on behalf of the association or its objects, becomes, subject to this section, vested in the incorporated association.

(2) The secretary of an incorporated association may at any time after the incorporation of the association lodge with the Registrar of Titles (appointed pursuant to the *Registrar of Titles Act 1884*), the Registrar of Dealings (within the meaning of the *Land Act 1962*) or any other person required by any Act or law to register, make or enter any note or memorial on or in respect of any instrument of title to land, as the case requires, a notice in writing setting forth, in relation to any estate or interest in land held by any person in trust for or on behalf of the incorporated association or its objects, such particulars and other matters as may be prescribed, and the Registrar of Titles, the Registrar of Dealings or other person aforesaid, shall, subject to subsection (3), register the notice, or make or enter a note or memorial on or in respect of the instrument of title that the estate or interest in land is vested in the incorporated association, as the case requires.

(3) A memorial or notice lodged in accordance with subsection (2) shall be accompanied by—

- (a) the certificate of incorporation, or a copy thereof certified by the Director-General and by a statutory declaration made by the secretary, and by a declaration made by the person or, where

more than 1, at least 1 of the persons in whom the estate or interest in land is held in trust for or on behalf of the incorporated association or its objects; and

- (b) any appropriate fee prescribed under the *Real Property Act 1861*, the *Land Act 1962* or any other Act under which registration is to be effected or a note or memorial is to be made or entered as referred to in subsection (2) as the case requires.

(4) The vesting of property pursuant to this section and any document relating thereto shall not attract duty under the *Stamp Act 1894*.

(5) After incorporation and vesting as aforesaid, property shall not be dealt with contrary to the provisions of any trust affecting the property immediately before incorporation.

(6) Any property vested pursuant to this section becomes vested subject to any covenant, contract or liability affecting the property.

(7) Except when otherwise expressly provided by this Act or by its rules, membership of an incorporated association shall not be deemed to confer upon the members any right, title or interest, either legal or equitable, in the property of the incorporated association.

(8) Upon property vesting as aforesaid in an incorporated association the persons previously holding such property on trust shall not, upon delivering or transferring such property to the incorporated association, thereafter be liable or accountable therefor or be bound to see to the application, distribution or appropriation thereof.

(9) The receipt of the Treasurer, for the time being of the incorporated association shall be sufficient discharge to a trustee delivering or transferring property to that incorporated association under subsection (8) as to the property delivered or transferred.

Rights and liabilities pass to incorporated association

21A.(1) Upon the incorporation of an association under this Act, the civil rights and liabilities (whether actual or potential) of the persons who immediately before incorporation were trustees or committee members of the association, being rights or liabilities had by them in their capacity as such trustees or arising by reason of their being committee members, shall pass to and become the civil rights and liabilities (actual or potential) of the

association to the exclusion of those persons and may be enforced by or against the association accordingly.

(2) Where, before or after the incorporation of an association, a claim has arisen or arises in respect of a deficit in the funds of the association, being a deficit that existed before the incorporation, civil action in a court may be commenced or, if it has already commenced at the time of incorporation, may be proceeded with against any trustee or committee member of the association who would have been liable on the claim had incorporation not occurred and, if the action is so commenced or proceeded with, rights and liabilities in the action shall be determined and enforced as if incorporation had not occurred.

Powers of incorporated associations

22.(1) Unless expressly excluded or modified by its rules, and subject to this Act, the powers of an incorporated association include the power to own, take or otherwise acquire (whether on trust or absolutely) and sell real and personal property of any kind or description, but nothing in this section shall be taken—

- (a) to empower the incorporated association to deal with property contrary to the provisions of any trust affecting the property; or
- (b) to empower the incorporated association to do anything which would have excluded it from incorporation under this Act; or
- (c) to limit in any respect the nature or extent of the powers conferred by this Act.

(2) Unless expressly excluded or modified by its rules the power of an incorporated association shall include the following powers—

- (a) to take, or otherwise acquire, and hold shares, debentures or other securities of any company or body corporate;
- (b) to invest and deal with the money of the incorporated association not immediately required in such manner as may from time to time be thought fit;
- (c) in furtherance of its objects to lend and advance money or give credit to any person or body corporate;
- (ca) to guarantee and give guarantees or indemnities for the payment

of money or the performance of contracts or obligations by any person or body corporate, and otherwise to assist any person or body corporate;

- (d) to borrow or raise money either alone or jointly with any other person or legal entity in such manner as may be thought proper and whether upon fluctuating advance account or overdraft or otherwise to represent or secure any moneys and further advances borrowed or to be borrowed alone or with others as aforesaid by notes secured or unsecured, debentures or debenture stock perpetual or otherwise, or by mortgage, charge, lien or other security upon the whole or any part of the incorporated association's property or assets present or future and to purchase, redeem or pay-off any such securities;
- (e) to remunerate any person or body corporate for services rendered, or to be rendered, and whether by way of brokerage or otherwise in placing or assisting to place or guaranteeing the placing of any unsecured notes, debentures or other securities of the incorporated association, or in or about the incorporated association or promotion of the incorporated association or in the furtherance of its objects;
- (f) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, and other negotiable or transferable instruments;
- (g) to take or hold mortgages, liens or charges, to secure payment of the purchase price, or any unpaid balance of the purchase price, of any part of the incorporated association's property of whatsoever kind sold by the incorporated association, or any money due to the incorporated association from purchasers and others;
- (h) to do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the incorporated association.

Ultra vires transactions

23.(1) No act of an incorporated association (including the entering into of an agreement by the incorporated association) and no conveyance or transfer of property, whether real or personal, to or by an incorporated

association shall be invalid by reason only of the fact that the incorporated association was without capacity or power (whether by provision of this Act or by its rules or otherwise) to do such act or to execute or take such conveyance or transfer.

