

Associations Incorporation Regulation 2022

[2022-522]



New South Wales

Status Information

Currency of version

Current version for 31 August 2022 to date (accessed 18 May 2024 at 6:17)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **See also**
[Better Regulation, Fair Trading and Other Legislation Amendment Bill 2024](#)
- **Staged repeal status**
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2027

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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Associations Incorporation Regulation 2022



New South Wales

Contents

Part 1 Preliminary	4
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
4 Corresponding law	4
5 Application of Corporations legislation to associations	4
Part 2 Registration of associations	5
6 Information to be included in application for registration of association	5
7 Maximum number of alternative names in application for reservation of name	6
8 Unacceptable names	6
9 Information to be included in application for transfer of registration declaration	6
Part 3 Management of associations	6
10 Other particulars in register of committee members	6
11 Conduct of postal or electronic ballots	6
Part 4 Financial reporting	7
12 Gross receipts and current assets for Tier 1 associations	7
13 Financial statements for Tier 1 associations	7
14 Financial statements for Tier 2 associations	7
15 Keeping and inspection of records and minutes	8
Part 5 Enforcement provisions	8
16 Certificates of authority	8

Part 6 Miscellaneous	9
17 Exchange of information.....	9
18 Model constitution	9
19 Fees	9
20 Secretary may waive, reduce, postpone or refund fees	9
21 Transitional provision relating to model constitution financial year clause.....	9
22 Savings	10
Schedule 1 Unacceptable names	10
Schedule 2 Conduct of postal or electronic ballots	12
Schedule 3 Model constitution	16
Schedule 4 Fees	36
Schedule 5 Penalty notice offences	39

Associations Incorporation Regulation 2022



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the [Associations Incorporation Regulation 2022](#).

2 Commencement

This Regulation commences on 1 September 2022 and is required to be published on the NSW legislation website.

Note—

This Regulation replaces the [Associations Incorporation Regulation 2016](#), which is repealed on 1 September 2022 by the [Subordinate Legislation Act 1989](#), section 10(2).

3 Definitions

In this Regulation—

the Act means the [Associations Incorporation Act 2009](#).

Note—

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Regulation.

4 Corresponding law

For the Act, section 4(1), definition of **corresponding law**, the [Corporations \(Aboriginal and Torres Strait Islander\) Act 2006](#) of the Commonwealth is declared to be a corresponding law.

5 Application of Corporations legislation to associations

For the Act, section 96(1), a matter relating to an association is declared to be an applied Corporations legislation matter for the purposes of the [Corporations \(Ancillary Provisions\) Act 2001](#), Part 3 in relation to the [Corporations Act 2001](#) of the Commonwealth, section 1322(1)–(3A) and (4)–(6), subject to the following modifications—

(a) a reference to “this Act” is to be read as including a reference to the Act,

- (b) a reference to “a corporation” is to be read as including a reference to an association,
- (c) for section 1322(3)—
 - (i) a reference to “a meeting” or “the meeting” is to be read as including a reference to a vote conducted by a postal or electronic ballot, and
 - (ii) the reference to “a person entitled to attend the meeting” is to be read as including a reference to a person entitled to vote in the postal or electronic ballot, and
 - (iii) the reference to “proceedings at the meeting” is to be read as including a reference to the vote conducted by a postal or electronic ballot,
- (d) for section 1322(4)(b)—the reference to “any register kept by ASIC under this Act” is to be read as including a reference to a register kept under the Act.

Part 2 Registration of associations

6 Information to be included in application for registration of association

- (1) For the Act, section 6(3)(h), an application for registration of an association made on behalf of a registrable corporation must include—
 - (a) an estimate of the corporation’s income and expenditure for the financial year in which the application is made (the **current financial year**), and
 - (b) a copy of the corporation’s financial statements for the financial year immediately preceding the current financial year.
- (2) An application for registration of an association (the **proposed amalgamated association**) made on behalf of 2 or more associations (the **applicant associations**) proposing to amalgamate must include the following—
 - (a) an estimate of the combined assets and liabilities of the proposed amalgamated association at the time of the application,
 - (b) an estimate of the income and expenditure of the proposed amalgamated association for the association’s first financial year,
 - (c) either—
 - (i) the original certificate of incorporation of each applicant association, or
 - (ii) if any of the original certificates have been lost—evidence of the certificates,
 - (d) any documents that an applicant association failed to lodge, for the last 3 financial years, under the Act, section 45 or 49.

7 Maximum number of alternative names in application for reservation of name

For the Act, section 15(3), the prescribed maximum number of alternative names that may be nominated is 3.

8 Unacceptable names

For the Act, section 18(1)(g), the names set out in Schedule 1 are declared to be unacceptable.

9 Information to be included in application for transfer of registration declaration

For the Act, section 78(3)(d), an application for a transfer of registration declaration must include the following—

- (a) a written statement regarding whether the entity to which the association intends to transfer the association's incorporation is subject to rules that prohibit the distribution of profits to the entity's members,
- (b) a written declaration that the association's creditors are not likely to be materially prejudiced by the transfer,
- (c) a written declaration that the law of the Commonwealth, another State or a Territory will adequately provide for the continuation of the association's legal personality after the transfer,
- (d) any documents that the association failed to lodge, for the last 3 financial years, under the Act, section 45 or 49.

Part 3 Management of associations

10 Other particulars in register of committee members

For the Act, section 29(2)(d), the following particulars are prescribed—

- (a) whether the committee member holds the position of president, vice-president, secretary or treasurer of the association,
- (b) if the committee member is elected or appointed to a position referred to in paragraph (a)—
 - (i) the date on which the member is elected or appointed, and
 - (ii) the date on which the member ceases to hold the position.

11 Conduct of postal or electronic ballots

For the Act, sections 38(2) and 39(3), a postal or electronic ballot must be conducted in accordance with Schedule 2.

