



Queensland

Associations Incorporation and Other Legislation Amendment Regulation 2023

Subordinate Legislation 2023 No. 59

made under the

Associations Incorporation Act 1981
Collections Act 1966

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Associations Incorporation and Other Legislation Amendment Regulation 2023*.

2 Commencement

- (1) The following provisions of this regulation commence on 1 July 2023—
 - (a) part 2, divisions 1 and 2;
 - (b) part 3.
- (2) Part 2, division 3 commences on 1 July 2024.

Part 2 Amendment of Associations Incorporation Regulation 1999

Division 1 Preliminary

3 Regulation amended

This part amends the *Associations Incorporation Regulation 1999*.

Division 2 Amendments commencing on 1 July 2023

4 Amendment of s 3 (General references)

Section 3(1)(i)(ii), ‘*Cooperatives Act 1997*’—
omit, insert—

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Co-operatives National Law (Queensland)

5 Omission of pt 3, div 2 (Records)

Part 3, division 2—

omit.

6 Renumbering of pt 3, div 2A (Financial reporting)

Part 3, division 2A—

renumber as part 3, division 2.

7 Insertion of new ss 9BA and 9BB

After section 9B—

insert—

9BA Current assets and total revenue for large incorporated associations—Act, s 58

- (1) For section 58 of the Act, definition *large incorporated association*, paragraph (a)(i), the amount is \$1,000,000.
- (2) For section 58 of the Act, definition *large incorporated association*, paragraph (b)(i), the amount is \$500,000.

9BB Current assets and total revenue for small incorporated associations—Act, s 58

- (1) For section 58 of the Act, definition *small incorporated association*, paragraph (a)(i), the amount is \$300,000.
- (2) For section 58 of the Act, definition *small incorporated association*, paragraph (b)(i), the amount is \$150,000.

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- (4) For section 70D(1) of the Act, the way prescribed is—
- (a) in a document required to be presented under section 59B of the Act at the association's annual general meeting; or
 - (b) in a separate written statement of remuneration paid or other benefits given for the financial year; or
 - (c) if no remuneration was paid or benefits were given for the financial year—
 - (i) in the way mentioned in paragraph (a) or (b); or
 - (ii) the making of an oral statement to that effect that must be recorded in the minutes of the annual general meeting.

9 Amendment of sch 3 (Matters for rules)

- (1) Schedule 3, part 1—

insert—

- 5A A grievance procedure for dealing with a dispute under the rules.

Example—

model rules, rules 12A to 12F

- (2) Schedule 3, part 1, items 5A to 13—

renumber as schedule 3, part 1, items 6 to 14.

10 Amendment of sch 4, r 1 (Interpretation)

Schedule 4, rule 1(1)—

insert—

aggrieved party see rule 12A(3).

dispute resolution centre means a dispute

resolution centre established under the *Dispute Resolution Centres Act 1990*.

11 Insertion of new sch 4, rr 12A–12F

Schedule 4, after rule 12—

insert—

12A Grievance procedure

- (1) This rule sets out a grievance procedure for dealing with a dispute under the rules between parties as mentioned in section 47A(1) of the Act.
- (2) To remove any doubt, it is declared that the grievance procedure can not be used by a person whose membership has been terminated if the rules provide for an appeal process against the termination.
- (3) A member (the *aggrieved party*) initiates the grievance procedure in relation to the dispute by giving a notice in writing of the dispute to—
 - (a) the other party; and
 - (b) if the other party is not the management committee—the management committee.
- (4) If 2 or more members initiate a grievance procedure in relation to the same subject matter, the management committee may deal with the disputes in a single process and the members must choose 1 of the members (also the *aggrieved party*) to represent the members in the grievance procedure.
- (5) Subject to rule 12B, the parties to the dispute must, in good faith, attempt to resolve the dispute.
- (6) If the parties to the dispute can not resolve the dispute within 14 days after the aggrieved party initiates the grievance procedure, the aggrieved party may, within a further 21 days, ask the

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association's secretary to refer the dispute to mediation.

- (7) Subject to rule 12B, if the aggrieved party asks the association's secretary to refer the dispute to mediation under subrule (6), the management committee must refer the dispute within 14 days after the request.
- (8) If the aggrieved party does not ask the association's secretary to refer the dispute to mediation under subrule (6), the grievance procedure in relation to the dispute ends.