(2) Any such lack of capacity or power may be asserted or relied upon only in—

- (a) proceedings against the incorporated association by any member of the incorporated association to restrain the doing of any act or acts or the conveyance or transfer of any property to or by the incorporated association;
- (b) any proceedings by the incorporated association or by any member of the incorporated association against the present or former officers of the incorporated association.

(3) If the unauthorised act, conveyance or transfer sought to be restrained in any proceedings under subsection (2)(a) is being or ought to be performed or made pursuant to any contract to which the incorporated association is a party, the Court having jurisdiction in the matter may, if all the parties to the contract are parties to the proceedings and if the Court deems it to be just and equitable, set aside and restrain the performance of the contract and may allow to the incorporated association or to other parties to the contract (as the case requires) compensation for the loss or damage sustained by either of them which may result from the action of the Court in setting aside and restraining the performance of the contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the Court as a loss or damage sustained.

Liability of members

24. A secretary, member of a management committee or member of an incorporated association as such, is not personally liable, except as provided in the rules of the incorporated association, to contribute towards the payment of the debts and liabilities of the incorporated association or the costs, charges and expenses of a winding-up of the incorporated association, beyond the property of the incorporated association in the person's hands.

Contracts

25.(1) Contracts entered into by an incorporated association shall be made as follows—

- (a) a contract which, if made between private persons, would be required by law to be in writing and under seal shall be made in writing and under the common seal of the incorporated association;
- (b) a contract which, if made between private persons, would be required by law to be in writing signed by the parties to be charged therewith shall be made in writing signed by any person acting under the express or implied authority of the incorporated association;
- (c) a contract which, if made between private persons, would be valid in law although made by verbal agreement, and not reduced into writing, may be made by verbal agreement on behalf of the incorporated association by any person acting under authority of the incorporated association.

(2) All contracts made according to the provisions contained in this section shall be effectual in law and shall bind the incorporated association and its successors and all other parties thereto, and may be varied or discharged in the manner in which it is authorised to be made.

(3) A document or proceeding requiring authentication by the incorporated association may be signed by the secretary and need not be under its common seal.

PART 4—RULES**Registration of rules**

26.(1) Forthwith on receiving a certificate of incorporation, the incorporated association shall lodge with the Director-General for registration a copy of its rules as sanctioned by the Director-General under section 12(2), certified by the secretary as being correct.

(2) Such rules shall at all times state and provide for the rules prescribed as mandatory, and may contain any other provision not inconsistent with this Act or the law.

(3) The rules shall be printed or typewritten and shall be readily available to members of the incorporated association.

Model rules

27.(1) An incorporated association may adopt as its rules all or any of the model rules prescribed.

(2) Where such an incorporated association adopts as its rules all or any of the model rules the secretary shall forthwith lodge with the Director-General a copy of the special resolution adopting such rules.

(3) If no rules are registered and no resolution adopting the model rules are registered, then the model rules shall be deemed for all purposes to be the rules of the incorporated association.

Alteration of rules

28.(1) The members of an incorporated association may by special resolution alter its rules.

(2) The secretary of the incorporated association shall, within 1 month after the passing of a special resolution to alter the rules, lodge with the Director-General notice of the special resolution.

(3) An alteration of the rules of an incorporated association is of no effect until subsection (2) has been complied with in respect of that alteration and unless the alteration is approved by the Director-General.

Effect of alteration of rules

29.(1) Subject to this section alteration of the rules of an incorporated association shall not affect any right, liability or obligation existing before such alteration took place.

(2) Rights, liabilities and obligations existing—

(a) between a member and the incorporated association; and

(b) between members;

not subject to pending legal proceedings at the time of such alteration shall be extinguished and the rights, liabilities and obligations between a member and the incorporated association and between members shall thenceforth be governed by the altered rules.

Special resolutions

30.(1) For the purposes of this Act, a resolution is a special resolution if it is passed by a majority of not less than three-quarters of such members entitled under the rules to vote, as may be present in person at any general meeting, of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with those rules.

(2) At any general meeting to which subsection (1) relates, unless a poll is demanded, a declaration by the chairperson that the resolution has been carried is conclusive evidence of the fact.

Annual and special meeting

31.(1) A general meeting of an incorporated association shall be held once at least in every period of 12 months within 3 months after the close of its financial year and shall be called the annual general meeting.

(2) Subject to subsection (1), general meetings of an incorporated association shall be held or may be called as prescribed by the rules of the incorporated association.

(3) Unless otherwise provided by its rules, at any meeting of an incorporated association no item of business shall be transacted unless a quorum of members entitled under those rules to vote is present when the meeting is considering that item.

(4) The quorum shall be as prescribed by those rules.

PART 5—MANAGEMENT COMMITTEE

Management committee

32.(1) Subject to this Act, the business and operations of an incorporated association shall be controlled by a management committee.

(2) Every member of the management committee and any manager duly appointed by the management committee acting in the business or operations of the incorporated association shall be deemed to be the agent of the incorporated association for all purposes within its objects.

(3) The acts of a member of the management committee shall be valid notwithstanding any defect that may afterwards be discovered in the member's appointment or qualifications.

Election of management committee

33.(1) The members of the management committee shall be elected at the annual general meeting or any general meeting of the incorporated association in accordance with its rules.

(1A) However, upon incorporation of the incorporated association those persons who are members of the committee of the association at the time when the application for incorporation is lodged with the Director-General and whose names are set out in that application shall be the members of the management committee of the incorporated association.

(2) Notwithstanding the provisions of subsection (1) the rules of an incorporated association may permit the management committee to fill a casual vacancy on the management committee.

Meetings of management committee

34. Meetings of the management committee shall be held as often as may be necessary for properly conducting the business and operations of the incorporated association, but shall be held at least once in every 2 calendar months and a quorum for a meeting shall be prescribed by the rules.

