

NORTHERN TERRITORY OF AUSTRALIA

ASSOCIATIONS REGULATIONS

As in force at 5 May 2004

Table of provisions

1	Citation	1
2.	Definitions.....	1
3	Prescribed amount of personal property.....	1
4	Prescribed unauthorised names	1
5	Prescribed ethnic communities.....	1
6	Inspection of documents.....	2
7	Fees	2
8	Prescribed particulars for register of members	2
9	Prescribed number of copies of documents at AGM	2
10	Annual statements.....	2
11	Audit of annual statements	3
12	Prescribed amounts for tier 2 incorporated associations	3
13	Prescribed amounts for tier 3 incorporated associations	3
14	Prescribed matters for direction to change incorporation	3
15	Remuneration of Commissioner	3
16	Local government functions.....	4
17	Requirements relating to documents	4

Schedule 1 Unauthorised names

Schedule 2 Prescribed ethnic communities

Schedule 3 Fees

Schedule 4

Schedule 5 Provisions of *Local Government Act*

Schedule 6 Provisions of *Local Government (Accounting) Regulations*

Schedule 7 Provisions of *Local Government (Administration) Regulations*

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 5 May 2004

ASSOCIATIONS REGULATIONS

Regulations under the *Associations Act*

1 Citation

These Regulations may be cited as the *Associations Regulations*.

2. Definitions

In these Regulations:

Australian Accounting Standards means the accounting standards made or formulated by the Australian Accounting Standards Board under section 227 of the *Australian Securities and Investments Commission Act 2001* of the Commonwealth.

Australian Auditing Standards means the auditing and assurance standards issued by the Australian Auditing and Assurance Standards Board of the Australian Accounting Research Foundation.

3 Prescribed amount of personal property

For paragraph (b) of the definition of ***prescribed property*** in section 4 of the Act, the prescribed amount is \$25 000.

4 Prescribed unauthorised names

For section 9(3)(a) of the Act, the prescribed unauthorised names are specified in Schedule 1.

5 Prescribed ethnic communities

For section 9(3)(b)(i) of the Act, the prescribed ethnic communities are specified in Schedule 2.

6 Inspection of documents

- (1) The Commissioner may permit a person to inspect all or any of the documents filed with the Commissioner in relation to an incorporated association on payment to the Commissioner of the prescribed fee.
- (2) At the request of a person and on payment of the prescribed fee, the Commissioner may give that person any information in writing in the Commissioner's possession in relation to an incorporated association.

7 Fees

The fees specified in Schedule 3 must be paid to the Commissioner in relation to the matters to which they relate.

8 Prescribed particulars for register of members

For section 34(1)(c) of the Act, the prescribed particulars are the name and address of each member of the association.

9 Prescribed number of copies of documents at AGM

For section 43(2) of the Act, the prescribed number is the lesser of the following:

- (a) 20 copies;
- (b) as many copies as equals a quorum at an AGM as provided in the association's constitution.

10 Annual statements

- (1) For Part 5, Division 1 of the Act, the annual statement of accounts for tier 1 incorporated associations and tier 2 incorporated associations:
 - (a) must be prepared in the form of the financial report specified in Schedule 4; or
 - (b) must be prepared in accordance with applicable Australian Accounting Standards and contain all the information required by the financial report specified in Schedule 4.
- (2) For Part 5, Division 1 of the Act, the annual statement of accounts for tier 3 incorporated associations must be prepared in accordance with applicable Australian Accounting Standards.

11 Audit of annual statements

For Part 5, Division 2 of the Act, the audit of the annual statement of accounts for tier 2 incorporated associations and tier 3 incorporated associations must be conducted in accordance with applicable Australian Auditing Standards.

12 Prescribed amounts for tier 2 incorporated associations

- (1) For section 47(1)(a) of the Act, the prescribed amount is \$25 000.
- (2) For section 47(1)(b) of the Act, the prescribed amount is \$50 000.

13 Prescribed amounts for tier 3 incorporated associations

- (1) For section 48(1)(b) of the Act, the prescribed amount is \$250 000.
- (2) For section 48(1)(c) of the Act, the prescribed amount is \$500 000.