Part 4 Financial reporting

12 Gross receipts and current assets for Tier 1 associations

- (1) For the Act, section 42(1)(a), an association's gross receipts are equal to the total revenue recorded in the association's income and expenditure statement for the financial year.
- (2) For the Act, section 42(1)(b), an association's current assets are equal to the assets held by the association on the last day of the previous financial year.
- (3) For the Act, section 42(1), the prescribed amount is—
 - (a) for gross receipts—\$250,000, and
 - (b) for current assets—\$500,000.
- (4) In this section—

assets—

 - (a) includes amounts held in financial institutions, stocks and debentures, and
 - (b) does not include real property or assets that may depreciate.

13 Financial statements for Tier 1 associations

- (1) For the Act, section 43(2), the financial statements prepared for a Tier 1 association must include the following—
 - (a) the details of mortgages, charges and other securities affecting property owned by the association,
 - (b) a separate income and expenditure statement and balance sheet for each trust for which the association is a trustee.
- (2) For the Act, section 107(1)(d), the Secretary may exempt a Tier 1 association, or a class of Tier 1 associations, from the requirement to prepare financial statements in accordance with the Australian Accounting Standards.
- (3) An exemption may apply—
 - (a) generally, or
 - (b) as otherwise specified in the exemption.

14 Financial statements for Tier 2 associations

For the Act, section 47(2), the financial statements prepared for a Tier 2 association must include the following—

- (a) the details of mortgages, charges and other securities affecting property owned by the association,
- (b) an income and expenditure statement and balance sheet that sets out—
 - (i) the individual sources of income and expenses incurred in the operation of the association, and
 - (ii) the assets and liabilities of the association,
- (c) a separate income and expenditure statement and balance sheet for each trust for which the association is a trustee.

15 Keeping and inspection of records and minutes

- (1) For the Act, section 50(4), an association must—
 - (a) keep records and minutes required to be kept under the section in written or electronic form, and
 - (b) keep a record required to be kept under the section for at least 5 years after the day the record is made.
- (2) A record or minute kept in electronic form must be able to be converted to hard copy.
- (3) If a person who is entitled to inspect a record or minute asks for the record or minute to be given in hard copy, the association must give the person a hard copy of the record or minute within a reasonable time.

Part 5 Enforcement provisions

16 Certificates of authority

For the Act, section 88(1)(a), a certificate of authority must—

- (a) be in a form approved by the Secretary, and
- (b) state that the certificate is issued under the Act, and
- (c) include the name of the person to whom the certificate is issued, and
- (d) describe the nature of the powers conferred on the holder and state that those powers are conferred by the Act, and
- (e) state that the powers conferred on the holder do not extend to a part of premises used for residential purposes, except with the consent of the occupier of the premises, and
- (f) state the date, if any, on which the certificate expires, and

- (g) be signed by the Secretary or another officer of the Department authorised by the Secretary to sign certificates of authority.

Part 6 Miscellaneous

17 Exchange of information

For the Act, section 106A(5), definition of **relevant agency**, paragraph (b), the Australian Charities and Not-for-profits Commission established by the [Australian Charities and Not-for-profits Commission Act 2012](#) of the Commonwealth is prescribed.

18 Model constitution

For the Act, section 107(1)(a), the model constitution set out in Schedule 3 is prescribed.

19 Fees

For the Act, section 107(1)(c), the fees set out in Schedule 4, Part 1 are prescribed.

20 Secretary may waive, reduce, postpone or refund fees

For the Act, section 107(1)(c1), the Secretary may waive, reduce, postpone or refund, in whole or in part, a fee payable or paid under the Act or this Regulation if satisfied it is appropriate to do so because—

- (a) the person who must pay, or has paid, the fee is suffering financial hardship, or
- (b) special circumstances exist.

Example—

The person is impacted by, or recovering from, a natural disaster.

21 Transitional provision relating to model constitution financial year clause

- (1) This section applies to an association—
 - (a) to which the Act, Schedule 4, clause 4 applied immediately before 1 September 2022, and
 - (b) whose constitution does not address the association's financial year.
- (2) Clause 44 of the model constitution in Schedule 3, as it applies to an association to which this clause applies, is taken to be replaced by the following clause—

44 Financial year

The association's financial year is one of the following, commencing at the expiration of the previous financial year—

- (a) each period of 12 months,

(b) another period, of not more than 18 months, as resolved by the association.

(3) The substituted clause applies until the association's constitution otherwise addresses the association's financial year in accordance with the Act.

22 Savings

An act, matter or thing that, immediately before the repeal of the *Associations Incorporation Regulation 2016*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Unacceptable names

section 8

- 1 A name that is identical to, or closely resembles, a business name registered under the *Business Names Registration Act 2011* of the Commonwealth unless—
 - (a) the public is not likely to be misled if the association operates under the name, or
 - (b) the applicant for registration of the relevant association has registered the name under that Act.
- 2 A name that is identical to, or closely resembles, the name of a building society, co-operative, co-operative society, co-operative building society, co-operative housing society, co-operative company or credit union.
- 3 A name that is identical to, or closely resembles, a name reserved or registered under the *Corporations Act 2001* of the Commonwealth, unless the applicant for registration of the relevant association has reserved or registered the name under that Act.
- 4 A name that is identical to, or closely resembles, the name of a criminal organisation or declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*.
- 5 A name that suggests a connection with the government of the Commonwealth, New South Wales, another State, a Territory or another country.
- 6 A name that includes the word "Commonwealth" or "Federal", unless used in relation to a geographical location.
- 7 A name that suggests a connection with a government agency or public authority of the Commonwealth, New South Wales, another State or a Territory.
- 8 A name that suggests a connection with a local council or local authority.
- 9 A name that suggests a connection with a member of the royal family, if the connection does not exist.
- 10 A name that suggests a connection with an ex-service person organisation, if the connection does not exist.
- 11 A name that suggests a connection with a person, whether alive or not, if the connection does not

exist.

12 A name that suggests that royal patronage has been received if that is not the case.

13 A name that includes 1 or more of the following words or phrases, including an abbreviation of the word or phrase—

aboriginal corporation

building society

co-operative

co-operative building society

co-operative company

co-operative housing society

co-operative society

credit union

executor

futures exchange

GST

guarantee

institute of advanced education

made in Australia

oxfam

starr bowkett

stock exchange

torres strait islander corporation

14 A name, including a name used by a former association, that is likely to mislead the public—

(a) in relation to the nature, objects or functions of an association or proposed association, or

- (b) in another way.