Tenure of members of management committee

35.(1) The members of the management committee shall hold office and retire and may be removed from office as prescribed by the rules.

(2) The office of a member of the management committee shall be vacated in such circumstances (if any) as may be prescribed by the rules of the incorporated association or if the person holding that office—

- (a) dies; or
- (b) becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (c) becomes mentally ill; or
- (d) is convicted of an offence under this Act, or convicted of an indictable offence or of an offence punishable on summary conviction for which the person is sentenced to imprisonment otherwise than in default of payment of a fine.

Notification of change of members of management committee

36. The secretary shall, within 14 days after a change in the membership of the management committee, give notice in writing to the Director-General of the name, address and occupation of each person who has become a member of the management committee, or who has ceased to be a member of the management committee as the case may be.

Secretary

37.(1) Within 14 days after incorporation, the management committee of an incorporated association shall appoint a natural person who is resident in the State to be the secretary of the incorporated association and, if that office at any time becomes vacant, shall, within 14 days after it becomes vacant, appoint a natural person who is resident in the State to fill that vacancy.

(2) If the management committee of an incorporated association fails to comply with subsection (1), each member of the management committee is guilty of an offence.

(3) Notwithstanding anything in the rules of an incorporated association, the management committee shall have power from time to time to appoint a secretary and to remove any person so appointed.

(4) The secretary may, unless the rules of the incorporated association otherwise provide, hold any other office in the incorporated association

except the office of auditor.

(5) The office of secretary shall become vacant if the person holding that office—

- (a) dies;
- (b) becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (c) becomes mentally ill;
- (d) is convicted of an offence under this Act, or convicted of an indictable offence or of an offence punishable on summary conviction for which the person is sentenced to imprisonment otherwise than in default of payment of a fine;
- (e) resigns office by writing under the person's hand addressed to the management committee of the incorporated association;
- (f) ceases to be resident in the State.

Insurance

38.(1) Forthwith on receiving a certificate of incorporation, the management committee shall effect insurance in respect of damage to property, death or bodily injury occurring upon the property of the incorporated association for a cover of the prescribed amount, or if not prescribed, \$100 000, and shall keep such insurance cover current at all times.

(2) The secretary of the incorporated association shall notify the Director-General of the taking out of the insurance referred to in subsection (1), within 14 days after such insurance has been effected.

Notification of appointment and change of address of secretary

39.(1) A secretary shall, within 14 days after appointment, give notice in writing to the Director-General of the appointment and of the secretary's full name and address.

(2) If a secretary changes address the secretary shall, within 14 days after the change, give notice in writing to the Director-General of the change.

Audit and statement

40.(1) The management committee of an incorporated association shall, within 3 months of the close of the financial year prescribed, or more frequently if the rules of the incorporated association so provide—

- (a) prepare, or cause to be prepared, a statement containing the following particulars—
 - (i) the income and expenditure of the incorporated association during its last financial year; and
 - (ii) the assets and liabilities of the incorporated association at the close of the said year; and
 - (iii) all mortgages, charges and securities of any description affecting any of the property of the incorporated association at the close of the said year;
- (b) cause the financial affairs of the incorporated association to be audited by—
 - (i) a person who is a member of The Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants; or
 - (ii) a person approved by the Director-General;
- (c) present the audited statement to the Annual General Meeting for adoption.

(2) If the management committee of an incorporated association fails to comply with subsection (1) each member of the management committee is guilty of an offence.

(3) No person shall consent to be appointed, or act, as the auditor of an incorporated association, or prepare for or on behalf of such an incorporated association any financial statement or any report or certificate relating thereto that is required by or under this Act to be prepared by the auditor of such an incorporated association if the person is—

- (a) the secretary, or a member of the management committee, of the incorporated association;
- (b) an employee of the incorporated association;
- (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.

(4) A person who is partner in any unincorporated body shall not consent to be appointed, or act, as the auditor of an incorporated association or prepare for or on behalf of an incorporated association any financial statement or any report or certificate required by or under this Act to be prepared by the auditor of such an incorporated association, if any of the partners of that unincorporated body is disqualified under subsection (3) from acting as auditor of the incorporated association.

(5) A person who contravenes any of the provisions of subsection (3) or (4) is guilty of an offence.

(6) The secretary of an incorporated association shall, within 1 month after the adoption of the audited statement by the annual general meeting as required by subsection (1), or, if the Director-General (who is hereby authorised so to do) allows a longer period, within the period allowed by the Director-General, lodge with the Director-General a copy of that statement certified to be correct by the person who audited the financial affairs of the incorporated association.

(6A) For the purposes of subsection (6), the Director-General may, where the Director-General considers it appropriate, exempt an incorporated association from lodgment of the statement.

(7) The financial statement of an incorporated association shall be available for inspection by the public.

(8) The Director-General may, in any case where the Director-General considers it desirable so to do, direct in writing an incorporated association to publish in such manner and within such time as is set out in the direction, a copy of the statement certified to be correct referred to in subsection (6) and the management committee of the incorporated association shall comply in all respects with the terms of such direction.

(9) If the management committee of an incorporated association fails to comply with subsection (8) each member of the management committee is guilty of an offence.

PART 6—RIGHTS AND OBLIGATIONS OF MEMBERS

Rights of members

41.(1) Upon incorporation the rules of the association shall constitute the terms of a contract between the members from time to time and the incorporated association.

(2) Where a member of an incorporated association is deprived by a decision of that association of a right conferred on the member by the rules of that association as a member thereof, the Court shall have jurisdiction to adjudicate upon the validity of that decision under the rules.

(3) An incorporated association shall be bound by the rules of natural justice in adjudicating upon the rights of its members conferred by the rules of such association on its members.