14 Prescribed matters for direction to change incorporation

For section 63(2) of the Act, the prescribed matters are as follows:

- (a) the complexity of the association's operations;
- (b) the association's corporate structure;
- (c) the distribution of profits or assets to the association's members;
- (d) the extent to which the association's activities are business oriented;
- (e) the level of assets or receipts of the association;
- (f) any change of the association's objects or activities.

15 Remuneration of Commissioner

For section 68(4) of the Act, the prescribed commission must be calculated on the basis of the value of the estate or the interest in property being dealt with as follows:

- (a) for the first \$1 000 – \$150;
- (b) \$1 001 to \$199 999 – 4%;
- (c) \$200 000 to \$400 000 – 3%;
- (d) \$400 001 to \$600 000 – 2%;

-
- (e) \$600 001 or more – 1%.

16 Local government functions

- (1) For section 102(1)(a) of the Act, the following provisions are prescribed:
 - (a) the provisions of the *Local Government Act* specified in Schedule 5;
 - (b) the provisions of the *Local Government (Accounting) Regulations* specified in Schedule 6;
 - (c) the provisions of the *Local Government (Administration) Regulations* specified in Schedule 7.
- (2) Subregulation (1) applies subject to the exceptions specified for a provision.
- (3) For application of a provision to an identified incorporated association a word or expression used in the *Local Government Act*, the *Local Government (Accounting) Regulations* or the *Local Government (Administration) Regulations* has the same meaning as it has in that Act or those Regulations unless the contrary intention appears.
- (4) However, a reference to:
 - (a) a council is a reference to the committee of an identified incorporated association; and
 - (b) a record of a council does not include a reference to a rate book within the meaning of the *Local Government Act*.
- (5) In this regulation:

identified incorporated association means an incorporated association identified under section 101(a) of the Act as an incorporated association that is functioning as a community government council and has been approved for receipt of funding for the purposes of local government.

17 Requirements relating to documents

- (1) The Commissioner may refuse to accept an application, notice or other document that, under the Act, is required to be filed with the Commissioner if:
 - (a) the document is not on A4 paper with a margin at least 30 mm wide on the left hand side of each sheet; or

-
- (b) the document has been, or appears to the Commissioner to have been, altered in any particular.
 - (2) The Commissioner may refuse to accept a copy of a document sent by electronic transmission that is not in a format approved by the Commissioner.

Schedule 1 Unauthorised names

regulation 4

1. Names that are likely to be confused with or mistaken for:
 - (a) the name of an incorporated association;
 - (b) a registered business name; or
 - (c) a name reserved or registered under Part 2B.6 of the Corporations Act 2001, including the name of a foreign company within the meaning of that Act.
2. Names that, in the context in which they are proposed to be used, are capable of suggesting any of the following if the context suggested does not exist:
 - (a) that Royal patronage has been received;
 - (b) that the members of an organisation are totally or partially incapacitated;
 - (c) connection with:
 - (i) a member of the Royal Family;
 - (ii) the Crown;
 - (iii) the Government of the Commonwealth or of a State or Territory of the Commonwealth or a part of the Queen's dominions, possessions or territories;
 - (iv) the government of a foreign country;
 - (v) a department, authority or instrumentality of the Government of the Commonwealth or of a State or Territory of the Commonwealth or with a municipal or other local authority; or
 - (vi) ex-servicemen's organisations.
3. Names that include the words "Commonwealth" or "Federal".
4. Names containing any of the following words or phrases or abbreviations of them or words, phrases or abbreviations of like import:

Building Society, "Chamber of Commerce", "Chamber of Manufacturers", "Chartered", "College of Advanced Education",

"Consumer", "Co-operative", "Credit Union", "Executor", "Financial Institution", "Friendly Society", "Futures Exchange", "Guarantee", "Institute of Advanced Education", "Made in Australia", "Oxfam", "Savings", "Starr Bowkett", "State Square", "Stock Exchange", "Trust", "Trustee", "University".