Schedule 2 Conduct of postal or electronic ballots

section 11

1 Ballots

- (1) The committee must do the following—
 - (a) prepare a statement setting out the details of the matter to be determined by a ballot,
 - (b) appoint a returning officer for the ballot,
 - (c) fix the date for the closing of the ballot.
- (2) The ballot must be conducted by the returning officer appointed by the committee.

2 Returning officers

- (1) Any person, except a committee member, may be appointed as a returning officer.
- (2) The returning officer may appoint a person who would otherwise be eligible to be a returning officer to assist the officer in the performance of the officer's duties.

3 Voting rolls

- (1) The returning officer must prepare a roll that contains the full names and addresses of the members of the association who are entitled to vote.
- (2) A person whose name is not listed on the roll cannot vote in the ballot.

4 Postal voting

- (1) This section applies to a ballot to be conducted by postal voting.
- (2) The returning officer must give the following to each member entitled to vote at least 14 days, or 21 days for a proposed special resolution, before the date fixed for the closing of the ballot—
 - (a) a copy of the statement prepared by the committee under this Schedule, section 1(1)(a),
 - (b) a ballot paper that contains—
 - (i) instructions for completing the ballot paper, and
 - (ii) the question to be determined, and
 - (iii) a space for the member to record the member's vote,

- (c) a notice that contains—
 - (i) the closing date of the ballot, and
 - (ii) the address where the ballot paper is to be returned,
 - (d) a returning envelope that—
 - (i) is addressed to the returning officer, and
 - (ii) contains the name and address of the member on the reverse,
 - (e) if the ballot is a secret ballot—an envelope marked “Ballot Paper”.
- (3) The member must vote by marking the ballot paper in accordance with the instructions given.
- (4) The member must, after completing the ballot paper—
- (a) enclose and seal in the returning envelope—
 - (i) the ballot paper, or
 - (ii) for a secret ballot—the sealed envelope marked “Ballot Paper” in which the ballot paper is enclosed, and
 - (b) post or give the envelope to the returning officer so that it is received by the returning officer before the close of the ballot.
- (5) On receiving a returning envelope, the returning officer must—
- (a) compare the information on the envelope with the information on the voting roll to confirm that the vote was cast by a member entitled to vote, and
 - (b) ensure the ballot paper is securely stored until the votes are counted.

5 Electronic voting

- (1) This section applies to a ballot to be conducted by electronic voting.
- (2) Electronic voting must be conducted, as determined by the committee—
- (a) by email, or
 - (b) using a voting website, or
 - (c) by other electronic means.
- (3) The returning officer must give the following to each member entitled to vote at least 14 days, or 21 days for a proposed special resolution, before the date fixed for the closing of the ballot—

- (a) a copy of the statement prepared by the committee under this Schedule, section 1(1)(a),
- (b) access to an electronic ballot paper, or a voting website or other electronic application containing an electronic ballot paper, that contains—
 - (i) instructions for completing the ballot paper, and
 - (ii) the question to be determined, and
 - (iii) the means by which the member is to record the member's vote,
- (c) access to the following information—
 - (i) the closing date of the ballot,
 - (ii) if voting by email—the email address to which the ballot paper must be sent,
 - (iii) if voting by other electronic means—instructions for accessing the electronic voting system and returning the ballot paper.
- (4) If the ballot is a secret ballot, the returning officer must ensure the identity of the member cannot be ascertained from the ballot paper.
- (5) The member must—
 - (a) vote in accordance with the instructions given, and
 - (b) return the ballot paper to the returning officer so that it is received by the returning officer before the closing date.
- (6) The returning officer must ensure each ballot paper is securely stored until the votes are counted.

6 Informal votes

- (1) A ballot paper completed by postal or electronic voting is informal if the member failed to record a vote in accordance with the instructions given by the returning officer.
- (2) Despite subsection (1), a ballot paper completed by postal voting is not informal merely because it contains an unnecessary mark if, in the returning officer's opinion, the intended vote is clearly indicated.
- (3) If a ballot is to be conducted using a voting website or other electronic application, not including electronic voting by email, the website or application must give a warning message to a person attempting to cast an informal vote that the vote is informal.

7 Ballot results

- (1) As soon as practicable after the close of a ballot conducted by postal or electronic voting, the returning officer must—
 - (a) for a secret ballot conducted by postal voting—open the envelopes marked “Ballot Paper” and remove the ballot papers, and
 - (b) reject all informal ballot papers, and
 - (c) ascertain the result of the ballot by—
 - (i) for a postal ballot—counting the votes that are not rejected, or
 - (ii) for an electronic ballot—reviewing the information and reports about the ballot.
- (2) The returning officer must—
 - (a) prepare and sign a statement of the result of the ballot, and
 - (b) give a copy of the statement to the secretary of the association.
- (3) On receiving the statement of the result, the secretary must—
 - (a) make an entry in the minute book showing the result, and
 - (b) for a ballot for a proposed special resolution—give written notice to members of the result as soon as practicable after receiving the statement.
- (4) The member presiding at the next general meeting of the association must announce the result of the ballot at the meeting.
- (5) In this section—

informal ballot paper means a ballot paper that is informal in accordance with this Schedule, section 6.

8 Keeping of ballot records

The returning officer must keep the following in secure storage, as they relate to a ballot conducted in accordance with this Schedule, for at least 8 weeks after the date fixed for the closing of the ballot or a longer period specified in a written direction of the committee—

- (a) voting rolls,
- (b) ballot papers, including rejected ballot papers from a postal ballot,
- (c) all records, whether formal or informal, relating to an electronic ballot.

