

# Office for Recreation and Sport

## How to incorporate your Club

### Benefits of incorporation

The Office for Recreation and Sport encourages clubs to consider incorporation to protect the interests of its members and to provide a stable and long term structure to the club.

An incorporated club is recognised as a legal entity with an existence separate from that of its members. Without this the individual club members, and particularly those sitting on a club committee, take personal liability for decisions made, including financial.

It is important to consider incorporation if your club:

- Wishes to apply for a grant, as most government departments will only issue grants to incorporated clubs.
- Needs insurance
- Wishes to enter into a substantial contract or lease agreement
- Employs someone
- Owns any interest in land that must be registered in the Lands Titles Office or any other substantial assets.

To become incorporated, South Australian clubs can use the process provided in the *Associations Incorporation Act 1985 (SA)*, which is described in the Consumer and Business Services website <http://www.cbs.sa.gov.au/wcm/associations-and-charities/incorporated-associations/>

An overview of the benefits of incorporation is offered here:

<http://www.cbs.sa.gov.au/wcm/associations-and-charities/incorporated-associations/advantages-of-incorporation/>

### Suggested process to incorporate your Club

The first requirement is to develop a constitution (the legislation uses the term Rules to describe this document).

Step 1 - Form a small group to undertake the necessary consultation and development of paperwork

Step 2 - Discuss the requirements under the *Associations Incorporation Act 1985*

#### Other Requirements under the *Associations Incorporation Act 1985*

In addition to developing a constitution, you will also need to consider the following requirements that are linked to being incorporated:

- Appointing a Public Officer – this person is to be over 18 and is the contact person for the incorporation. Duties of the Public Officer are outlined here:

<http://www.cbs.sa.gov.au/wcm/associations-and-charities/incorporated-associations/public-officer-responsibilities/>

- Holding an Annual General Meeting (AGM) – this meeting is for the membership to elect members to the management committee, receive reports on the financials of the club and can also be a useful forum to share achievements of the year.

#### Further information

Email: [Participation@sa.gov.au](mailto:Participation@sa.gov.au)



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### Step 3 - Develop a draft constitution and discuss other requirements under the Act

#### Develop a Draft Constitution

The Office for Recreation and Sport has resources that can assist you with the process of incorporation, most importantly the template club constitution. The template is available on our website: [http://www.ors.sa.gov.au/sport\\_and\\_recreation/managing\\_your\\_club\\_or\\_association/resources\\_to\\_help\\_you\\_run\\_your\\_club](http://www.ors.sa.gov.au/sport_and_recreation/managing_your_club_or_association/resources_to_help_you_run_your_club).

The template has been written by a legal firm to ensure that it meets the requirements of the *Association Incorporation Act 1985 (SA)* and includes elements that are related to sport and the sport system that we are involved in.

#### The main areas to focus on while drafting your club constitution are:

- Membership – discussion is to focus on who the members are and which members are entitled to vote at general meetings. As you have a high number of juniors in the club, you might consider wording so the under 18 member can have a ‘representative’ who votes at the AGM.
- Powers of the Committee – an incorporated club is ‘owned’ by the members, but for the purpose of efficient decision making, it appoints powers to the committee.
- Composition of the Committee – this determines how many people you require on the committee. Size will depend on what the requirements of the individual club is. The committee members are elected by the members at the AGM
- Auditor – as a relatively small club you are unlikely to meet the criteria in the legislation that defines a Prescribed Association, (turnover of \$500,000 per year) so it is not legally required. Often clubs choose to have

their financials audited by someone independent to ensure that financial processes are sound and the members can see that the committee has followed sound practices when dealing with their money. If you choose not to have your financials audited you can leave this clause out. Some associations require their affiliated clubs to have an annual audit.

### Step 4 - Distribute the draft constitution to your members and give notice of a meeting to approve

### Step 5 - Hold a meeting of your members to approve the draft constitution

#### Approval of the Draft Constitution by the Members

Once you have developed your draft constitution, it is distributed to the members for review before approving the document. Approval by the members is required as the members are the legal owners of the club and the constitution outlines how the members would like decisions to be made on their behalf and who will make them.

Set a date for a general meeting to approve the constitution. Ensure you record the agenda of the meeting and the decisions made, including approval of the Constitution.

### Step 6 - Submit your application for incorporation, including the appropriate fee, a copy of the constitution and minutes of the club members meeting

To access the application for incorporation visit: <http://www.cbs.sa.gov.au/wcm/associations-and-charities/incorporated-associations/>

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