5. Names containing the word "co-operative" or the abbreviation **co-op**, except if the association was incorporated under that name or had changed its name before the commencement of the *Co-operatives Act*.
6. Names that are misleading in relation to the nature, objects or purposes of the association or in relation to any other matter.
7. Names that are likely to be offensive to members of the public or members of a section of the public.
8. Names containing "United Nations" or the name of any other international organisation prescribed under section 12 of the *International Organisations (Privileges and Immunities) Act 1963* of the Commonwealth, except with the consent in writing of the Commonwealth Minister administering that Act.
9. Names containing "bank", "banker", "banking" or "Savings Bank" and any other words, phrases and abbreviations prescribed by sections 66, 66A and 67 of the *Banking Act 1959* of the Commonwealth, except with the consent in writing of the Commonwealth Treasurer.
10. Names containing the word "ANZAC" or a word resembling the word "ANZAC", except with the authority of the Commonwealth Minister given under regulation 2 of the Protection of Word 'Anzac' Regulations of the Commonwealth.
11. Names containing words or groups of letters indicative of a part of the armed forces as specified in Schedule 1 of the Defence (Prohibited Words and Letters) Regulations of the Commonwealth, except with the written consent of the Commonwealth Minister administering the *Defence Act 1903* of the Commonwealth.
12. Names containing "Scout Association" or the name of any local branch of the Scout Association or a name implying that the association is the Scout Association or a branch of the Scout Association, except with the authority given under section 2 of the *Scout Association Act 1924* of the Commonwealth.
13. Names using the designation "Red Cross", "Geneva Cross", "Red Crescent" or "Red Lion and Sun", or wording resembling any of those designations, except with the written consent of the

Commonwealth Minister administering the *Defence Act 1903* of the Commonwealth or an authorised person given under section 15 of the *Geneva Conventions Act 1957* of the Commonwealth.

NOTE

The following is a list of Northern Territory statutes that relate to the provision of professional services and that contain additional restrictions on the use of names:

- (a) the *Architects Act*;
- (b) the *Dental Act*;
- (c) the *Licensed Surveyors Act*;
- (d) the *Medical Act*;
- (e) the *Optometrist Act*;
- (f) the *Pharmacy Act*;
- (g) the *Radiographers Act*.

Schedule 2 Prescribed ethnic communities

regulation 5

1. The community constituted by all the persons who are aboriginal natives of Australia and who are domiciled in the Territory.

Schedule 3 Fees

		regulation 7
Item No.	Matters to which fee relates	Fee
1.	For certification as an association for the Act under paragraph (b) of the definition of association in section 4 of the Act	\$50.00
2.	For the issue of a certificate of incorporation under section 9(1) of the Act	\$65.00
3.	For the issue of a certificate of incorporation under section 17(1) of the Act	\$25.00
4.	For filing copies of a document referred to in section 43(1) of the Act with the Commissioner under section 45(1) of the Act	\$15.00
5.	For a certificate of the Commissioner given under section 113(2) of the Act	\$20.00
6.	For filing a document with the Commissioner within the time specified by the Act	\$15.00
7.	For filing a document with the Commissioner if the time specified by the Act for filing the document has expired	\$35.00
8.	For an inspection pursuant to regulation 6(1) of all or any of the documents filed with the Commissioner in relation to an incorporated association	\$10.00
9.	For issuing a document in relation to an incorporated association by post or facsimile transmission or other electronic means under regulation 6(2)	\$13.00
10.	For issuing a copy of a document or part of a document filed with the Commissioner	\$1.00 per page

Schedule 4

regulation 10

[insert name of association]

SPECIAL PURPOSE FINANCIAL REPORT

for

for the year ended

[insert date – note not all associations' financial years finish on 30 June]

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INDEX

Contents	Page
Independent Audit Report	
Statement by the Association Management Committee	
Profit and Loss Statement	
Balance Sheet	
Notes to the Financial Statements	

INDEPENDENT AUDIT REPORT

To the members of

[insert name of association]

SCOPE OF AUDIT

I/We *[insert name of auditor(s)]* have audited the attached special purpose financial report of the *[insert name of association]* for the year ended *[insert date]* as set out on pages ... to... .

The Management Committee is responsible for the preparation and presentation of the financial report and the information it contains and has determined that the accounting policies used and described in note 1 to the financial statements which form part of the financial report are appropriate to meet the requirements of the *Associations Act* and are appropriate to meet the needs of the members.

