

Associations Incorporations Reform Act 2012 (Victoria)

Your Rules

The new Act (*The Associations Incorporations Reform Act 2012*) lists items in a schedule that must be included in an association's rules. Some of these items are new, some have changed and some are unchanged.

Model Rules

If you are using the model rules, the new rules will automatically apply from **25 November 2013** but you can choose to adopt them earlier by passing a special resolution at a general meeting.

Now is the time to review the new rules to ensure that they are suitable for your organisation. It may be that adopting your own rules is more appropriate.

Own Rules

From 26 November 2012

- any rules that are inconsistent with the new rules will be invalid, and
- the new model rules will apply if existing rules are silent.

As a result the rules of the association may become confusing. In order to restore clarity it may be beneficial to amend your rules to comply with the new requirements. In the meantime, take care – following the association's rules without reference to the new requirements could lead to an inadvertent breach of the law.

Changing Your Rules

An association can alter its rules by a special resolution. To be effective, notice of the special resolution needs to be submitted to Consumer Affairs on the appropriate form for approval.

Until 26 November 2013 the fee for adopting the model rules has been waived, and the fee for an association changing its own rules has been reduced to \$75.20.

Schedule Items

Item Number	Comparison	Item Requirements for inclusion in the Association Rules	Guidance	Implications, if any
		The Association		
1	New	The name of the incorporated association.	Transitional provisions mean that your rules are deemed to be included.	Only need to change if you are updating your rules anyway.
2	New	The purposes of the incorporated association	Transitional provisions mean that your rules are deemed to be included.	Only need to change if you are updating your rules anyway.
		Membership		
3	Same	The qualifications (if any) for membership of the incorporated association.		Should already be addressed.
4	Same	The entrance fees, subscriptions and other amounts (if any) to be paid by members of the incorporated association.		Should already be addressed.
5	New	The rights, obligations and liabilities of members.	<p>Need to have the following minimum rights:</p> <ul style="list-style-type: none"> • Permit a member at a reasonable time to inspect and copy the rules and minutes of the general minutes (s53) • Permit a member at a reasonable time to inspect the register of the member (s57) • Have the right to attend and vote at the general meetings of the association (s61) 	If your rules don't outline the rights, obligations and liabilities or are inconsistent with the new act, new model rules 12 and 13 will apply.
6	New	Provisions for the resignation of a member or cessation of membership.		This was in the old model rules even though it wasn't a requirement. If your rules don't have these provisions, the new model rules 16 and 17 will automatically apply.

Item Number	Comparison	Item Requirements for inclusion in the Association Rules	Guidance	Implications, if any
7	Mostly the same.	The procedure (if any) for the disciplining of members and the mechanism (if any) for appearances by members in respect of disciplinary action taken against them.	<p>More detail regarding disciplinary procedures (s54) including:</p> <ul style="list-style-type: none"> • Member must be informed about grounds for disciplinary action and given an opportunity to respond. • Outcome must be determined by an unbiased decision-maker. • Procedures must be completed as soon as practicable. • A discipline member cannot bring a grievance until the disciplinary procedure has been finished. 	<p>The requirement to involve an unbiased decision-maker was not in the old rules so take care to ensure new requirements are met when following procedures.</p> <p>Associations can have additional details for disciplinary procedures, or have no procedures at all, as long as any disciplinary action taken is compliant with the new requirements.</p>
8	Mostly the same.	The grievance procedures for settling disputes under the rules between the incorporated association and any of its members or between a member and any other member.	<p>New requirements for grievance procedures (s 55) including need to have procedures for grievances between:</p> <ul style="list-style-type: none"> • Member and another member • Member and the association. <p>A member may appoint someone else to act on their behalf in the grievance procedure and the association has to ensure that:</p> <ul style="list-style-type: none"> • Each party has an opportunity to be heard and, • Outcome is determined by an unbiased decision-maker. 	<p>The requirement to involve an unbiased decision-maker was not in the old rules so take care to ensure new requirements are met when following procedures.</p> <p>Associations should have already address grievance procedures and can have additional procedures as long as they are consistent with the new requirements.</p>

Item Number	Comparison	Item Requirements for inclusion in the Association Rules	Guidance	Implications, if any
		Management and Record Keeping		
9	Same	<p>The name, membership and powers of the committee or other body having the management of the incorporated association (in this paragraph referred to as the committee) and—</p> <ul style="list-style-type: none"> a) the election or appointment of members of the committee; b) the terms of office of members of the committee; c) the grounds on which, or reasons for which, the office of a member of the committee becomes vacant; d) the filling of casual vacancies occurring within the committee; e) the quorum and procedure at meetings of the committee. 		Should already be addressed.

