

Changes affecting incorporated associations in 2012 - Legislation update

To OV clubs.

There is a new Act and some changes are coming later this year which may require us to change our Rules (Constitution) but we seem to have most of it covered already.

I have advice from OA that our existing insurance policy includes indemnity for committee members and directors.

Consumer Affairs Victoria (CAV) has a summary on its web site and VicSport has published a one page article in its September Sportsview magazine.

Sportsview is advertising workshops on November 7 and 21, although to date there are only details available for November 7th. Clubs are encouraged to send a representative to the workshop.

Don Fell.

[From the Consumer Affairs Victoria web site:-](#)

In the second half of this year, the *Associations Incorporation Act 1981* will be repealed and a new Associations Incorporation Reform Act will come into effect.

Among other things, the new Act will:

- allow incorporated associations to trade, provided that profits are used to further the purposes of the association rather than distributed to members
- revise annual reporting requirements and audit thresholds, reducing reporting obligations for smaller associations
- include a definition of the term 'office holder' and clarify their duties require an association to provide an indemnity for committee members
- clarify the minimum rights of members, in particular attendance and voting at meetings, and to access financial and other records
- require an association to maintain a register of members and ensure information about them will not be used or disclosed inappropriately
- replace the term 'public officer' with 'secretary'
- improve grievance and dispute resolution procedures
- allow an association to keep its records in any language, provided an English translation is available on request
- enable committee meetings and general meetings to be held in different locations through the use of technology.

Consumer Affairs Victoria is also developing new Associations Incorporation Reform Regulations, which detail forms, fees and fines. We will release these for public consultation in due course.

The Act will come into effect after the Regulations are finalised, and all incorporated associations will be notified in writing.

Please ensure we have your association's current details – including those of your public officer – so we can keep you informed. To update your details, view our [Change an incorporated association page](#).

ASSOCIATIONS INCORPORATION ACT REFORM

WHAT DOES IT MEAN FOR STATE SPORTING ASSOCIATIONS AND CLUBS?

With over 16,000 sporting clubs in Victoria that are Incorporated Associations any changes to the legislation which regulates these organisations is going to have broad implications across the community sporting sector. The Associations Incorporations Act 1981 has over the past 2-3 years been subject to draft changes by Consumer Affairs Victoria (the government department responsible for registering incorporated associations). The proposed changes have passed through the Victorian Parliament as the Associations Incorporation Reform Act 2012 and are due to come into effect on 1 November 2012.

Whilst many community sporting clubs may not necessarily be aware of the Act, the changes include a number of key proposals that will impact on the running of community sporting clubs as well as larger sport governing bodies that are incorporated associations.

There are numerous changes to the act however Key reforms include:

Codification of duties for office holders

The new Act spells out legal duties applying to office holders including the duty to not make improper use of information or position, discharging duties with reasonable care and diligence, operating in good faith and for a proper purpose and a duty to prevent the association from trading while it is insolvent. The Act also introduces civil penalties (fines of up to \$20,000) for office holders who have failed to carry out these duties.

Additionally under the new Act, an 'office holder' can be defined to include a person who is involved in key decisions that affect the operations of an association or who is influential in the affairs (financial or otherwise), without necessarily being a member of the committee or the secretary.

Indemnity for office holders

Creates an obligation on all incorporated associations to indemnify office holders against any liability incurred in good faith by that office holder on behalf of the incorporated association in the course of performing his or her duties. For example, if an office holder is sued for something they have done on the association's behalf in good faith and must pay damages, the association must reimburse the office holder.

The association must provide the indemnity from its assets – the government does not fund this indemnity. If an association does not have insurance cover, the indemnity is only available to the extent of its assets.

Tiered reporting procedures

A new three-tiered reporting framework will replace the current 'prescribed' and 'non-prescribed' reporting requirements. The tiers are based on an association's total revenue:

Tier one:
\$0 – \$250,000

Tier two:
\$250,000 – \$1,000,000

Tier three:
more than \$1,000,000.

Under the new reporting arrangements, only tier-three associations will be required to have their financial statements audited. Tier-two associations will be required to have their financial statements reviewed by an independent accountant – a process that typically costs about one third of a formal audit. Tier-one associations do not need to have their financial statements reviewed. However, a majority of members present at a general meeting may vote to do so.

Use of technology at committee and general meetings

The new Act specifically allows associations to hold valid committee meetings and general meetings in two or more venues at the same time via the use of technology (eg teleconference or computer) provided that the technology allows meeting participants to 'clearly and simultaneously communicate with each other'.

The changes outlined cover only a few of the many changes proposed in the new Act. Whilst there are transition periods (depending on the nature of the change), all registered incorporated associations will be required to comply with these new laws once they come into effect.

Consumer Affairs Victoria will be writing to all registered associations advising of the changes. Sporting clubs and organisations should ensure their mailing details are up to date at Consumer Affairs Victoria www.consumer.vic.gov.au (follow Clubs & Not for Profits tab). vicsport will be providing further information, fact sheets and workshops on 7th & 21st November (details to be confirmed). PilchConnect www.pilch.org.au is also a valuable resource.