I/We have also conducted an independent audit of the financial report in order to express an opinion to the members of the association on their preparation and presentation. No opinion is expressed as to whether the accounting policies used, and described in note 1, is appropriate to the needs of the members.

The financial report has been prepared for distribution to members and to satisfy the reporting requirements of the *Associations Act*. I/We disclaim any assumption of responsibility for reliance on this audit report or the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

[Tier 2 incorporated associations and Tier 3 incorporated associations only:]

The audit has been conducted in accordance with Australian Auditing Standards. The procedures included examination on a test basis, of evidence supporting the amounts and other disclosures in the financial report and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with the accounting policies described in note 1 so as to present a view consistent with my/our understanding of the financial position and performance of *[insert name of association]* as represented by the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

INDEPENDENT AUDIT REPORT (CONT'D)

AUDIT OPINION

[Include either A or B as appropriate.]

A. Audit Opinion (unqualified)

In my/our opinion the financial report presents fairly the financial position of the *[insert name of association]* and the results of its operations at *[insert date]* in accordance with Australian Accounting Standards.

Signed

Dated

OR

B. Audit Opinion (qualified)

[List any qualifications here, for example: "We are unable to verify that all income of the Association has been brought to account, only that monies as banked to the Association's accounts have been recorded".]

In my/our opinion, except for the above, the financial report presents fairly the financial position of the *[insert name of association]* and the results of its operations at *[insert date]* in accordance with Australian Accounting Standards.

Signed

Dated

[insert name of association]

STATEMENT BY THE MANAGEMENT COMMITTEE

for the year *[insert date]*

In our opinion:

the accompanying financial report as set out on pages *[insert page numbers]*, being a special purpose financial statement, is drawn up so as to present fairly the state of affairs of the Association as at *[insert date]* and the results of the Association for the year ended on that date;

the accounts of the Association have been properly prepared and are in accordance with the books of account of the Association; and

there are reasonable grounds to believe that the Association will be able to pay its debts as and when they fall due.

Signed at *[insert address where signed]* on / /

.....

President

.....

Treasurer

[The accompanying notes form part of the financial report.
This report is to be read in conjunction with the attached audit report.]

[insert name of association]

PROFIT AND LOSS STATEMENT

for the year *[insert date]*

	Notes	<i>[insert year]</i>	<i>[insert year before]</i>
INCOME			
Membership fees			
Fundraising			
Sale of assets			
Other sales			
Interest received			
<i>[add other items as necessary]</i>			
TOTAL INCOME			
EXPENDITURE			
Advertising and promotion			
Audit fees			
Bank charges			
Depreciation			
Electricity			
Equipment			
Insurance			
Permits, licences and lodgement fees			
Postage, printing and stationery			
Telephone			
<i>[add other items as necessary]</i>			
TOTAL EXPENSES			
SURPLUS/(LOSS) FOR THE YEAR			

[The accompanying notes form part of the financial report.
This report is to be read in conjunction with the attached audit report.]

[insert name of association]

BALANCE SHEET

for the year ended *[insert date]*

	Notes	<i>[insert year]</i>	<i>[insert year before]</i>
CURRENT ASSETS			
Cash on hand			
Cash at bank			
Term deposits			
Accounts receivable			
<i>[add other items as necessary]</i>			
NON CURRENT ASSETS			
Land (if prescribed property show at nil value)			
Plant and equipment			
Less accumulated depreciation			
<i>[add other items as necessary]</i>			
TOTAL ASSETS			
CURRENT LIABILITIES			
Creditors			
<i>[add other items as necessary]</i>			
NON CURRENT LIABILITIES			
Loans			
<i>[add other items as necessary]</i>			
NET ASSETS			
MEMBERS FUNDS			
Balance at the beginning of the year			
Surplus/(Loss) for the year			
<i>[add other items as necessary]</i>			
ACCUMULATED FUNDS			

[The accompanying notes form part of the financial report.
This report is to be read in conjunction with the attached audit report.]