12B Grievance procedure not continued in particular circumstances

- (1) This rule applies if—
 - (a) a member initiates a grievance procedure in relation to a dispute and the association or association's management committee is the other party to the dispute; or
 - (b) the aggrieved party asks the association's secretary to refer the dispute to mediation under rule 12A(6).
- (2) The management committee does not have to act under rule 12A(5) or (7) if—
 - (a) the aggrieved party has, within 21 days before initiating the grievance procedure, behaved in a way that would give the management committee grounds for taking disciplinary action under the rules against the aggrieved party in relation to the matter the subject of the grievance procedure; or
 - (b) before the grievance procedure was initiated, a process had started to take action under the rules against the aggrieved party or terminate the aggrieved party's

-
- membership, as provided for under the rules, and the dispute relates to that process or to a matter relevant to that process; or
- (c) the dispute relates to an obligation under the *Liquor Act 1992* or any other State law to prevent the entry of the aggrieved party to, or to remove the aggrieved party from, premises used by the association, or to refuse to serve liquor to the aggrieved party at the premises; or
 - (d) the dispute could reasonably be considered frivolous, vexatious, misconceived or lacking in substance, or relates to a matter that has already been the subject of the grievance procedure.

12C Appointment of mediator

- (1) If a dispute under rule 12A is referred to mediation—
 - (a) the parties to the dispute must choose a mediator to conduct the mediation; or
 - (b) if the parties are unable to agree on the appointment of a mediator within 14 days after the dispute is referred to mediation, the mediator must be—
 - (i) for a dispute between a member and another member—a person appointed by the management committee; or
 - (ii) for a dispute between a member and the management committee or the association—an accredited mediator or a mediator appointed by the director of a dispute resolution centre.
- (2) An accredited mediator may refuse to be the mediator, or the director of a dispute resolution

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centre may refuse to appoint a mediator, to mediate the dispute.

- (3) If subrule (2) applies, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

12D Conduct of mediation

- (1) If a mediator is appointed under rule 12C, the mediator must start the mediation as soon as possible after the appointment and try to finish the mediation within 28 days after the appointment.
- (2) Subrule (1) does not apply if the mediator is a mediator appointed by the director of a dispute resolution centre.
- (3) The mediator—
 - (a) must give each party to the dispute an opportunity to be heard on the matter the subject of the dispute; and
 - (b) must comply with natural justice; and
 - (c) must not act as an adjudicator or arbitrator; and
 - (d) during the mediation—may see the parties with or without their representatives, together or separately.
- (4) The parties to the dispute must act reasonably and genuinely in the mediation and help the mediator to start and finish the mediation within the period mentioned in subrule (1).
- (5) The costs of the mediation, if any, are to be shared equally between the parties unless otherwise agreed.
- (6) If the mediator can not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

12E Representation for grievance procedure

- (1) A party to a dispute may appoint any qualified person to act on behalf of the party in the grievance procedure.
- (2) For subrule (1), a person is qualified to act on behalf of a party if the person—
 - (a) has sufficient knowledge of the matter the subject of the dispute to be able to represent the party effectively; and
 - (b) is authorised to negotiate an agreement for the party.
- (3) If a party appoints a person under subrule (1) to act on the party's behalf, the party must give written notice of the appointment to each of the following entities—
 - (a) the other party to the dispute;
 - (b) the management committee;
 - (c) if a mediator has been appointed before the party appoints the person—the mediator.

12F Electronic communication for grievance procedure

Any meeting or mediation session required under the grievance procedure may be conducted by electronic means if the parties to the dispute and, for a mediation, the mediator agree.

12 Amendment of sch 4, r 46 (General financial matters)

Schedule 4, rule 46—

insert—

- (3) No part of the association's income or property is to be distributed, paid or transferred by way of a bonus, dividend or other similar payment to the

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association's members.

- (4) Subrule (3) does not apply to—
- (a) reasonable remuneration paid to a member of the association for work done by the member for or on behalf of the association; or
 - (b) any payments or dispositions of property that are incidental to activities of the association in accordance or consistent with the association's objectives.