Item Number	Comparison	Item Requirements for inclusion in the Association Rules	Guidance	Implications, if any
10	New	The procedures for the appointment and removal of the secretary of the incorporated association.	<p>The term 'public officer' is replaced by the term 'secretary' in the new Act and rules. The new secretary under the new Act should not be confused with the role of 'secretary' that may be mentioned in the associations' rules.</p> <p>The new Act requires that if the position of secretary becomes vacant, then it must be filled within 14 days in accordance with the procedure in the rules, and CAV must be notified.</p> <p>If the association's rules don't allow for someone to be appointed within 14 days, then the committee must appoint a temporary secretary within 14 days – this person holds the position only until a permanent secretary is appointed according to the rules.</p>	<p>The old model rules don't cover this. In transition, if your rules don't cover the appointment and removal of the secretary, the new model rules dealing with this appointment will apply until your rules are updated.</p> <p>An association may currently have a public officer who is not a member of the governing committee, and a Secretary who is a member. Under the new Act, the public officer disappears and his/her duties will be performed by the secretary.</p> <p>As a result it may be necessary to adopt new terms and/or redefine roles within the association to avoid confusion. Please note in practice, the tasks of the Secretary, as required by the Act, may be delegated to another person.</p>
11	Mostly the same.	The custody of records, securities and other relevant documents of the incorporated association.	Now permitted to keep records in a language other than English.	Should already be addressed.
12	Same.	Provisions for the custody and use of the common seal (if any) of the incorporated association.		Should already be addressed.
13	New	Provision for members to have access to, and to be able to obtain copies of, the records, securities and other relevant documents of the incorporated association.	The old Act referred to inspection of 'relevant documents'.	<p>The old model rules already meet this requirement.</p> <p>If your rules do not meet the requirements, new model rule 75 will automatically apply.</p>

Item Number	Comparison	Item Requirements for inclusion in the Association Rules	Guidance	Implications, if any
14	New	The preparation and retention of accurate minutes of— a) general meetings of the incorporated association; and b) meetings of the committee or other body having the management of the incorporated association.		The old model rules meet this new requirement. If your rules do not cover this, new model rules 40 and 65 will automatically apply.
15	New	Provision for members to have access to, and to be able to obtain copies of, minutes of general meetings of the incorporated association, including financial statements submitted at a general meeting.	Must now allow for members to access and make copies of information if requested.	The old model rules do not specifically allow for access to minutes of general meetings, it is implied. If your rules do not already cover this, new model rules 13 and 74 (as they apply to minutes of the general meetings) will apply.
16	New	Right of access (if any) by members to minutes of meetings of the committee, including any terms and conditions subject to which access may be granted	An association's rules only need to provide for members' access to committee minutes if the association wishes there to be access.	The old model rules do not make provision for this access. If your association wishes to allow access this needs to be documented in the rules. If your association does not want to allow member access to committee meeting minutes, it is recommended that this is clearly noted in the rules.
		Meetings		
17	Same	The intervals between general meetings of members of the incorporated association and the manner of calling general meetings.		Should already be addressed.

Item Number	Comparison	Item Requirements for inclusion in the Association Rules	Guidance	Implications, if any
18	Same	The quorum and procedure at general meetings and whether members are entitled to vote by proxy at general meetings.		Should already be addressed.
19	Same	The time within which, and the manner in which, notices of general meetings and notices of motion must be given, published or circulated.		Should already be addressed.
		Funds		
20	Same	The sources from which the funds of the incorporated association are to be or may be derived	The new Act has removed trading restrictions, but the prohibition on distributing to members remains.	Should already be addressed.
21	Same	The manner in which the funds of the incorporated association must be managed and, in particular, the mode of drawing and signing cheques on behalf of the incorporated association.		Should already be addressed.
		Alteration of Rules		
22	Same	The manner of altering and rescinding the rules of the incorporated association and of making additional rules.	Under the new Act, rules can only be changed by a special resolution of members.	Should already be addressed.
		Winding up and dissolution		
23	Same	The disposition of any surplus assets on the winding up or dissolution of the incorporated association.		Should already be addressed.
	Old	The register of members	This is no longer on the schedule but is still required under s56 of the new Act.	
	Old	Altering the statement of purpose.	This is no longer on the schedule but now that Item 2 requires that the purposes are contained in the rules, a change in the association's purpose now requires the rules to be changed.	