Enforcement of rights and obligations

42.(1) The Court may, on the application of an incorporated association, or of a member thereof, make orders, including interim orders—

- (a)** giving directions for the performance and observance of the rules of such incorporated association by any person who is under an obligation to perform or observe those rules;
- (b)** declaring and enforcing the rights and obligations of members of such incorporated association between themselves, and the rights and obligations between such incorporated association and any member or members thereof.

(2) An order may be made under this section notwithstanding that no right of a proprietary nature is involved, or that the applicant has no interest in the property of the incorporated association.

Powers of Court

43.(1) The Court may, on an application brought pursuant to section 42, grant such relief as is appropriate in the circumstances.

(2) The Court may refuse to entertain such an application, or to make an

order on such application, or may refuse an order for costs, or may make an order for costs against a party, whether successful or not, if it is of the opinion that—

- (a) the issue raised in the application is trivial;
- (b) having regard to the importance of the issue, the nature of the incorporated association, any other available method of resolving the issue, the costs involved, lapse of time, acquiescence or any other relevant circumstance, it was unreasonable to make the application;
- (c) the unreasonable or improper conduct of a party has been responsible for the making of an application, or has added to the cost of the proceedings.

PART 7—WINDING-UP

Voluntary winding-up

44.(1) An incorporated association may be wound-up by special resolution of the members passed at a general meeting called for that purpose.

(1A) A copy of the special resolution shall be lodged with the Director-General within 14 days from the passing of that special resolution.

(2) Subject to this Act and to any regulations made under the authority thereof, the provisions of the Companies (Queensland) Code relating to the voluntary winding-up of companies apply, so far as they are applicable and with the prescribed modifications (if any), to and in relation to the voluntary winding-up of incorporated associations.

Winding-up by the Court

45.(1) An incorporated association may be wound-up by the Court under the following circumstances, that is to say—

- (a) if the incorporated association suspends its operations for the

- space of a whole year;
- (b) if the members of the incorporated association are reduced in number to not constitute a quorum at a general meeting;
 - (c) if the incorporated association is unable to pay its debts;
 - (d) if the incorporated association carries on any operation whereby any member thereof makes any pecuniary gain contrary to the provisions of this Act;
 - (e) if the Court is of the opinion that it is just and equitable that the incorporated association should be wound-up.

(2) An application to the Court for the winding-up of an incorporated association shall be by petition presented either by the incorporated association, or by a member thereof, or by a creditor thereof, or by the Director-General.

(3) Subject to this Act and to any regulations made under the authority thereof, the provisions of Division 6 of Part 12 of the Companies (Queensland) Code apply, so far as they are applicable and with the prescribed modifications (if any), to and in relation to the winding-up of incorporated associations by the Court.

Meaning of terms in winding-up

46. For the purposes of sections 44 and 45—

- (a) a reference in Division 6 of Part 12 of the Companies (Queensland) Code to a body to which that Division applies shall be read as a reference to an incorporated association; and
- (b) a reference in the Companies (Queensland) Code to the directors of a company shall be read as a reference to the members of the management committee of such an incorporated association; and
- (c) a reference in the Companies (Queensland) Code to the secretary of a company shall be read as a reference to the secretary of such an incorporated association; and
- (d) a reference in the Companies (Queensland) Code to the principal place of business of a company shall be read as a reference to the place where the secretary of such an incorporated association resides.

Winding-up in progress at the commencement of Part 6 of the Companies (Consequential Amendments) Act 1981

46A. The provisions of the Companies (Queensland) Code with respect to winding-up do not apply to any incorporated association the winding-up of which was commenced before the commencement of Part 6 of the *Companies (Consequential Amendments) Act 1981* and any such incorporated association shall be wound-up in the same manner and with the same incidents as if that Act had not been enacted and for the purposes of the winding-up, the provisions of this Act as in force immediately prior to the commencement of that Part shall apply.

Distribution of surplus assets

47.(1) Where, upon the winding-up of an incorporated association, a special resolution relating to the distribution of the surplus assets of the incorporated association has been passed by its members in accordance with its rules, all surplus assets shall, subject to any trust affecting the same, be disposed of in the manner so resolved.

(2) Where no such special resolution has been passed—

- (a) the Governor in Council may by order in council vest all or any of the surplus assets of the incorporated association in the Public Trustee;
- (b) subject to paragraph (c) the surplus assets vested in the Public Trustee under this subsection shall be held upon the trusts and for the purposes upon or for which they were held prior to being vested in the Public Trustee;
- (c) the Governor in Council may by order in council vary the trusts or purposes referred to in paragraph (b) and may by the same or any subsequent order in council vest those surplus assets or any part of them in such persons or incorporated associations and for such purposes as the Governor in Council shall specify;
- (d) every such order in council shall have the force of law, and payments and transfers shall be made to carry out the directions of the Governor in Council thereby made;
- (e) the receipt of the Public Trustee shall be a sufficient discharge to any persons paying or transferring any surplus assets pursuant to

paragraph (d) as to the surplus assets paid or transferred, and the said persons shall not thereafter be liable or accountable therefor or be bound to see to the application, distribution, or appropriation thereof.

(3) In this section—

“**surplus assets**” means, in relation to the incorporated association, the assets after payment of the debts and liabilities remaining on a winding-up of the incorporated association and the costs, charges and expenses of the winding-up.

Cancellation of incorporation

48.(1) In any case where the Director-General has reasonable cause to believe that on any 1 or more of the following grounds—

- (a) an incorporated association is carrying on or proposes to carry on any operation which is beyond the scope of the objects of the incorporated association;
- (b) an incorporated association has ceased to exist;
- (c) an incorporated association is, by the nature of its operations or transactions, doing anything which would have excluded it from incorporation under this Act;
- (d) in the opinion of the Director-General, circumstances exist which, in the public interest, justify the cancellation of the incorporation of an incorporated association;

it is desirable that the incorporation of an incorporated association be cancelled, the Director-General may serve, by pre-paid registered post, on a person appearing to the Director-General from records kept under this Act to be the secretary or other officer of the incorporated association, a notice—

- (e) setting out the ground or grounds for the proposed cancellation of the incorporation of the incorporated association; and
- (f) requiring the secretary, or other officer within 1 month from the date of the notice, to satisfy the Director-General why the incorporation of the incorporated association should not be cancelled; and
- (g) stating that unless the Director-General is so satisfied by the

secretary or other officer within that period, the Director-General will cancel the incorporation of the incorporated association.