13 Amendment of sch 4, r 49 (Distribution of surplus assets to another entity)

- (1) Schedule 4, rule 49—

insert—

(3A) Subrule (3) applies subject to rule 50.

- (2) Schedule 4, rule 49(3A) and (4)—

renumber as schedule 4, rule 49(4) and (5).

14 Insertion of new sch 4, rr 50 and 51

Schedule 4, after rule 49—

insert—

50 Transfer of relevant assets and distribution of other surplus assets on winding-up

- (1) This rule applies to an association that has been endorsed as a deductible gift recipient under the *Income Tax Assessment Act 1997* (Cwlth) if the association—
- (a) is wound-up under part 10 of the Act; and
 - (b) has surplus assets.
- (2) The association must transfer the association's relevant assets to another entity that has been

endorsed as a deductible gift recipient under that Act.

- (3) If the association is a charity registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth), the entity to which the association's relevant assets are transferred must be a charity at law.
- (4) Any surplus assets that are not relevant assets must be distributed under rule 49.
- (5) In this rule—

relevant assets, of an association, means the association's surplus assets that are—

 - (a) gifts of money or property given to the association for use for its principal purpose; or
 - (b) contributions made in relation to a fund-raising event within the meaning of the *Income Tax Assessment Act 1997* (Cwlth) held for the principal purpose of the association; or
 - (c) money received by the association because of the gifts or contributions mentioned in paragraph (a) or (b).

surplus assets see section 92(3) of the Act.

51 Distribution of relevant assets on revocation of endorsement as deductible gift recipient

- (1) This rule applies if an association's endorsement as a deductible gift recipient under the *Income Tax Assessment Act 1997* (Cwlth) is revoked under that Act.
- (2) The association must transfer the association's relevant assets to another entity that has been endorsed as a deductible gift recipient under that Act.

statement by an independent person who—

- (a) is registered as an auditor under the Corporations Act; or
 - (b) is a member of Chartered Accountants Australia and New Zealand and is entitled to use the letters ‘CA’ or ‘FCA’; or
 - (c) is a member of CPA Australia and is entitled to use the letters ‘CPA’ or ‘FCPA’; or
 - (d) is a member of the Institute of Public Accountants and is entitled to use the letters ‘MIPA’ or ‘FIPA’; or
 - (e) has another qualification or experience the chief executive considers appropriate.
- (3) The person must prepare and sign a report about the audit.
- (4) In this section—

independent person, for an entity, means a person other than—

- (a) a member of the entity’s governing body; or
- (b) an employee of the entity or of the entity’s governing body; or
- (c) a partner, employer or employee of a member of the entity’s governing body; or
- (d) a spouse of a person mentioned in paragraph (a), (b) or (c); or
- (e) a person who is wholly or mainly dependent on a person mentioned in paragraph (a), (b) or (c).

**30CA Verifying financial statements for entities
that have total revenue of \$150,000 to
\$500,000—Act, s 32**

- (1) This section prescribes for section 32(3)(c) of the

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Act the way for verifying a financial statement for an entity that has a total revenue of \$150,000 to \$500,000.

- (2) The way prescribed is verification by an independent person having the qualifications or experience mentioned in section 30C(2)(a) to (e) who prepares and signs a statement that—
 - (a) the person has examined the entity's financial records; and
 - (b) the entity's financial records show the entity has adequate bookkeeping processes in place to record and explain transactions correctly to enable a true and fair financial statement to be prepared.
- (3) In this section—

independent person, for an entity, see section 30C(4).

30CB Verifying financial statements for entities that have total revenue of less than \$150,000—Act, s 32

- (1) This section prescribes for section 32(3)(c) of the Act the way for verifying a financial statement for an entity that has a total revenue of less than \$150,000.
- (2) The way prescribed is preparation of a document that—
 - (a) states that the entity's financial records show the entity keeps adequate financial records to record and explain transactions correctly to enable a true and fair financial statement to be prepared; and
 - (b) is signed by a member of the entity's governing body.

18 Amendment of s 30G (Appropriately qualified person—Act, s 33A)

Section 30G(e), after ‘qualification’—

insert—

or experience

ENDNOTES

- 1 Made by the Governor in Council on 22 June 2023.
- 2 Notified on the Queensland legislation website on 23 June 2023.
- 3 The administering agency is the Department of Justice and Attorney-General.

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