Schedule 3 Model constitution

section 18

Part 1 Preliminary

1 Definitions

(1) In this constitution—

committee member means an office-bearer or ordinary committee member.

exercise a function includes perform a duty.

function includes a power, authority or duty.

office-bearer means a committee member who is elected to an office referred to in clause 14(1)(a)(i)–(iv).

ordinary committee member means a committee member who is not an office-bearer.

register of members means the register of members maintained under clause 4.

secretary, of the association, means—

- (a) the person holding office under this constitution as secretary, or
- (b) if no person holds that office—the public officer of the association.

special general meeting, of the association, means a general meeting of the association other than an annual general meeting.

subcommittee means a subcommittee established under clause 20.

the Act means the [Associations Incorporation Act 2009](#).

the Regulation means the [Associations Incorporation Regulation 2022](#).

Note—

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this constitution.

- (2) The [Interpretation Act 1987](#) applies to this constitution as if it were an instrument made under the Act.

Note—

The Act, Part 4 deals with various matters relating to the management of associations.

Part 2 Members of association

2 Membership generally

- (1) An individual is taken to be a member of the association if—
 - (a) the person applied to be a member under clause 3(1) and the application has been approved, or
 - (b) the person was 1 of the individuals on whose behalf an application for registration of the association was made under the Act, section 6(1)(a), or
 - (c) the person was—
 - (i) for an unincorporated body registered as the association—a member of the body immediately before the registration, or
 - (ii) for a registrable corporation registered as the association—a member of the corporation immediately before the registration, or
 - (iii) for an association that was amalgamated to form the relevant association—a member of the existing association immediately before the amalgamation.
- (2) A person who is not an individual is not eligible to be a member of the association.

3 Membership applications

- (1) An application by a person to be a member of the association must be—
 - (a) made in writing, and
 - (b) in the form determined by the committee, and
 - (c) lodged with the secretary.
- (2) The committee may determine that an application may be made or lodged by email or other electronic means.
- (3) The secretary must refer an application to the committee as soon as practicable after receiving the application.
- (4) The committee must approve or reject the application.
- (5) As soon as practicable after the committee has decided the application, the secretary must—
 - (a) give the applicant written notice of the decision, including by email or other electronic means if determined by the committee, and
 - (b) if the application is approved—inform the applicant that the applicant is required

to pay the entrance fee and annual subscription fee payable under clause 5 within 28 days of the day the applicant received the notice.

- (6) The secretary must enter the applicant's name in the register of members as soon as practicable after the applicant pays the entrance fee and annual subscription fee in accordance with subclause (5)(b).
- (7) The applicant becomes a member once the applicant's name is entered in the register.

4 Register of members

- (1) The secretary must establish and maintain a register of members of the association.
- (2) The register—
 - (a) may be in written or electronic form, and
 - (b) must include, for each member—
 - (i) the member's full name, and
 - (ii) a residential, postal or email address, and
 - (iii) the date on which the person became a member, and
 - (iv) if the person ceases to be a member—the date on which the person ceased to be a member, and
 - (c) must be kept in New South Wales—
 - (i) at the association's main premises, or
 - (ii) if the association has no premises—at the association's official address, and
 - (d) must be available for inspection, free of charge, by members at a reasonable time, and
 - (e) if kept in electronic form—must be able to be converted to hard copy.
- (3) If the register is kept in electronic form, the requirements in subclause (2)(c) and (d) apply as if a reference to the register is a reference to a current hard copy of the register.
- (4) A member may obtain a hard copy of the register, or a part of the register, on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (5) Information about a member, other than the member's name, must not be made available for inspection if the member requests that the information not be made

available.

- (6) A member must not use information about a member obtained from the register to contact or send material to the member, unless—
 - (a) the information is used to send the member—
 - (i) a newsletter, or
 - (ii) a notice for a meeting or other event relating to the association, or
 - (iii) other material relating to the association, or
 - (b) it is necessary to comply with a requirement of the Act or the Regulation.

5 Fees and subscriptions

- (1) The entrance fee to be paid to the association by a person whose application to be a member of the association has been approved is—
 - (a) \$1, or
 - (b) another amount determined by the committee.
- (2) A member must pay to the association an annual subscription fee of \$2, or another amount determined by the committee—
 - (a) if the member becomes a member on or after the first day of the financial year of the association in a calendar year—
 - (i) in accordance with clause 3(5)(b), and
 - (ii) before the first day of the financial year of the association in each subsequent calendar year, or
 - (b) otherwise—before the first day of the financial year of the association in each calendar year.

6 Members' liabilities

The liability of a member of the association to contribute to the payment of either of the following is limited to the amount of any outstanding fees for the member under clause 5—

- (a) the debts and liabilities of the association,
- (b) the costs, charges and expenses of the winding up of the association.

7 Disciplinary action against members

- (1) A person may make a complaint to the committee that a member of the association

has—

- (a) failed to comply with a provision of this constitution, or
 - (b) wilfully acted in a way prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if the committee considers the complaint is trivial or vexatious.
- (3) If the committee decides to deal with the complaint, the committee must—
- (a) serve notice of the complaint on the member, and
 - (b) give the member at least 14 days from the day the notice is served on the member within which to make submissions to the committee about the complaint, and
 - (c) consider any submissions made by the member.
- (4) The committee may, by resolution, expel the member from the association or suspend the member's membership if, after considering the complaint, the committee is satisfied that—
- (a) the facts alleged in the complaint have been proved, and
 - (b) the expulsion or suspension is warranted.
- (5) If the committee expels or suspends the member, the secretary must, within 7 days of that action being taken, give the member written notice of—
- (a) the action taken, and
 - (b) the reasons given by the committee for taking the action, and
 - (c) the member's right of appeal under clause 8.
- (6) The expulsion or suspension does not take effect until the later of the following—
- (a) the day the period within which the member is entitled to exercise the member's right of appeal expires, or
 - (b) if the member exercises the member's right of appeal within the period—the day the association confirms the resolution under clause 8.

8 Right of appeal against disciplinary action

- (1) A member may appeal against a resolution of the committee under clause 7 by lodging a notice of appeal with the secretary within 7 days of being served notice of the resolution.
- (2) The member may include, with the notice of appeal, a statement of the grounds on

which the member intends to rely for the purposes of the appeal.