[insert name of association]

NOTES TO THE FINANCIAL STATEMENTS

for the year ended [insert date]

1. SUMMARY OF ACCOUNTING POLICIES

The accounting policies adopted by the Association are stated in order to assist in a general understanding of the financial statements. These policies have been consistently applied except as otherwise indicated.

Reporting entity

The association is not a reporting entity because in the committee's opinion there are unlikely to exist users who are unable to command the preparation of reports tailored so as to satisfy all of their information needs, and these accounts are therefore "special purpose accounts" that have been prepared solely to meet the requirements of the Constitution and the *Associations Act*.

Accounting policies

The financial report has been prepared under the historical cost conventions and does not take into account changing money values except to the extent that they are reflected in the revaluation of certain assets.

In order for the financial report to present fairly the state of affairs of the Association and the results of the Association for the year, Australian Accounting Standards have been adopted to the extent disclosed in this note.

Depreciation of property, plant and equipment

Items of property, plant and equipment are depreciated over their estimated useful lives using the straight line method.

Income tax

The Association is of the opinion that it is/is not subject to income tax.

[The accompanying notes form part of the financial report.
This report is to be read in conjunction with the attached audit report.]

NOTES TO THE FINANCIAL STATEMENTS (CONT'D)

2. LAND

The Association owns land at

This land is not prescribed property.

OR

This land is prescribed property and:

(a) was obtained as a grant for *[insert value of grant]*;

OR

(b) was purchased for *[insert purchase price]*

3. OTHER NOTES

[insert other notes as required]

[The accompanying notes form part of the financial report.
This report is to be read in conjunction with the attached audit report.]

Schedule 5 Provisions of *Local Government Act*

regulation 16(1)(a)

Section	Exceptions
9(1)(b), (c), (d), (e) and (k), 11(1)(a),(b) and (e), (3) and (4)(a)	
12(3)	except that the reference to a scheme is a reference to the constitution of the association
20, 21, 22(1) and (2), 23, 114	
142	except that the reference to duties in subsection (2)(b) is a reference to only the duties imposed on an identified incorporated association under these Regulations
145, 146, 153(1), 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165	
166	except that an association may not invest moneys surplus to its immediate requirements unless it does so subject to and in accordance with its constitution
167, 168, 169	
170(2) and (4)	except that, in order to avoid any inconsistency between section 170 of the <i>Local Government Act</i> and section 11 of the Act: <ul style="list-style-type: none"> (a) section 170(2) of the <i>Local Government Act</i> applies as if the words "under subsection (1)" were omitted from that subsection; and (b) section 170(4) of the <i>Local Government Act</i> applies as if the words "under subsection (3)" were omitted from that subsection
171, 172, 175, 176	
177(1), (2)(b) and (6)	except that the person who is appointed to be the auditor must be a person referred to in section 25(1)(a) of the Act

178(1)(a), (2)(a), (b),
(c) and (d) and (3),
179, 181(1)(a) and (c),
(2), (3), (4), (5), (6), (7)
and (8), 242(a), (b), (c)
and (d), 243(1), (2),
(3), (4), (5) and (6),
243A

Schedule 6 Provisions of *Local Government (Accounting) Regulations*

regulation 16(1)(b)

Regulation	Exceptions
2A, 2AA	
2B	except that the Chief Executive Officer must not exempt the council unless he or she has consulted with, and taken into account the views of, the Commissioner
3, 4, 5, 7, 8, 8A, 9 and 10(3), (4), (5)(a), (c), (d), (e) and (f)	
11	except that regulation 11(1) applies as if the words "(or such extension of time as has been agreed to by the Chief Executive Officer)" were omitted
11A, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 26, 27, 27A, 28, 29, 30, 31, 32 and 33(b)	

**Schedule 7 Provisions of *Local Government*
*(Administration) Regulations***

regulation 16(1)(c)

Regulation	Exceptions
3, 4, 5, 6, 7, 11 and 15	

ENDNOTES

1

KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2

LIST OF LEGISLATION

Associations Regulations (SL No. 12, 2004)

Notified	28 April 2004
Commenced	5 May 2004 (s 2 <i>Associations Act 2003</i> (Act No. 56, 2003) and Gaz G18, 5 May 2004, p 2)