

Parents and Citizens Associations Incorporation Act 1976 No 50

[1976-50]



New South Wales

Status Information

Currency of version

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Provisions in force

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

Notes—

- **Previously named**
Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976
- **Does not include amendments by**
[Parents and Citizens Associations Incorporation Amendment Act 2014 No 12](#) (not commenced)

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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New South Wales

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Parents and Citizens Associations Incorporation Act 1976 No 50



New South Wales

An Act to provide for the incorporation of the Federation of Parents and Citizens Associations of New South Wales; and to provide for the incorporation of parents and citizens associations.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Parents and Citizens Associations Incorporation Act 1976*.

Part 2 Incorporation of Federation of Parents and Citizens Associations of New South Wales

2 Definitions

In this Part, except in so far as the context or subject-matter otherwise indicates or requires:

association means a parents and citizens association, or a district council, established or constituted under the *Education Reform Act 1990*.

corporation means the corporation constituted by section 3 (3) (b).

Federation means the associations which together form the unincorporated body having the name "Federation of Parents and Citizens Associations of N.S.W".

3 Incorporation and name of the corporation

- (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 the Federation as a true copy of the constitution, or of the constitution and by-laws, of the Federation 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) the Minister may, by notice published in the Gazette, declare that the Federation is incorporated as provided by this Act.

Editorial note—

For declaration under this subsection see Gazette No 111 of 30.9.1977, p 4150.

(3) Where the Minister publishes a notice under subsection (2):

- (a) the Federation is dissolved, and
- (b) a corporation with the name “Federation of Parents and Citizens Associations of New South Wales” is constituted.

4 Members of the corporation

(1) The members of the corporation are:

- (a) the associations that, immediately before the corporation is constituted, formed the Federation, and
- (b) such other associations as are from time to time admitted to membership of the corporation in accordance with or under its constitution.

(2) Subsection (1) does not affect any provision of the constitution of the corporation that provides for cessation of membership of the corporation in any case where an association fails to pay any affiliation or other fee, or any other money, due and payable to the corporation.

5 Constitution and decisions of corporation and governing body

(1) Where the Minister publishes a notice under section 3 (2):

- (a) the instrument that, pursuant to section 3 (1), was lodged with respect to the Federation becomes the constitution of the corporation,
- (b) the executive council referred to in that instrument becomes the governing body of that corporation, and
- (c) any decision that, before the publication of the notice, was made at any annual conference referred to in that instrument or by that executive council shall be deemed respectively to be a decision made by that corporation or by its governing body.

(2) The annual conference of the corporation referred to in its constitution is a general meeting of the members of the corporation, and a decision of the annual conference of the 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) Where the 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) Where the Minister publishes a notice under section 3 (2), a person who, immediately before the publication of the notice, held an office (including the office of member of the executive council) specified in the constitution, or in the constitution and by-laws, of the Federation continues to hold that office under the constitution of the corporation until, under or in accordance with that constitution, the person vacates office or the person's successor is appointed.

5A Transfer of records to Minister

As soon as practicable after the commencement of this section, the documents relating to the corporation that were lodged at the office of the Corporate Affairs Commission under this Act are to be lodged with the Minister by the person or body having the custody of those documents.

6 Amendment of constitution of corporation

An amendment of the constitution of the corporation 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 with the Minister.

7 Annual conference of corporation

An annual conference of the corporation shall be held on the day or days on which, had the Federation not been dissolved, the annual conference of the Federation would have been held next after the constitution of the corporation.

8 Notification of change of address

The corporation must, within 14 days after it changes the address of its principal office, lodge with the Minister an instrument specifying the new address.

Maximum penalty: 1 penalty unit.

9 Common seal and documents

- (1) The common seal of the corporation shall be kept by the president of the corporation and shall only be affixed to an instrument or document in the presence of at least two members of the executive council of the corporation with an attestation by the signatures of those members of the fact and date of the affixing of the seal.
- (2) A notice, order, summons or other like document requiring authentication by the corporation is sufficiently authenticated if, instead of being sealed by the corporation, it is signed by the president and secretary of the corporation.