- (3) The secretary must notify the committee that the secretary has received a notice of appeal.
- (4) If notified that a notice has been received, the committee must call a general meeting of the association to be held within 28 days of the day the notice was received.
- (5) At the general meeting—
 - (a) no business other than the question of the appeal is to be transacted, and
 - (b) the member must be given an opportunity to state the member's case orally or in writing, or both, and
 - (c) the committee must be given the opportunity to state the committee's case orally or in writing, or both, and
 - (d) the members present must vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (6) The appeal is to be determined by a simple majority of votes cast by the members.

9 Resolution of internal disputes

- (1) The following disputes must be referred to a Community Justice Centre within the meaning of the [Community Justice Centres Act 1983](#) for mediation—
 - (a) a dispute between 2 or more members of the association, but only if the dispute is between the members in their capacity as members, or
 - (b) a dispute between 1 or more members and the association.
- (2) If the dispute is not resolved by mediation within 3 months of being referred to the Community Justice Centre, the dispute must be referred to arbitration.
- (3) The [Commercial Arbitration Act 2010](#) applies to a dispute referred to arbitration.

10 Membership entitlements not transferable

A right, privilege or obligation that a person has because the person is a member of the association—

- (a) cannot be transferred to another person, and
- (b) terminates once the person ceases to be a member of the association.

11 Member resignation

- (1) A member of the association may resign from being a member by giving the secretary written notice of at least 1 month, or another period determined by the committee, of

the member's intention to resign.

(2) The member ceases to be a member on the expiration of the notice period.

12 Cessation of membership

A person ceases to be a member of the association if the person—

- (a) dies, or
- (b) resigns from being a member, or
- (c) is expelled from the association, or
- (d) fails to pay the annual subscription fee payable under clause 5(2) within 3 months of the due date.

Part 3 Committee

Division 1 Constitution

13 Functions of committee

Subject to the Act, the Regulation, this constitution and any resolution passed by the association in general meeting, the committee—

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all the functions that may be exercised by the association, other than a function that is required to be exercised by the association in general meeting, and
- (c) has power to do all things that are necessary or convenient to be done for the proper management of the affairs of the association.

14 Composition of committee

- (1) The committee must have 7 members, as elected in accordance with clause 15, consisting of—
 - (a) the following office-bearers—
 - (i) the president,
 - (ii) the vice-president,
 - (iii) the secretary,
 - (iv) the treasurer, and
 - (b) at least 3 ordinary committee members.

Note—

The Act, section 28 contains requirements relating to membership eligibility and composition of the committee.

- (2) An office-bearer may hold up to 2 offices, other than both the offices of president and vice-president.

15 Election of committee members

- (1) Any member of the association may be nominated as a candidate for election as an office-bearer or ordinary committee member.
- (2) The nomination must be—
 - (a) made in writing, and
 - (b) signed by at least 2 members of the association, not including the candidate, and
 - (c) accompanied by the written consent of the candidate to the nomination, and
 - (d) given to the secretary at least 7 days before the date fixed for the annual general meeting at which the election is to take place.
- (3) If insufficient nominations are received to fill all vacancies—
 - (a) the candidates nominated are taken to be elected, and
 - (b) a call for further nominations must be made at the meeting.
- (4) A nomination made at the meeting in response to a call for further nominations must be made in the way directed by the member presiding at the meeting.
- (5) Vacancies that remain after a call for further nominations are taken to be casual vacancies.
- (6) If the number of nominations received is equal to the number of vacancies to be filled, the members nominated are taken to be elected.
- (7) If the number of nominations received is more than the number of vacancies to be filled, a ballot must be held at the meeting in the way directed by the committee.

16 Terms of office

- (1) Subject to this constitution, a committee member holds office from the day the member is elected until immediately before the next annual general meeting.
- (2) A member is eligible, if otherwise qualified, for re-election.
- (3) There is no limit on the number of consecutive terms for which a committee member may hold office.

17 Vacancies in office

- (1) A casual vacancy in the office of a committee member arises if the member—
 - (a) dies, or
 - (b) ceases to be a member of the association, or
 - (c) resigns from office by written notice given to the secretary, or
 - (d) is removed from office by the association under this clause, or
 - (e) is absent from 3 consecutive meetings of the committee without the consent of the committee, or
 - (f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
 - (g) is prohibited from being a director of a company under the *Corporations Act 2001* of the Commonwealth, Part 2D.6, or
 - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least 3 months, or
 - (i) becomes a mentally incapacitated person.
- (2) The association in general meeting may, by resolution—
 - (a) remove a committee member from office at any time, and
 - (b) appoint another member of the association to hold office for the balance of the committee member's term of office.
- (3) A committee member to whom a proposed resolution referred to in subclause (2) relates may—
 - (a) give a written statement, of a reasonable length, to the president or secretary, and
 - (b) request that the committee send a copy of the statement to each member of the association at least 7 days before the general meeting at which the proposed resolution will be considered.
- (4) If the committee fails to send a copy of a statement received under subclause (3)(a) to each member in accordance with a request made under subclause (3)(b), the statement must be read aloud by the member presiding at the general meeting at which the proposed resolution will be considered.
- (5) The committee may appoint a member of the association to fill a casual vacancy other than a vacancy arising from the removal from office of a committee member.

- (6) Subject to this constitution, a member appointed to fill a casual vacancy holds office until the next annual general meeting.

18 Secretary

- (1) As soon as practicable after being elected as secretary, the secretary must lodge a notice with the association specifying the secretary's address.
- (2) The secretary must keep minutes of—
 - (a) all elections of committee members, and
 - (b) the names of committee members present at a meeting of the committee or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- (3) The minutes must be—
 - (a) kept in written or electronic form, and
 - (b) for minutes of proceedings at a meeting—signed, in writing or by electronic means, by—
 - (i) the member who presided at the meeting, or
 - (ii) the member presiding at the subsequent meeting.

19 Treasurer

The treasurer of the association must ensure—

- (a) all money owed to the association is collected, and
- (b) all payments authorised by the association are made, and
- (c) correct books and accounts are kept showing the financial affairs of the association, including full details of receipts and expenditure relating to the association's activities.