(2) If the Director-General is not satisfied as provided in subsection (1) within the time specified therein, the Director-General shall cancel the incorporation of the incorporated association and serve, by pre-paid registered post, on the person appearing pursuant to subsection (1) to be the secretary of the incorporated association, a notice that the incorporation of the incorporated association is cancelled.

Vesting of property on cancellation

49. Where the incorporation of an incorporated association is cancelled pursuant to section 48—

- (a) the Governor in Council may by order in council vest all or any property of such association in the Public Trustee;
- (b) subject to paragraph (c) the property vested in the Public Trustee under this section shall be held upon the trusts and for the purposes upon or for which they were held prior to being vested in the Public Trustee;
- (c) the Governor in Council may by order in council vary the trusts or purposes referred to in paragraph (b) and may by the same or any subsequent order in council vest that property or any part thereof in such persons or incorporated associations and for such purposes as the Governor in Council shall specify;
- (d) every such order in council shall have the force of law, and payments and transfers shall be made to carry out the directions of the Governor in Council thereby made;
- (e) the receipt of the Public Trustee shall be sufficient discharge to any persons paying or transferring any property pursuant to paragraph (d) as to the property paid or transferred, and the said persons shall not thereafter be liable or accountable therefor or be bound to see to the application, distribution or appropriation thereof.

PART 8—MISCELLANEOUS

Appointment of inspector

50.(1) Where it appears to the Director-General that—

- (a) it is desirable for the protection of the public or of members or other persons interested in an incorporated association; or
- (b) it is in the public interest;

to appoint an inspector to investigate the affairs of the incorporated association the Director-General may by instrument in writing appoint such an inspector.

(2) The provisions of Part 6A (Special Investigations) of the *Companies Act 1961*, shall, mutatis mutandis, apply to such an investigation.

Meaning of terms in special investigation

51. For the purposes of section 50—

- (a) a reference in the *Companies Act 1961* to a company shall be read as a reference to an incorporated association;
- (b) a reference in the *Companies Act 1961* to an officer of a company shall be read as a reference to the secretary of such an incorporated association;
- (e) a reference in the *Companies Act 1961* to the principal place of business of a company shall be read as a reference to the place where the secretary of such an incorporated association resides.

Limitation of actions

52. No matter or thing done by the Director-General or by any other person in good faith and without negligence for the purpose of executing this Act or in the execution or performance of powers, authorities, functions and duties under this Act shall subject the Crown, the Minister, the Director-General or any other person as aforesaid to any liability in respect thereof.

Extension of time

53. Where under this Act an act or thing is required to be performed or done within a specified time the Director-General may, if the Director-General thinks fit, if in the Director-General's opinion there are special circumstances, extend the time for the performance or doing of that act or thing.

Appeal from Director-General

54.(1) Any incorporated association, or any person aggrieved by a determination or decision of the Director-General made pursuant to this Act, other than a determination or decision under section 11, may appeal to the Court which may confirm that determination or decision or make such other determination or give such directions as it deems proper in relation to the question before the Director-General.

(2) Such appeal shall be to a Judge of the said Court exercising jurisdiction in Chambers and the Judge's decision thereon shall be subject to the same rules of court as any order made by a Judge exercising such jurisdiction.

Punishment of fraud or misappropriation

55.(1) A person who—

- (a) obtains possession by false representation or imposition of any property of an incorporated association; or
- (b) having any property of an incorporated association in possession, withholds or misapplies the same, or wilfully applies any part thereof to purposes other than those expressed or directed in the rules and authorised by this Act;

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000, and to be ordered to deliver up all such property or to repay all such moneys applied improperly, and, in default of such delivery or repayment or of the payment of such penalty, to be imprisoned for any period not exceeding 3 months.

(1A) However, where, on a complaint against a person of withholding or misapplying property or applying it for unauthorised purposes, it is not

proved that the person acted with any fraudulent intent the person may be ordered to deliver up such property or to repay any money applied improperly, but is not liable to conviction, and a copy of any such order certified under the hand of the Clerk of the Court may be filed in the Magistrates Court nearest to the place where such order was made and thereupon such order shall be and be deemed to be a judgment of the said Magistrates Court within the meaning of the *Magistrates Courts Act 1921* and shall be enforceable accordingly.

(2) Nothing contained in this section shall prevent any such person from being prosecuted under any other law in force, if a conviction has not been previously obtained against that person for the same offence under the provisions of this Act.

Officers deemed servants

56. Every person elected or appointed to be the treasurer, secretary, member of the management committee or other officer having the receipt or charge of money of an incorporated association, or who acts in the capacity of or is employed as such treasurer, secretary, member of the management committee or officer, shall be deemed to be a clerk or servant of such incorporated association within the meaning of the Criminal Code.

Penalty for falsification

57. A person who wilfully makes, or orders or allows to be made, any entry, erasure in, or omission from any account book, balance sheet or any return or document required to be made, kept, sent, produced or delivered for the purposes of this Act, with intent to falsify the same or to evade this Act is guilty of an offence and is liable to a penalty not exceeding \$1 000.

Director-General may delegate power to prosecute

58.(1) Whenever by this Act the Director-General is empowered to prosecute for any offence or to recover any penalty, the Director-General may, in writing, authorise some person to take all necessary proceedings on the Director-General's behalf.

(2) The power conferred upon the Director-General by subsection (1) may be exercised either generally or from time to time as occasion may

require.