10 Service of documents on the corporation

- (1) A document may be served on the corporation by leaving it at, or by sending it by post to, the office or one of the offices of the corporation.
- (2) The offices of the corporation for the purposes of this section include the office last notified by the corporation under this Act.
- (3) Nothing in this section affects:
 - (a) the power of a court to authorise a document to be served on the corporation in a manner not provided for by this section, or
 - (b) the operation of any law or rules of court authorising a document to be served on the corporation in a manner not provided for by this section.

11 Continuation of service of employee of Federation

- (1) Where the Minister publishes a notice under section 3 (2), a person employed by the Federation immediately before the publication of the notice becomes, upon the publication of the notice, an employee of the corporation 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 the person enjoyed or was subject to immediately before the publication of that notice.
- (2) Where a person is employed by the corporation, the person's service with the Federation shall be deemed to be service with the corporation.

12 Transfer of assets and liabilities

- (1) Where the Minister publishes a notice under section 3 (2) and, immediately before publication of the notice, any real or personal property was held for or on behalf of the Federation by trustees appointed by the executive council of the Federation, or was under the management or control of any person for the purposes of the Federation, the publication of the notice:
 - (a) authorises those trustees to vest the property in the corporation freed and discharged from the trusts upon which they held it,
 - (b) vests that management and control in the corporation.
- (2) Where the Minister publishes a notice under section 3 (2), a reference to the Federation in any deed, will or other instrument (this Act excepted) that has or takes effect on or after the day of publication of the notice shall be construed as a reference to the corporation.
- (3) Where the Minister publishes a notice under section 3 (2):
 - (a) any money or liquidated or unliquidated claim that, immediately before the

publication of the notice, was payable to, or recoverable by, the Federation becomes money payable to, or a claim recoverable by, the corporation,

- (b) any debt due or money payable by, and any claim, liquidated or unliquidated, recoverable against, the Federation or any person for or on behalf of the Federation (being a debt, money or a claim due, payable or recoverable immediately before the publication of the notice) becomes a debt due or money payable by, or a claim recoverable against, the corporation,
- (c) any proceeding that, immediately before the publication of the notice, was pending at the suit or on the application of the Federation or any person for or on behalf of the Federation becomes a proceeding pending at the suit or on the application of the corporation,
- (d) any contract, agreement or undertaking entered into with, and any security given to or by any person for or on behalf of, the Federation and in force immediately before the publication of the notice becomes a contract, agreement or undertaking entered into with, and a security given to or by, the corporation, and
- (e) the corporation may enforce and realise any security or charge in favour of the Federation, or any person for or on behalf of the Federation, as if it were a security or charge in favour of the corporation.

Part 3 Incorporation of parents and citizens associations

13 Incorporation of parents and citizens associations

- (1) A parents and citizens association constituted under the [Education Reform Act 1990](#) may, if it is not incorporated, apply to the Minister for incorporation under this Act.
- (2) The application is to be in writing and signed by the officers of the association.
- (3) The Minister may, by notice published in the Gazette, declare that the association is incorporated under this Act. The Minister may reject the application if satisfied that the association will not comply with the requirements of this Part.
- (4) On the publication of the notice (or on a later date specified in the notice), a body corporate with the name of the association is constituted and the unincorporated body with that name is dissolved.
- (5) The members of the incorporated association are the persons who become members in accordance with its rules. The persons who were members of the association immediately before its incorporation become members on its incorporation if qualified under the rules of the incorporated association.

