



GUIDE TO FORMING AND AFFILIATING A NEW CLUB

Introduction

There are a number of steps that need to be undertaken to incorporate a Club. Whilst this document will provide some guidance, it cannot cover all items to consider or check. Furthermore, every State and Territory in Australia governs Clubs incorporated in their State or Territory and each have their own laws, so it is necessary to check the specific laws in that State or Territory. It is strongly recommended that you seek advice from the Associations Regulator in your State and/or consult with a legal representative if you are unsure about any step.

Incorporation

A decision needs to be made whether the Club wishes to incorporate or not. It is necessary to understand the implications between being incorporated or not. In general terms, if the Club incorporates, the liability of members is limited to the assets of the incorporated body (Club). If the Club does not incorporate, the liability of members is limited to all of the assets of the individual members (that could mean your house if it is a significant claim). Almost all Clubs are incorporated associations.

Assumptions

For the purpose of this paper, it is assumed that the new Club will be an incorporated association. An incorporated association is the legal term for a Club in this type of scenario.

It has also been assumed that for the purpose of this document, the Club wishes to affiliate with the ACDS.

Process

1. Once the decision is made to incorporate, the Club will need a name. Contact the relevant ACDS State Secretary to discuss a proposed name to ensure it does not clash with another Club's name. A search of the register of incorporated associations in the relevant State/Territory should also be conducted for the same reason.
2. The Club will need a set of Rules. Each State has 'Model Rules' that can be adopted. If the decision is taken to use the Model Rules, read them carefully to make sure they suit the Club. If it's decided to draft a set of Rules from scratch, or use another Club's Rules as an example, check the requirement of the Act in your State, as some States have specific requirements or topics that need to be covered in the Club's Rules. If they are lodged without these specific requirements having been covered, there is a risk the State body responsible will reject them and the process will need to start again. As the intention is to affiliate with the ACDS, it will also be necessary to contact the State Secretary to determine any specific clauses that will need to be in the Club Rules to comply with the requirements of the ACDS.
3. Once a name has been chosen and a set of Rules drafted, it is necessary to hold a meeting of the interested parties. Check the State law – some States require a minimum number of people to be in attendance at the meeting (normally five persons).



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4. Draft an agenda and include other matters that may need to be dealt with, for example, Club name, approval of the Rules, the opening of a bank account and who the signatories are to be. Check whether the resolutions need to be a 'special resolution' under the Club Rules/State law; meaning it might need 75% of the votes to pass the resolution rather than the 50.01% for an ordinary resolution.
5. There are also Rules around how much notice has to be given prior to holding the meeting – it may be 14 days, 21 days, 28 days, etc. Make sure this is complied with.
6. At the meeting, someone needs to take the minutes.
7. Once the meeting has been held and a decision is taken to proceed with incorporation, it is necessary to lodge forms with the State regulator. Get the forms and complete them. Read the instructions carefully as there will be a list of documents that need to be lodged, probably the Rules as well as the application form. It would be a good idea to obtain this form prior to convening the meeting to ensure everything required is covered at the meeting.
8. The State regulator may or may not review all documents prior to formally registering the Club. Once the Incorporation Certificate is issued, the Club is registered.
9. Upon registration, contact the relevant ACDS State Branch Secretary and determine the information the State will require to allow the Club to apply to affiliate with the ACDS.

Typical information required by the ACDS State Branch in support of an application to affiliate as an ACDS Club would be:

- a copy of the Club's certificate of Incorporation and the approved Club Rules and Regulations;
 - a minuted resolution of a Club meeting (copy of minutes to be provided) to seek affiliation with the relevant ACDS State Branch;
 - evidence that the Club has sufficient members to maintain Incorporation; and
 - contact details of Club Office Bearers
10. The Club applies to the relevant ACDS State Branch for affiliation as an ACDS Club. On achieving State affiliation, the State Branch shall then seek Federal Council ratification of affiliation.

Steps to be taken by State Branches upon receipt of an application for Club affiliation:

- The State Branch Executive are to review the documentation to ensure there are no conflicts with the Aims and Objectives or Rules of the ACDS.
- If satisfied, put forward a resolution to a Branch Meeting to "accept the affiliation of the new Club".
- If the resolution is approved, notify the Federal Secretary, providing copies of all relevant documentation and requesting Federal Council ratification of the Club's affiliation.



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11. Pending State and Federal ratification – the Club is not eligible to conduct any activities as an 'ACDS Club'. ACDS Insurance cover takes effect on Federal ratification.

Disclaimer

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