Proof of compliance with formal requirements

59.(1) In any proceeding under this Act against an incorporated association or any officer thereof or other person, the onus of proving that any return, report, notice or document required to be sent or given to the Director-General has been so sent or given, or that any return, report, notice or document has been compiled or made as required by this Act, shall lie with such incorporated association, officer or other person.

(2) In any such proceeding any return, report, notice or other document, purporting to be duly signed and forwarded to the Director-General by the secretary of any incorporated association, and otherwise in conformity with this Act, may be received as evidence of any matters stated therein respectively.

Evidence

60.(1) In the case of evidence required on behalf of the Director-General, and not hereinbefore provided for, the Director-General may depose to the same by affidavit, and the evidence contained in any such affidavit shall be received as evidence in all courts.

(2) Every instrument or document, copy or extract of an instrument or document, certified by the Director-General shall be received in evidence without further proof.

(3) Every document purporting to be signed by the Director-General or any inspector or actuary or auditor or valuer under this Act shall be received in evidence without proof of the signature.

Proceedings for offences

61.(1) A person who contravenes or fails to comply with any provision of this Act is guilty of an offence against this Act.

(2) A person guilty of an offence against this Act is liable, if no specific penalty is provided for that offence, to a penalty not exceeding \$500.

(3) All offences against this Act may be prosecuted and any penalties,

fees or other monies due and payable under this Act may be recovered in a summary way under the *Justices Act 1886*, on complaint by any person authorised by the Minister or on complaint by the Director-General.

(4) Summary proceedings in respect of an offence against this Act shall be instituted within 1 year after the commission of the offence, or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever period is the later to expire.

Service

62. Unless otherwise provided in this Act, a document may be served on an incorporated association by leaving it at or properly addressing, prepaying and posting a letter containing the notice to the secretary at the address notified under section 39.

Fees

63. There shall be paid to the Director-General such fees as are prescribed.

Evidentiary provisions

64.(1) The Director-General may, by writing under the Director-General's hand, certify—

- (a) that, on a date specified in the certificate, an association so specified was, or was not, an incorporated association; or
- (b) that, on a date specified in the certificate, a person so specified was, or was not, the secretary of an incorporated association so specified; or
- (c) that, on a date specified in the certificate—
 - (i) no natural person has been appointed secretary of an incorporated association; or
 - (ii) no natural person has been appointed to fill a vacancy in the office of secretary of an incorporated association;in compliance with the provisions of section 37; or

- (d) that, on a date specified in the certificate—
- (i) the financial affairs of an incorporated association have not been audited; or
 - (ii) a statement of particulars of income and expenditure, assets and liabilities and mortgages, charges and securities has not been prepared;

in compliance with the provisions of section 40;

and such a certificate shall, in all courts and for all purposes, be evidence and, in the absence of evidence to the contrary conclusive evidence, of the matters stated in that certificate.

(2) In any legal proceedings, a copy of any rules of an incorporated association or other document lodged with the Director-General certified by the Director-General to be a true copy thereof, shall be evidence that such rules were rules of the incorporated association in force on the date mentioned in the certificate or of the contents of such document.

(3) Judicial notice shall be taken of the signature of the Director-General appearing on a certificate under this section and of the fact that the person by whom the certificate purports to have been signed is the Director-General.

Dispositions of property

65.(1) A disposition in favour of an association shall, unless the context otherwise requires, take effect in favour of that association where that association is incorporated under this Act, where such incorporation is effected after the document evidencing the disposition was made or executed but before the disposition was perfected.

(2) In this section—

“**disposition**” means any disposition by will, written instrument or otherwise, which takes effect after the commencement of this Act.

Delegation of powers

66.(1) Subject to this Act, the Director-General may from time to time, in relation to any matters or class of matters, by instrument in writing under the Director-General’s hand delegate all or any of the Director-General’s

powers, authorities, functions and duties under this Act as may be specified in the instrument other than this power of delegation to any person or the holder of any office so that any delegated power, authority, function or duty may be exercised or, as the case may be, shall be performed by the delegate with respect to the matters or class of matters specified in the instrument.

(2) The Director-General may subject any such delegation to such conditions or limitations as the Director-General thinks fit.

(3) The Director-General may, at discretion, revoke a delegation made under this section.

(4) No delegation shall prevent the exercise of any power, authority, function or duty by the Director-General.

Recall of letters patent

67. Notwithstanding the provisions of section 4, the Minister may at the Minister's discretion recall and cancel any letters patent issued under the repealed Acts and may require the association to apply for incorporation under this Act in lieu thereof.

Exemption from certain provisions of Act

67A. Where—

- (a) under section 67, the Minister recalls letters patent and requires an association to apply for incorporation under this Act; or
- (b) an association applies for incorporation under this Act and that association could, but for the repeal of the repealed Acts, have been incorporated by the issue of letters patent under the repealed Acts;

the Minister may, by Gazette notice, exempt the association from specified provisions of this Act.

