

Passed by both Houses



New South Wales

Associations Incorporation Amendment (Cancellation of Incorporation) Bill 2007

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2007*



New South Wales

Associations Incorporation Amendment (Cancellation of Incorporation) Bill 2007

Act No , 2007

An Act to amend the *Associations Incorporation Act 1984* with respect to the cancellation of the incorporation of associations that are incorporated under that Act.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Associations Incorporation Amendment (Cancellation of Incorporation) Act 2007*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Associations Incorporation Act 1984 No 143

The *Associations Incorporation Act 1984* is amended as set out in Schedule 1.

4 Amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Associations Incorporation Act 1984

(Section 3)

[1] Sections 54 and 54A

Omit section 54. Insert instead:

54 Cancellation of incorporation

- (1) The Director-General may cancel the incorporation of an incorporated association by publishing a notice to that effect in the Gazette if the Director-General is satisfied that:
 - (a) the association is not in operation, or
 - (b) the association is or has been engaged in trading or securing pecuniary gain for its members, or
 - (c) the association is or has been, as trustee, engaged in trading or securing pecuniary gain for members of the association, or
 - (d) the association was incorporated under this Act by reason of fraud or mistake, or
 - (e) none of the annual general meetings required under section 26 to have been convened by the association during the preceding period of 3 years have been convened, or
 - (f) none of the statements required under section 27 to have been lodged in respect of the association during the preceding period of 3 years have been lodged, or
 - (g) the association has failed to apply for approval to change its name in accordance with a direction referred to in section 14 (1A), or
 - (h) the association does not have at least 5 members, or
 - (i) the association does not have a public officer who is resident in the State.
- (2) An association's incorporation is not to be cancelled under this section if:
 - (a) the association is in the course of being wound up under section 50 or 51, or
 - (b) on the application of any person having an interest in the matter, a Local Court has ordered the Director-General not to cancel the association's incorporation.

- (3) Before cancelling an association's incorporation under this section, the Director-General:
 - (a) must cause notice of the proposed cancellation to be given to the association stating the ground or grounds referred to in subsection (1) that the Director-General believes exist, and
 - (b) must give the association and its members a period of at least 28 days within which to make submissions to the Director-General with respect to the proposed cancellation, and
 - (c) must give due consideration to any submissions that are made within that period.
- (4) After cancelling an association's incorporation under this section, the Director-General must cause notice of that fact to be given to the association.
- (5) A notice referred to in subsection (3) or (4) is to be given by sending it by registered post addressed to the association:
 - (a) at the address recorded on the register kept under section 59 as the address of the association's public officer, or
 - (b) if the register records no such address because of vacancy of office or other reason—at the address recorded on the register as the association's principal place of administration.

54A Consequences of cancellation of incorporation

- (1) Despite the cancellation of the incorporation of an incorporated association under section 54, any liability of any former public officer or other officer or member of the incorporated association continues and may be enforced as if the incorporation of the association had not been cancelled.
- (2) If the Director-General is satisfied that the incorporation of an incorporated association should not have been cancelled under section 54, the Director-General may reinstate the incorporation of the association and the association is taken to have continued in existence as if its incorporation had not been cancelled.

[2] Section 55A Voluntary cancellation of incorporation

Omit “the public officer and of each officer and member” from section 55A (6).

Insert instead “any former public officer or other officer or member”.

[3] Schedule 3 Savings and transitional provisions

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings and transitional nature consequent on the enactment of the following Acts:

 this Act

Associations Incorporation (Amendment) Act 1992

Associations Incorporation Amendment (Cancellation of Incorporation) Act 2007

[4] Schedule 3, Part 3

Insert after Part 2:

**Part 3 Provisions consequent on the
Associations Incorporation Amendment
(Cancellation of Incorporation) Act 2007**

7 Definition

In this Part:

amending Act means the *Associations Incorporation Amendment (Cancellation of Incorporation) Act 2007*.

8 Cancellations already commenced

Section 54, as in force immediately before the date of assent to the amending Act, continues to apply in relation to any cancellation of an association's incorporation that arises from a notice under that section, or from a notice under section 14 (1A), that was issued before that date.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Police Act 1990 No 47

Section 204B Consents for the purposes of section 204A

Omit “(2A)” from section 204B (6) (b) (ii).

2.2 Sheriff Act 2005 No 6

Section 12 Consents for the purposes of section 11

Omit “(2A)” from section 12 (6) (b) (ii).