

Incorporation

Incorporation is a way of establishing or creating a legal entity under the name of an association. Incorporating separates the individual person (member) from the association and enables it to have bank accounts, purchase assets and enter into contracts whilst providing legal and financial protection for the management committee.

THE ADVANTAGES OF INCORPORATION

There are many advantages to a non-profit, community organisation of becoming incorporated.

Incorporation gives an organisation an independent existence at law. It becomes a legal, corporate entity. This means that it can open bank accounts, enter contracts, obtain insurance, lease and own property. If a group does not incorporate, an individual must act as a trustee to carry out these financial tasks on behalf of the group or organisation.

Incorporation means that office holders and members will not be held responsible for any of the organisation's debts or legal actions against the organisation when they act in good faith and with reasonable care and due diligence, provided the organisation does not make a profit from its members.

Incorporation enables the organisation's volunteers to be protected from personal liability under the *Volunteer Protection Act 2001*.

Incorporation is a requirement of most Government Departments for funding and grants.

THE RESPONSIBILITIES OF INCORPORATION

The responsibilities that are accepted by an organisation when it becomes incorporated are described under the *Associations Incorporation Act 1985* and its Regulations which are available from Service SA <http://www.service.sa.gov.au>.

It is necessary to have a set of rules (a constitution).

There is a requirement to appoint a public officer and to report on the financial position of the organisation (annual Periodic Return).

An organisation with gross receipts above \$200,000 has financial reporting obligations to its members and the Office for Consumer and Business Affairs.

Under the *Associations Incorporation Act 1985*, all officers of the organisation (Treasurer, Public Officer etc) must act with reasonable care and diligence in the execution of their duties.

There are two nominal one-off fees payable to the Office for Consumer and Business Affairs:

- > To incorporate
- > To lodge a constitution

There is also an annual fee attached to lodging a Periodic Return.

HOW TO INCORPORATE

Simply contact the Office for Consumer and Business Affairs directly by phoning 1300 138 918 or visit their website (www.ocba.sa.gov.au) where you will find a step-by-step guide to Incorporation within the 'Business Advice' section.

They are located at Chesser House, 91-97 Grenfell Street Adelaide.