Regulations

68. The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) the keeping of any register under and for the purposes of this Act,

the circumstances and manner in which and the person by whom such register shall be kept, and the transfer or custody of a register kept under this Act or under the repealed Acts;

- (b) records to be kept for the purposes of this Act, the manner of keeping such records, and the transfer of custody of records kept under this Act or under the repealed Acts;
- (c) the inspection by members of the public of any register or document kept pursuant to this Act relating to incorporated associations;
- (d) the issuing of a certificate of incorporation of an association or any other certificate or of a copy or extract of any document or part of a document kept pursuant to this Act;
- (e) forms to be used under this Act, the prescribing of forms and the respective purposes for which any such forms shall be used, the manner in which they are to be completed and by whom such forms are to be witnessed;
- (f) the form of, and the matters or certain specified matters to be provided for in, the rules of incorporated associations;
- (g) the prescribing of penalties, not exceeding a fine of \$250 for offences against the regulations;
- (h) all matters required or permitted by this Act to be prescribed where the method of prescription is not otherwise provided;
- (i) prescribing fees payable under this Act and the matters in respect of which such fees shall be paid, the basis or bases on which such fees shall be payable and the times when payable, prescribing the persons by whom and the places and times when and where and the persons to whom such fees shall be paid and providing for the total or partial exemption of persons and matters from the payment of fees payable under this Act;
- (j) the form and manner in which books of account of an incorporated association shall be kept;
- (k) providing for the inspection, examination and audit as prescribed by authorised officers and others of all or any records required by the regulations to be kept;

- (l) providing for the furnishing of returns, statements and information for the purposes of this Act and the time or times and the mode of the furnishing thereof;
- (m) prescribing, regulating and controlling the powers and duties of the Director-General and authorised officers under and for the purposes of this Act;
- (n) providing for the appointment of inspectors including the prescribing of the method of appointment and by whom they may be appointed;
- (o) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

Publication of orders in council

69.(1) Every order in council made under this Act shall—

- (a) be published in the Gazette;
- (b) upon its publication in the Gazette, be judicially noticed and such publications shall be conclusive evidence of the matters contained therein;
- (c) take effect from the date of such publication;
- (d) be laid before the Legislative Assembly within 14 sitting days after such publication, if the Legislative Assembly is in session, and if not, then within 14 sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within 14 sitting days after any such order in council has been laid before it disallowing the same or part thereof, that order in council, or part thereof shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further order in council.

Irregularities in proceedings

70.(1) No proceeding under this Act shall be invalidated by any defect,

irregularity or deficiency of notice or time unless the Court is of opinion that substantial injustice has been or may be caused thereby which cannot be remedied by an order of the Court.

(2) The Court may if it thinks fit make an order declaring that such proceeding is valid notwithstanding any such defect, irregularity or deficiency.

(3) Without affecting the generality of subsections (1) and (2) or of any other provision of this Act, where any omission, defect, error or irregularity (including the absence of a quorum at any meeting of the incorporated association or of the management committee) has occurred in the management or administration of an incorporated association incorporated under this Act (whether or not such omission, defect, error or irregularity occurred before or after the passing of this Act and whether it occurred before or after the incorporated association became incorporated under this Act) whereby any breach of any of the provisions of this Act has occurred or whereby there has been default in the observance of the rules or constitution of the incorporated association or whereby any proceedings at or in connection with any meeting of the incorporated association or of the management committee thereof or any assemblage purporting to be such a meeting have been rendered ineffective, the Court—

- (a) may, either of its own motion or on the application of any interested person, make such order as it thinks fit to rectify or cause to be rectified or to negative or modify or cause to be modified the consequences in law of any such omission, defect, error or irregularity, or to validate any act, matter or thing rendered or alleged to have been rendered invalid by or as a result of any such omission, defect, error or irregularity; and
- (b) shall before making any such order satisfy itself that such an order would not do injustice to the incorporated association or to any member or creditor thereof; and
- (c) where any such order is made, may give such ancillary or consequential direction as it thinks fit; and
- (d) may determine what notice or summons is to be given to other persons of the intention to make any such application or of the intention to make such an order, and whether and how it should be given or served and whether it should be advertised in any

newspaper.

(4) The Court may enlarge or abridge any time for doing any act or taking any proceeding allowed or limited by this Act or any rules or regulations made thereunder upon such terms (if any) as the justice of the case may require and any such enlargement may be ordered although the application for the same is not made until after the time originally allowed or limited.

SCHEDULE

section 4

No. of Act	Title of Act	Extent of Repeal
25 Vic. No. 19	<i>The Religious Educational and Charitable Institutions Act of 1861</i>	The whole
59 Vic. No. 4	<i>The Religious, Educational, and Charitable Institutions Act of 1861 Amendment Act of 1895</i>	The whole
8 Eliz. II No. 52	<i>The Religious Educational and Charitable Institutions Acts Amendment Act of 1959</i>	The whole
No. 31 of 1967	<i>The Religious Educational and Charitable Institutions Acts Amendment Act of 1967</i>	The whole
No. 38 of 1977	<i>Religious Educational and Charitable Institutions Act and Other Acts Amendment Act of 1977</i>	Part II

ENDNOTES**1 Index to Endnotes**

	Page
2 Date to which amendments incorporated	48
3 List of legislation	48
4 List of annotations	50
5 Table of renumbered provisions	52

2 Date to which amendments incorporated

This is the reprint date mentioned in section 5(c) of the *Reprints Act 1992*. Accordingly, this reprint includes all amendments that commenced operation on or before 26 October 1993. Future amendments of the *Associations Incorporation Act 1981* may be made in accordance with this reprint under section 49 of the *Reprints Act 1992*.

3 List of legislation**Associations Incorporation Act 1981 No. 74**

date of assent 7 October 1981

commenced 1 July 1982 (proc pubd Gaz 19 June 1982 p 1600)

as amended by—

Companies (Consequential Amendments) Act 1981 No. 111 Pt 6

date of assent 16 December 1981

commenced 1 July 1982 (see s 2(4) of Act and proc pubd Gaz 29 June 1982 p 2102)

Companies (Administration) Act 1981 No. 112 s 27

date of assent 16 December 1981

commenced 1 July 1982 (proc pubd Gaz 29 June 1982 p 2102)

Patriotic Funds Act Repeal Act and Other Acts Amendment Act 1988 No. 19 Pt 4

date of assent 7 April 1988

commenced 1 February 1989 (proc pubd Gaz 21 January 1989 p 299)

Corrective Services (Consequential Amendments) Act 1988 No. 88 s 3 Sch 1

date of assent 1 December 1988

commenced 15 December 1988 (see s 2(2) of Act and o in c pubd Gaz
10 December 1988 p 1675)

