

Local Government Associations Incorporation Act 1974 No 20

[1974-20]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**

Cl 5 of Sch 1 to this Act (cl 5 of Sch 1 amends secs 2 and 4 on the day on which an abolition order under cl 3 of Sch 1 has effect)

[Statute Law \(Miscellaneous Provisions\) Act 2009 No 56](#) (not commenced — to commence on 17.7.2009)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Local Government Associations Incorporation Act 1974 No 20



New South Wales

An Act to provide for the incorporation of the Local Government Association of New South Wales, the Shires Association of New South Wales and the Local Government Electricity Association of New South Wales; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Local Government Associations Incorporation Act 1974*.

2 Interpretation

In this Act:

- (a) a reference to an association is a reference to each of the unincorporated associations known immediately before the commencement of this Act as:
- (i) the Local Government Association of New South Wales,
 - (ii) the Shires Association of New South Wales,
 - (iii) the Local Government Electricity Association of New South Wales, and
- (b) a reference to a corporation that corresponds to an association is a reference to the corporation that, pursuant to section 3 (3) (b), corresponds to the association.

3 Incorporation of association

- (1) On payment of the appropriate fee prescribed by or under the *Companies Act 1961*, an instrument purporting to be certified by the President of an association as a true copy of the constitution, or of the constitution and rules, of the association may be lodged in the office of the Corporate Affairs Commission.
- (2) Upon the Minister being satisfied that an instrument has been lodged pursuant to subsection (1) he may, by notification published in the Gazette, declare that a specified association, being the association to which the instrument relates, is incorporated as provided by this Act.
- (3) Upon the publication, pursuant to subsection (2), of a notification relating to an

association:

- (a) the association is dissolved, and
- (b) a corporation that corresponds to that association is constituted with the corporate name conferred by section 4.

4 Corporate name

- (1) Where a notification is published pursuant to section 3 (2) with respect to the Local Government Association of New South Wales the corporation that corresponds to that association has the corporate name “Local Government Association of New South Wales”.
- (2) Where a notification is published pursuant to section 3 (2) with respect to the Shires Association of New South Wales, the corporation that corresponds to that association has the corporate name “Shires Association of New South Wales”.
- (3) Where a notification is published pursuant to section 3 (2) with respect to the Local Government Electricity Association of New South Wales the corporation that corresponds to that association has the corporate name “Local Government Electricity Association of New South Wales”.
- (4) As from the commencement of the *Local Government Associations Incorporation (Amendment) Act 1980*:
 - (a) the corporation that corresponds to the Local Government Electricity Association of New South Wales has the corporate name “Local Government Energy Association of New South Wales”, and
 - (b) a reference in any Act (except this Act) or statutory instrument or in any other instrument, or in any contract or agreement, to the Local Government Electricity Association of New South Wales shall be construed as a reference to the Local Government Energy Association of New South Wales.
- (5) The Local Government Energy Association of New South Wales is a continuation of, and the same legal entity as, the Local Government Electricity Association of New South Wales.
- (6) On and from the commencement of this Act, a reference in any Act, in any instrument made under any Act or in any other instrument of any kind, to the Local Government Energy Association of New South Wales shall be read as a reference to the Local Government Electricity Association of New South Wales.
- (7) The Local Government Electricity Association of New South Wales is a continuation of, and the same legal entity as, the Local Government Energy Association of New South Wales.

- (8) On and from the commencement of the *Energy Legislation (Miscellaneous Amendments) Act 1994*, a reference in any Act, in any instrument under an Act or in any other instrument of any kind to the Local Government Electricity Association of New South Wales is to be read as a reference to the Electricity Association of New South Wales.
- (9) The Electricity Association of New South Wales is a continuation of, and the same legal entity as, the Local Government Electricity Association of New South Wales.

5 Members of corporation

- (1) The members of a corporation referred to in section 3 (3) (b) are:
- (a) the councils or county councils that, immediately before the constitution of the corporation, were the members of the association to which it corresponds, and
 - (b) the councils or county councils that from time to time are admitted to membership of the corporation in accordance with its constitution.
- (2) (Repealed)

6 Constitution and decisions of corporation and governing body

- (1) Upon the publication of a notification under section 3 (2) with respect to an association:
- (a) the instrument that, pursuant to section 3 (1), was lodged with respect to the association becomes the constitution of the corporation that corresponds to that association,
 - (b) the executive committee, executive council or executive referred to in that instrument becomes the governing body of that corporation, and
 - (c) any decisions that, before publication of the notification, were made at any annual conference referred to in that instrument or by that executive committee, executive council or executive shall be deemed respectively to be decisions made by that corporation and by its governing body.
- (2) The annual conference of a corporation referred to in its constitution is a general meeting of the members of the corporation, and a decision of the annual conference of a corporation is a decision of the corporation except to the extent that it is inconsistent with this Act or the constitution of the corporation.
- (3) When a governing body constituted by subsection (1) (b) makes a decision at a duly convened meeting at which a quorum is present, the decision is the decision of the corporation of which it is the governing body except to the extent that it is inconsistent with this Act, the constitution of the corporation or a decision of the annual conference of the corporation.

- (4) A person who, immediately before the publication of a notification pursuant to section 3 (2), held an office (including the office of member of the executive committee, executive council or executive) specified in the constitution, or the constitution and rules, of the association to which the notification relates continues to hold that office under the constitution of the corporation that corresponds to that association until, in accordance with that constitution, he vacates his office or his successor is appointed.