20 Delegation to subcommittees

- (1) The committee may—
 - (a) establish 1 or more subcommittees to assist the committee to exercise the committee's functions, and
 - (b) appoint 1 or more members of the association to be the members of the subcommittee.
- (2) The committee may delegate to the subcommittee the exercise of the committee's functions specified in the instrument, other than—

- (a) this power of delegation, or
- (b) a duty imposed on the committee by the Act or another law.

Note—

The [Interpretation Act 1987](#), section 49 deals with various matters relating to delegations.

Division 2 Procedure

21 Committee meetings

- (1) The committee must meet at least 3 times in each 12-month period at the place and time determined by the committee.
- (2) Additional meetings of the committee may be called by any committee member.
- (3) The procedure for calling and conducting business at a meeting of a subcommittee is to be as determined by the subcommittee.

Note—

The Act, section 30(1) provides that committee meetings may be held as and when the association's constitution requires.

22 Notice of committee meeting

- (1) The secretary must give each committee member oral or written notice of a meeting of the committee at least 48 hours, or another period on which the committee members unanimously agree, before the time the meeting is due to commence.
- (2) The notice must describe the general nature of the business to be transacted at the meeting.
- (3) The only business that may be transacted at the meeting is—
 - (a) the business described in the notice, and
 - (b) business that the committee members present at the meeting unanimously agree is urgent business.

23 Quorum

- (1) The quorum for a meeting of the committee is 3 committee members.
- (2) No business may be transacted by the committee unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting is adjourned—
 - (a) to the same place, and

(b) to the same time of the same day in the following week.

- (4) If a quorum is not present within half an hour of the time the adjourned meeting commences, the meeting is dissolved.
- (5) If the number of committee members is less than the number required to constitute a quorum for a committee meeting, the committee members may appoint 1 or more members of the association as committee members to enable the quorum to be constituted.
- (6) A committee member appointed under subclause (5) holds office, subject to this constitution, until the next annual general meeting.
- (7) This clause does not apply to the filling of a casual vacancy to which clause 17 applies.

Note—

The Act, section 28A provides for the filling of vacancies on the committee to constitute a quorum.

24 Presiding committee member

- (1) The following committee member presides at a meeting of the committee—
 - (a) the president,
 - (b) if the president is absent—the vice-president,
 - (c) if both the president and vice-president are absent—1 of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has—
 - (a) a deliberative vote, and
 - (b) in the event of an equality of votes—a second or casting vote.

25 Voting

A decision supported by a majority of the votes cast at a meeting of the committee or a subcommittee at which a quorum is present is the decision of the committee or subcommittee.

26 Acts valid despite vacancies or defects

- (1) Subject to clause 23(1), the committee may act despite there being a casual vacancy in the office of a committee member.
- (2) An act done by a committee or subcommittee is not invalidated because of a defect relating to the qualifications or appointment of a member of the committee or

subcommittee.

27 Transaction of business outside meetings or by telephone or other means

- (1) The committee may transact its business by the circulation of papers, including by electronic means, among all committee members.
- (2) If the committee transacts business by the circulation of papers, a written resolution, approved in writing by a majority of committee members, is taken to be a decision of the committee made at a meeting of the committee.
- (3) The committee may transact its business at a meeting at which 1 or more committee members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the committee for the purposes of—
 - (a) the approval of a resolution under subclause (2), or
 - (b) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the committee.

Note—

The Act, section 30(2) and (3) contains requirements relating to meetings held at 2 or more venues using technology.

Part 4 General meetings of association

28 Annual general meetings

- (1) The association must hold the association's first annual general meeting within 18 months of the day the association was registered under the Act.
- (2) The association must hold subsequent annual general meetings within—
 - (a) 6 months of the last day of the association's financial year, or
 - (b) the later period allowed or prescribed in accordance with the Act, section 37(2)(b).
- (3) Subject to the Act and subclauses (1) and (2), the annual general meeting is to be held at the place and time determined by the committee.
- (4) The business that may be transacted at an annual general meeting includes the following—

- (a) confirming the minutes of the previous annual general meeting and any special general meetings held since the previous annual general meeting,
- (b) receiving reports from the committee on the association's activities during the previous financial year,
- (c) electing office-bearers and ordinary committee members,
- (d) receiving and considering financial statements or reports required to be submitted to members of the association under the Act.

Note—

The Act, section 37(1) and (2) provides for when annual general meetings must be held.

29 Special general meetings

- (1) The committee may call a special general meeting whenever the committee thinks fit.
- (2) The committee must call a special general meeting if the committee receives a request made by at least 5% of the total number of members.
- (3) The request—
 - (a) must be in writing, and
 - (b) must state the purpose of the meeting, and
 - (c) must be signed by the members making the request, and
 - (d) may consist of more than 1 document in a similar form signed by 1 or more members, and
 - (e) must be lodged with the secretary, and
 - (f) may be in electronic form and signed and lodged by electronic means.
- (4) If the committee fails to call a special general meeting within 1 month of the request being lodged, 1 or more of the members who made the request may call a special general meeting to be held within 3 months of the date the request was lodged.
- (5) A special general meeting held under subclause (4) must be conducted, as far as practicable, in the same way as a general meeting called by the committee.

30 Notice of general meeting

- (1) The secretary must give each member notice of a general meeting—
 - (a) if a matter to be determined at the meeting requires a special resolution—at least 21 days before the meeting, or

- (b) otherwise—at least 14 days before the meeting.
- (2) The notice must specify—
 - (a) the place and time at which the meeting will be held, and
 - (b) the nature of the business to be transacted at the meeting, and
 - (c) if a matter to be determined at the meeting requires a special resolution—that a special resolution will be proposed, and
 - (d) for an annual general meeting—that the meeting to be held is an annual general meeting.
- (3) The only business that may be transacted at the meeting is—
 - (a) the business specified in the notice, and
 - (b) for an annual general meeting—business referred to in clause 28(4).
- (4) A member may give written notice to the secretary of business the member wishes to raise at a general meeting.
- (5) If the secretary receives a notice under subclause (4), the secretary must specify the nature of the business in the next notice calling a general meeting.

