



ASIC

Australian Securities & Investments Commission

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Registering not for profit or charitable organisations

This information sheet (INFO 81) provides general advice on the differences between a company structure and an incorporated association. Before you register your organisation, you should consider what structure best suits your organisation's purposes.

If your company, registered body or foreign company is registered as a charity with the Australian Charities and Not-for-Profits Commission (ACNC) some of your reporting obligations to ASIC will no longer apply. [See here for details.](#)

The company structure

Under a company structure, charitable or not-for-profit organisations will generally be registered as public companies that are limited by guarantee. Limited by guarantee means the liability of the company's members is limited to the amount the members undertake to contribute to the property of the company if it is wound up.

Registration of a company creates a legal entity separate from its members. The company can hold property and can sue and be sued.

Companies are registered under the *Corporations Act 2001* (Corporations Act), which is Commonwealth legislation administered by ASIC. A company's registration is recognised Australia wide.

At the very least, a public company must:

- have at least three directors and one secretary
- have at least one member
- have a registered office address and principal place of business located in Australia
- have its registered office open and accessible to the public
- be internally managed by a constitution or replaceable rules
- maintain a register of its members
- keep a record of all directors' and members; meeting minutes and resolutions
- appoint a registered company auditor within one month of its registration
- keep proper financial records
- prepare, have audited and lodge financial statements and reports after the end of every financial year (this requirement does not apply to some companies that are limited by guarantee: see Information Sheet 131 *Companies limited by guarantee— simplified obligations* ([INFO 131](#)))
- send to its members a copy of its financial statements and reports, unless the member has a standing arrangement with the company not to receive them (this requirement does not apply to some companies that are limited by guarantee: see [INFO 131](#))
- hold an annual general meeting once every calendar year within five months after the end of its financial year

- receive and review an annual company statement and pay an annual review fee (a charitable or not-for-profit company may be eligible for a reduced annual review fee if it meets the criteria under the definition of 'special purpose company' in reg 3(a), (b), (c) or (d) of the *Corporations (Review Fees) Regulations 2003*, and
- lodge notices whenever changes to its officeholders, office addresses, constitution and its name occur within specified timeframes as determined by the Corporations Act (as a general guide, see the information on running a company on our website at www.asic.gov.au/companies).

A company limited by guarantee may also be registered without the word 'Limited' in its name. This is only possible if its constitution:

- requires the company to pursue charitable purposes only and to apply its income promoting those purposes, and
- prohibits the company making distributions to its members and paying fees to its directors, and
- requires the directors to approve all other payments the company makes to directors.

Incorporated association

Associations are incorporated under state and territory associations incorporation legislation, which is not administered by ASIC, but by the various state and territory authorities. An incorporated association is also a legal entity separate from its individual members and can hold property, sue and be sued. Incorporating an association in a state or territory restricts the organisation to operating in its home jurisdiction. For example, an association incorporated under the *Associations Incorporation Act 2009* of New South Wales may only carry on business in New South Wales.

The associations incorporation legislation in each state and territory provides a simple and more affordable means of creating a separate legal entity for small, community-based groups with limited resources. This legislation impose less onerous conditions than the Corporations Act governing the activities of companies.

As legislation differs in each state or territory, it is difficult to outline detailed requirements for incorporated associations, but basically an incorporated association may need to:

- have a committee, responsible for managing the association
- have a public officer and notify any changes in that position
- have a registered office in its state of incorporation
- act in accordance with its objects and rules
- hold an annual general meeting once every calendar year
- lodge an annual statement every year
- keep proper accounting records and, in some states, prepare, have audited and lodge financial statements
- keep minutes of all committee and general meetings.
- keep registers of members and all committee members
- have a common seal.

For more information about incorporating an association and post-incorporation obligations, visit the website of the relevant state or territory authority.

State/territory	Authority	Web address
Australian Capital Territory	Office of Regulatory Services	www.ors.act.gov.au
New South Wales	Office of Fair Trading	www.fairtrading.nsw.gov.au/business/associations.html
Northern Territory	Consumer and Business Affairs	www.justice.nt.gov.au
Queensland	Office of Fair Trading	www.fairtrading.qld.gov.au

South Australia	Office of Consumer & Business Affairs	www.ocba.sa.gov.au
Tasmania	Office of Consumer Affairs & Fair Trading	www.consumer.tas.gov.au
Victoria	Consumer Affairs	www.consumer.vic.gov.au
Western Australia	Consumer and Employment Protection	www.docep.wa.gov.au

Please see the state or territory government section of your local telephone directory for the contact telephone number for the relevant state or territory authority.

Incorporated association wishing to carry on business outside its home jurisdiction

An incorporated association may become registered under the Corporations Act so it can carry on business in other states or territories outside of its home jurisdiction without needing to register as a company.

The incorporated association will become an Australian registered body and upon registration will be allocated an Australian Registered Body Number. For more details about registration and post-registration obligations, see Information Sheet 60 *Registrable Australian bodies (INFO 60)*.

For more information

For information on how to register a company or registrable Australian body, visit www.asic.gov.au/companies.

- Contact ASIC's infoline on 1300 300 630 or make an enquiry at www.asic.gov.au/question.
- Go to www.asic.gov.au/infosheets for copies of information sheets referred to in this information sheet.

This is **Information Sheet 81 (INFO 81)**, reissued in November 2011. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.