14 Transfer of assets and liabilities on incorporation

When a parents and citizens association is incorporated under this Act:

- (a) the trustees of any real or personal property who, immediately before the incorporation, held that property for or on behalf of the unincorporated association are authorised to vest the property in the incorporated association freed and discharged from the trusts on which they held that property, and
- (b) any money or liquidated or unliquidated claim that, immediately before the incorporation, was payable to, or recoverable by, the unincorporated association becomes money payable to, or a claim recoverable by, the incorporated association, and
- (c) any debt due or money payable by, and any claim, liquidated or unliquidated, recoverable against, the unincorporated association or any person for or on behalf of the unincorporated association (being a debt, money or a claim due, payable or recoverable immediately before the incorporation) becomes a debt due or money payable by, or a claim recoverable against, the incorporated association, and
- (d) any proceeding that, immediately before the incorporation, was pending at the suit or on the application of the unincorporated association or any person for or on behalf of the unincorporated association becomes a proceeding pending at the suit or on the application of the incorporated association, and
- (e) any contract, agreement or undertaking entered into with, and any security given to or by any person for or on behalf of, the unincorporated association and in force immediately before the incorporation becomes a contract, agreement or undertaking entered into with, and a security given to or by, the incorporated association, and
- (f) the incorporated association may enforce and realise any security or charge in favour of the unincorporated association, or any person for or on behalf of the unincorporated association, as if it were a security or charge in favour of the incorporated association.

15 Rules of incorporated associations

- (1) The rules for the conduct of the business and affairs of a parents and citizens association incorporated under this Act are the relevant standard or model rules published by the Minister under section 117 of the [Education Reform Act 1990](#).
- (2) On incorporation under this Act, a parents and citizens association is taken to have adopted the relevant rules so published, as amended from time to time.

16 Names of parents and citizens associations

- (1) The name of a parents and citizens association incorporated under this Act is “[*name of government school in connection with which the association is constituted*] Parents and Citizens Association”.
- (2) A change in the name of the government school concerned effects a corresponding change in the name of the incorporated association.

17 Incorporated associations to be members of Federation

A parents and citizens association incorporated under this Act is required to be a member of the Federation of Parents and Citizens Associations of New South Wales constituted under this Act.

18 Members and officers of incorporated association not liable for debts etc of association

A member or officer of a parents and citizens association incorporated under this Act is not, by reason only of being such a member or officer, liable to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association.

19 Public liability insurance

(1) A parents and citizens association incorporated under this Act must effect and maintain approved public liability insurance, unless the association is covered by such insurance effected and maintained by the Federation of Parents and Citizens Associations of New South Wales constituted under this Act.

(2) In this section:

approved insurer means a person, or a person belonging to a class of persons:

- (a) approved as referred to in section 95 of the [Strata Schemes Management Act 1996](#), or
- (b) approved by the Minister by order published in the Gazette.

approved public liability insurance means liability insurance with an approved insurer for a cover of at least \$2,000,000 or such other amount as may be prescribed by the regulations.

20 Financial reports

A parents and citizens association incorporated under this Act must make such financial reports about its affairs (including reports of its auditors) as are required by its rules or (subject to its rules) by the Minister.

21 Cancellation of incorporation

- (1) The Minister may, by notice published in the Gazette, cancel the incorporation of a parents and citizens association incorporated under this Act:
 - (a) if the Minister has reasonable cause to believe that the association is not complying with this Act or the rules of the association, or
 - (b) if the association has ceased to be a member of the Federation of Parents and Citizens Associations of New South Wales constituted under this Act, or

- (c) if the association is constituted in connection with a government school that has been closed, or
 - (d) if the Minister has other good cause for doing so.
- (2) If the incorporation of the association is so cancelled and the winding up of the association has not commenced before the cancellation, the property of the association vests in the Minister. The debts and liabilities of that association are to be paid, its property is to be distributed and its affairs are to be wound up in accordance with the directions of the Minister.
- (3) Nothing in this Act affects the winding up under any other law of a parents and citizens association incorporated under this Act.

22 Service of documents on association

- (1) A document may be served on a parents and citizens association incorporated under this Act by leaving it at the office of, or by sending it by post to, the government school in connection with which the association is constituted.
- (2) Nothing in this section affects:
- (a) the power of a court to authorise a document to be served on the association in a manner not provided for by this section, or
 - (b) the operation of any law or rules of court authorising a document to be served on the association in a manner not provided for by this section.

23 Regulations

The regulations may make provision for or with respect to the transfer of incorporation to this Act of a parents and citizens association incorporated under the [Associations Incorporation Act 2009](#).

Part 4 Miscellaneous

24 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.