31 Quorum

- (1) The quorum for a general meeting is 5 members of the association entitled to vote under this constitution.
- (2) No business may be transacted at a general meeting unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting—
 - (a) if called on the request of members—is dissolved, or
 - (b) otherwise—is adjourned—
 - (i) to the same time of the same day in the following week, and
 - (ii) to the same place, unless another place is specified by the member presiding at the meeting at the time of the adjournment or in a written notice given to members at least 1 day before the adjourned meeting.
- (4) If a quorum is not present within half an hour of the time an adjourned meeting commences, but there are at least 3 members present, the members present constitute a quorum.

32 Adjourned meetings

- (1) The member presiding at a general meeting may, with the consent of the majority of the members present, adjourn the meeting to another time and place.
- (2) The only business that may be transacted at the adjourned meeting is the business remaining from the meeting at which the adjournment took place.
- (3) If a meeting is adjourned for at least 14 days, the secretary must give each member oral or written notice, at least 1 day before the adjourned meeting, of—
 - (a) the time and place at which the adjourned meeting will be held, and
 - (b) the nature of the business to be transacted at the adjourned meeting.

33 Presiding member

- (1) The following member presides at a general meeting—
 - (a) the president,
 - (b) if the president is absent—the vice-president,
 - (c) if both the president and vice-president are absent—1 of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has—
 - (a) a deliberative vote, and
 - (b) in the event of an equality of votes—a second or casting vote.

34 Voting

- (1) A member is not entitled to vote at a general meeting unless the member—
 - (a) is at least 18 years of age, and
 - (b) has paid all money owed by the member to the association.
- (2) Each member has 1 vote, except as provided by clause 33(2)(b).
- (3) A question raised at the meeting must be decided by—
 - (a) a show of hands, or
 - (b) if clause 36 applies—an appropriate method as determined by the committee, or
 - (c) a written ballot, but only if—
 - (i) the member presiding at the meeting moves that the question be decided by ballot, or

- (ii) at least 5 members agree the question should be determined by ballot.
- (4) If a question is decided using a method referred to in subclause (3)(a) or (b), either of the following is sufficient evidence that a resolution has been carried, whether unanimously or by a majority, or lost, using the method—
 - (a) a declaration by the member presiding at the meeting,
 - (b) an entry in the association's minute book.
- (5) A written ballot must be conducted in accordance with the directions of the member presiding.
- (6) A member cannot cast a vote by proxy.

35 Postal or electronic ballots

- (1) The association may hold a postal or electronic ballot, as determined by the committee, to decide any matter other than an appeal under clause 8.
- (2) The ballot must be conducted in accordance with Schedule 2 of the Regulation.

36 Transaction of business outside meetings or by telephone or other means

- (1) The association may transact its business by the circulation of papers, including by electronic means, among all members of the association.
- (2) If the association transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the association made at a general meeting.
- (3) The association may transact its business at a general meeting at which 1 or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the association for the purposes of—
 - (a) the approval of a resolution under subclause (2), or
 - (b) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the association.

Note—

The Act, section 37(3) and (4) contains requirements relating to meetings held at 2 or more venues using technology.

Part 5 Administration

37 Change of name, objects or constitution

An application for registration of a change in the association's name, objects or constitution made under the Act, section 10 must be made by—

- (a) the public officer, or
- (b) a committee member.

38 Funds

- (1) Subject to a resolution passed by the association, the association's funds may be derived from the following sources only—
 - (a) the entrance fees and annual subscription fees payable by members,
 - (b) donations,
 - (c) other sources as determined by the committee.
- (2) Subject to a resolution passed by the association, the association's funds and assets must be used to pursue the association's objects in the way that the committee determines.
- (3) As soon as practicable after receiving money, the association must—
 - (a) deposit the money, without deduction, to the credit of the association's authorised deposit-taking institution account, and
 - (b) issue a receipt for the amount of money received to the person from whom the money was received.
- (4) A cheque or other negotiable instrument must be signed by 2 authorised signatories.

Note—

The Act, section 36 provides for the appointment of authorised signatories.

39 Insurance

The association may take out and maintain insurance as appropriate for the association's assets and liabilities.

40 Non-profit status

Subject to the Act and the Regulation, the association must not conduct the association's affairs in a way that provides a pecuniary gain for a member of the association.

Note—

See the Act, section 40.

41 Service of notices

- (1) For the purposes of this constitution, a notice may be given to or served on a person—
 - (a) by delivering the notice to the person personally, or
 - (b) by sending the notice by pre-paid post to the address of the person, or
 - (c) by sending the notice by electronic transmission to an address specified by the person for giving or serving the notice.
- (2) A notice is taken to have been given to or served on a person, unless the contrary is proved—
 - (a) for a notice given or served personally—on the date on which the notice is received by the person, or
 - (b) for a notice sent by pre-paid post—on the date on which the notice would have been delivered in the ordinary course of post, or
 - (c) for a notice sent by electronic transmission—
 - (i) on the date the notice was sent, or
 - (ii) if the machine from which the transmission was sent produces a report indicating the notice was sent on a later date—on the later date.

42 Custody of records and books

Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in New South Wales—

- (a) at the association's main premises, in the custody of either of the following persons, as determined by the committee—
 - (i) the public officer,
 - (ii) a member of the association, or
- (b) if the association has no premises—at the association's official address, in the custody of the public officer.

43 Inspection of records and books

- (1) The following documents must be available for inspection, free of charge, by members of the association at a reasonable time—
 - (a) this constitution,
 - (b) minutes of committee meetings and general meetings of the association,

- (c) records, books and other documents relating to the association.
- (2) A member may inspect a document referred to in subclause (1)—
 - (a) in hard copy, or
 - (b) in electronic form, if available.
- (3) A member may obtain a hard copy of a document referred to in subclause (1) on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (4) The committee may refuse to allow a member to inspect or obtain a copy of a document under this clause—
 - (a) that relates to confidential, personal, commercial, employment or legal matters, or
 - (b) if the committee considers it would be prejudicial to the interests of the association for the member to do so.