7 Amendment of constitution of corporation

An amendment of the constitution of a corporation referred to in section 3 (3) (b) does not take effect until an instrument certified under the seal of the corporation to be a true copy of the resolution effecting the amendment has been lodged in the office of the Corporate Affairs Commission and the fee prescribed by or under the *Companies Act 1961* in respect of the lodgment has been paid.

8 Annual conference of corporation

An annual conference of a corporation shall be held on the day or days on which, had the association to which it corresponds not been dissolved, the annual conference of that association would have been held next after the constitution of the corporation.

9 Certain documents to be lodged by corporation

- (1) A corporation referred to in section 3 (3) (b) contravenes this section unless, within fourteen days after the publication, pursuant to section 3 (2), of the notification relating to the association to which it corresponds, it lodges in the office of the Corporate Affairs Commission:
- (a) a copy of the notification, and
 - (b) an instrument specifying the address of the office of the corporation,
- and pays the fee prescribed by or under the *Companies Act 1961* in respect of the lodgment.
- (2) A corporation referred to in section 3 (3) (b) contravenes this section unless, within fourteen days after it changes the address of its office, it lodges in the office of the Corporate Affairs Commission an instrument specifying the new address and pays the fee prescribed by or under the *Companies Act 1961* in respect of the lodgment.

Penalty: \$100 and a further penalty of \$10 for every day during which the contravention continues.

10 Authentication of documents

A notice, order, summons or other like document requiring authentication by a corporation referred to in section 3 (3) (b) is sufficiently authenticated if, instead of being sealed by the corporation, it is signed by the secretary of the corporation.

11 Service of documents on a corporation

- (1) A document relating to legal proceedings involving a corporation may be served:
 - (a) where the proceedings relate to a contravention of section 9 (1) (b)—by serving it on the secretary of the corporation, or
 - (b) in any other case—by leaving it at the address of the office of the corporation last notified under section 9 with some person apparently in the service of the corporation and apparently not under the age of sixteen years.
- (2) A document other than a document referred to in subsection (1) (a) may be served on a corporation by leaving it at, or by sending it by post to, the address of the office of the corporation last notified under section 9.

12 Continuation of service of employee of association

- (1) A person employed by an association immediately before the publication under section 3 (2) of a notification relating to the association becomes, upon publication of the notification, an employee of the corporation that corresponds to that association with the same status, upon the same terms and conditions and with the same rights, privileges and obligations as an employee of the corporation as he enjoyed or was subject to immediately before publication of the notification.
- (2) Where a person is employed by a corporation pursuant to subsection (1), his service with the association to which the corporation corresponds shall be deemed to be service with the corporation.

13 Transfer to corporation of assets and liabilities of association

Upon the publication, pursuant to section 3 (2), of a notification relating to an association:

- (a) there becomes vested in the corporation that corresponds to that association:
 - (i) any real or personal property that, immediately before the publication of the notification, was vested in the association,
 - (ii) any right or interest in real or personal property that, immediately before that publication, was a right or interest so vested, and
 - (iii) the management and control of any real or personal property that, immediately before that publication, was under its management or control,
- (b) any moneys and liquidated or unliquidated claims that, immediately before publication of the notification, were payable to, or recoverable by, that association become moneys payable to, or claims recoverable by, the corporation that corresponds to that association,
- (c) any debts due and moneys payable by, and any claims, liquidated or unliquidated,

recoverable against, that association or any person for or on behalf of that association (being debts, moneys and claims due, payable or recoverable immediately before publication of the notification) become debts due and moneys payable by, and claims recoverable against, the corporation that corresponds to that association,

- (d) any proceedings that, immediately before publication of the notification, were pending at the suit or on the application of that association or any person for or on behalf of that association become proceedings pending at the suit or on the application of the corporation that corresponds to that association,
- (e) any contract, agreement or undertaking entered into with, and any security given to or by any person for or on behalf of, that association and in force immediately before publication of the notification becomes a contract, agreement or undertaking entered into with, and a security given to or by, the corporation that corresponds to that association, and
- (f) the corporation that corresponds to that association may enforce and realise any security or charge in favour of that association, or any person for or on behalf of that association, as if it were a security or charge in favour of the corporation.

14 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

15 Savings, transitional and other provisions

Schedule 1 has effect.

Schedule 1 Savings, transitional and other provisions

(Section 15)

Part 1 General

1 Regulations

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

Statute Law (Miscellaneous Provisions) Act 2008, to the extent that it amends this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Abolition of Electricity Association of New South Wales

2 Definitions

In this Part:

abolition order—see clause 3 (1).

assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

Electricity Association means the Electricity Association of New South Wales.

liabilities means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

rights means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

3 Minister may abolish Electricity Association

- (1) The Minister may, by order published in the Gazette (an **abolition order**), abolish the Electricity Association.
- (2) The Minister may make an abolition order only if:
 - (a) the Electricity Association has requested, in writing, that the Minister make the order, and
 - (b) the Minister for Energy has consented to the making of the order.
- (3) An abolition order has effect from the day that the order is published in the Gazette or on such later day as may be specified in the order.

4 Provisions consequent on abolition of Electricity Association

- (1) A person who immediately before the abolition of the Electricity Association held office as a member of the Electricity Association:
 - (a) ceases to hold that office on the abolition of the Association, and

(b) is not entitled to any remuneration or compensation because of the loss of that office.

(2) On the day on which an abolition order has effect the assets, rights and liabilities of the Electricity Association become the assets, rights and liabilities of the Crown.

5 Amendment of this Act consequent on abolition of Electricity Association

On the day on which an abolition order has effect, this Act is amended by:

(a) inserting “and” after “New South Wales,” in section 2 (a) (ii), and

(b) omitting sections 2 (a) (iii) and 4 (3)–(9).