Associations Incorporation Act Amendment Act 1989 No. 4

date of assent 30 March 1989

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and om 1991 No. 42 s 4

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 Sch

date of assent 25 October 1989

commenced on date of assent

Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 Sch 6

date of assent 14 November 1990

commenced 7 December 1989 (see s 2(4)(b))

**Public Accountants Registration (Repeal and Consequential Amendments) Act
1990 No. 85 s 5 Sch 2**

date of assent 29 November 1990

commenced 1 January 1991 (see s 2(3))

Justice Legislation (Miscellaneous Amendments) Act 1991 No. 42 s 3 Sch

date of assent 5 August 1991

commenced on date of assent

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Chap	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	<i>Reprints Act 1992</i>
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Arrangement

s 3 amd 1989 No. 103 s 3 Sch
om (see s 36 RA)

Repeals and savings

s 4 amd 1989 No. 103 s 3 Sch

Meaning of terms

s 5 def “**association**” amd 1990 No. 80 s 3 Sch 6; 1991 No. 42 s 3 Sch
def “**Commissioner**” sub 1981 No. 112 s 27
def “**Director-General**” ins 1990 No. 80 s 3 Sch 6
def “**Minister**” sub 1990 No. 80 s 3 Sch 6
def “**Under Secretary**” om 1990 No. 80 s 3 Sch 6
def “**undesirable name**” amd 1990 No. 80 s 3 Sch 6

Incorporation

s 6 amd 1990 No. 80 s 3 Sch 6

Application for incorporation

s 9 amd 1989 No. 4 s 4 (never proclaimed into force and om 1991 No. 42 s 4);
1990 No. 80 s 3 Sch 6

Determination by Director-General

s 11 amd 1990 No. 80 s 3 Sch 6

Certificate of incorporation

s 12 amd 1989 No. 4 s 5 (never proclaimed into force and om 1991 No. 42 s 4);
1990 No. 80 s 3 Sch 6

Ministerial review of determination

s 15 amd 1990 No. 80 s 3 Sch 6

Change of name

s 17 amd 1990 No. 80 s 3 Sch 6

Amalgamation of incorporated associations

s 20 amd 1990 No. 80 s 3 Sch 6

Vesting of property in incorporated association

s 21 amd 1990 No. 80 s 3 Sch 6

Rights and liabilities pass to incorporated association

s 21A ins 1988 No. 19 s 9

Registration of rules

s 26 amd 1989 No. 4 s 6 (never proclaimed into force and om 1991 No. 42 s 4);
 1990 No. 80 s 3 Sch 6

Model rules

s 27 amd 1990 No. 80 s 3 Sch 6

Alteration of rules

s 28 amd 1990 No. 80 s 3 Sch 6; 1991 No. 42 s 3 Sch

Election of management committee

s 33 amd 1990 No. 80 s 3 Sch 6

Notification of change of members of management committee

s 36 amd 1990 No. 80 s 3 Sch 6

Insurance

s 38 amd 1990 No. 80 s 3 Sch 6

Notification of appointment and change of address of secretary

s 39 amd 1990 No. 80 s 3 Sch 6

Audit and statement

s 40 amd 1990 No. 80 s 3 Sch 6; 1990 No. 85 s 5 Sch 2

Voluntary winding-up

s 44 amd 1981 No. 111 s 23 Sch; 1990 No. 80 s 3 Sch 6

Winding-up by the Court

s 45 amd 1981 No. 111 s 23 Sch; 1990 No. 80 s 3 Sch 6

Meaning of terms in winding-up

s 46 amd 1981 No. 111 s 23 Sch

**Winding-up in progress at the commencement of Part 6 of the Companies
(Consequential Amendments) Act 1981**

s 46A ins 1981 No. 111 s 23 Sch

Cancellation of incorporation

s 48 amd 1990 No. 80 s 3 Sch 6

Appointment of inspector

s 50 amd 1990 No. 80 s 3 Sch 6

Limitation of actions

s 52 amd 1990 No. 80 s 3 Sch 6

Extension of time

s 53 amd 1990 No. 80 s 3 Sch 6

Appeal from Director-General

s 54 amd 1990 No. 80 s 3 Sch 6

Punishment of fraud or misappropriation

s 55 amd 1988 No. 88 s 3 Sch 1

Director-General may delegate power to prosecute

s 58 amd 1990 No. 80 s 3 Sch 6

Proof of compliance with formal requirements

s 59 amd 1990 No. 80 s 3 Sch 6

Evidence

s 60 amd 1990 No. 80 s 3 Sch 6

Proceedings for offences

s 61 amd 1990 No. 80 s 3 Sch 6

Fees

s 63 amd 1990 No. 80 s 3 Sch 6

Evidentiary provisionss 64 amd 1989 No. 4 s 7 (never proclaimed into force and om 1991 No. 42 s 4);
1990 No. 80 s 3 Sch 6**Delegation of powers**

s 66 amd 1990 No. 80 s 3 Sch 6

Exemption from certain provisions of Act

s 67A ins 1991 No. 42 s 3 Sch

Regulations

s 68 amd 1990 No. 80 s 3 Sch 6

SCHEDULE

amd 1989 No. 103 s 3 Sch

5 **Table of renumbered provisions**

TABLE OF RENUMBERED PROVISIONS
under section 43 of *Reprints Act 1992*

Original	Renumbered as
8(2) (2nd sentence)	8(3)
17(4) (2nd sentence)	17(4A)
20(3) (2nd sentence)	20(3A)
22(2)(c) (2nd para)	22(2)(ca)
31(3) (2nd sentence)	31(4)
33(1) (proviso)	33(1A)

40(6)(a)	40(6)
40(6)(b)	40(6A)
44(1) (2nd sentence)	44(1A)
55(1) (proviso)	55(1A)