44 Financial year

The association's financial year is—

- (a) the period commencing on the date of incorporation of the association and ending on the following 30 June, and
- (b) each period of 12 months after the expiration of the previous financial year, commencing on 1 July and ending on the following 30 June.

Note—

The Regulation, section 21 contains a substitute clause 44 for certain associations incorporated under the [Associations Incorporation Act 1984](#).

45 Distribution of property on winding up

- (1) Subject to the Act and the Regulation, in a winding up of the association, the surplus property of the association must be transferred to another organisation—
 - (a) with similar objects, and
 - (b) which is not carried on for the profit or gain of the organisation's members.
- (2) In this clause—

surplus property has the same meaning as in the Act, section 65.

Schedule 4 Fees

Part 1 Fees payable

Item	Provision of Act	Type of fee	Fee (in fee units)
1	Section 6(3)(i)	Application for registration of an association—	
		(a) if the name of the association has been reserved	1.30
		(b) otherwise	1.67
2	—	Issue of a replacement certificate of registration if the Secretary is satisfied the original was lost or destroyed	0.43
3	Section 10(3)(d)	Application for registration of a change to the association's name—	
		(a) if the name of the association has been reserved	0.63
		(b) otherwise	1.00
4	Section 10(3)(d)	Application for registration of a change to the association's objects or constitution	0.50
5	Section 15(2)(c)	Application for reservation of a name	0.50
6*	Section 31(3)	Maximum fee for inspection of the book containing disclosures of interests by committee members	0.05
7	Section 37(2)(b)	Application for further time within which an annual general meeting must be held	0.32
8	Section 39(1)(c)	Application for a direction about how a special resolution may be passed	0.85
9	Section 45(2)(a)	Application for further time to lodge a Tier 1 association's financial documents	0.32
10	Section 45(2)(b)	Lodgment of a Tier 1 association's financial documents	1.90
11	—	Fee for late payment of the prescribed fee for lodgment of a Tier 1 association's financial documents—	

		(a) if the documents are lodged after the due date for lodgment, but less than 1 month after the due date	0.92
		(b) if the documents are lodged more than 1 month after the due date	1.17
12	Section 49(2)(a)	Application for further time to lodge a summary of a Tier 2 association's financial affairs for the previous financial year	0.32
13	Section 49(2)(b)	Lodgment of a summary of a Tier 2 association's financial affairs for the previous financial year	0.45
14	—	Fee for late payment of the prescribed fee for lodgment of a summary of a Tier 2 association's financial affairs for the previous financial year—	
		(a) if the summary is lodged after the due date for lodgment, but less than 1 month after the due date	0.27
		(b) if the summary is lodged more than 1 month after the due date	0.35
15	Section 52(1)(b) and (2)	Application for approval that a person not otherwise qualified may carry out an audit	1.90
16	Section 53(1)	Application for an exemption from financial reporting requirements	1.90
17	Section 78(3)(e)	Application for a transfer of registration declaration	0.85
18	Section 98(2)(a)	Fee to inspect a document lodged with the Secretary under the Act	0.27
19	Section 98(2)(b)	Issue of an uncertified copy of, or extract from, a document lodged with the Secretary, other than an association's constitution—	
		(a) if a fee has been paid to inspect the document	Nil
		(b) otherwise	0.27
20	Section 98(2)(b)	Issue of an uncertified copy of an association's constitution	0.45
21	Section 98(2)(b)	Issue of a certified copy of, or extract from, a document lodged with the Secretary, other than an association's constitution—	0.32

22	Section 98(2)(b)	Issue of a certified copy of an association's constitution	0.63
23	Section 98(2)(b)	Issue of an extract from a computerised record forming part of the Register of Incorporated Associations	0.27
24	Section 100(a), (b), (d) and (e)	Issue of a certificate specifying an association's registration status, registered name or official address or the terms of the association's constitution	0.63
25	Section 100(c)	Issue of a certificate regarding compliance with a requirement of the Act	0.85
26	Section 101(g)	Application for a direction that a document may be served on an association in another way	0.85
27	Schedule 2, clause 3(2)	Issue of a certificate stating that a body is a former body in relation to an association	0.85
28	—	Additional fee for late payment of a prescribed fee not otherwise specified	0.27

*Fee payable to association.

Part 2 Adjustment of fees for inflation

1 Definitions

In this Part—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of the index.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit for purposes of Regulation

(1) For the purposes of this Regulation, a **fee unit** is—

- (a) in the financial year 2022-23—\$111.14 and
- (b) in each subsequent financial year—the amount calculated as follows—

$$\$100 \times \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2017.

- (2) The amount of a fee unit is to be rounded to the nearest cent, and an amount of 0.5 cent is to be rounded down.
- (3) However, if the amount of a fee unit calculated for a financial year is less than the amount that applied for the previous financial year, then the amount for the previous financial year applies instead.

Editorial note—

Fee unit amount calculated under this section—

Financial year	Fee unit amount
2023-24	\$119.23

3 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit, including the amount of a component of a fee, is to be rounded to the nearest dollar, and an amount of 50 cents is to be rounded down.

4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Secretary is required to—
 - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of the amount can be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Part.
- (2) This Part operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this section.

Schedule 5 Penalty notice offences

1 Application of Schedule

- (1) For the Act, section 93—
 - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable under the penalty notice is the amount specified opposite the provision.

(2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—

- (a) the limited kind of offence, or
- (b) an offence committed in the limited circumstances.

Provision	Penalty
Offences under the Act	
Section 13(1)	\$200
Section 29(1)	\$50
Section 34(1) and (6)	\$50
Section 35(3)	\$50
Section 37(1) and (2)	\$50
Section 41(1)	\$50
Section 43(1)	\$200
Section 44	\$200
Section 45(1)	\$200
Section 47(1)	\$200
Section 48	\$200
Section 49(1)	\$200
Section 50(1)	\$200
Section 51(3)	\$200
Section 90(1)	\$50
Section 101(2)	\$50