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## **A DRAFT ASSOCIATION INCORPORATION ACT**

Report No 30

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QUEENSLAND

REPORT OF THE LAW REFORM COMMISSION ON A DRAFT ASSOCIATIONS  
INCORPORATION ACT

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QLRC 30

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The Honourable W.D. Lickiss, M.L.A.,  
Minister for Justice and Attorney-General,  
BRISBANE.

Item no.8 of the Law Reform Commission's current programme requires the Commission:-

"To examine the law relating to incorporation and regulation of voluntary associations with a view to preparing a modern Associations Incorporation Act."

On the 8th December, 1978 the Commission published a working paper containing a commentary and draft bill to amend the law with regard to the above. The material in the working paper had been prepared for the Commission by Mr. R.W. Gotterson of Counsel. The Commission later issued a supplementary paper proposing amendments to the working paper. Both these papers were circulated to persons and bodies known to be interested for comment and criticism.

The Commission now submits its report concerning this matter. In compiling the draft bill included herein the Commission has had regard to legislation existing in this State and other Australian States and New Zealand, proposals for reform of the law in this area being considered elsewhere, and the submissions made by interested parties in regard to the material circulated by the Commission referred to above.

Signed: The Hon. Mr. Justice D.G. Andrews  
(Chairman)

Signed: Mr. B.H. McPherson, Q.C.  
(Member)

Signed: Mr. G.N. Williams, Q.C.  
(Member)

Signed: Dr. J.M. Morris  
(Member)

Signed: Mr. J.J. Rowell  
(Member)

Signed: Mr. J.R. Nosworthy  
(Member)

Brisbane.

# ASSOCIATIONS INCORPORATION BILL

## COMMENTARY

### General Introduction

There are in the community many unincorporated associations. They are as diverse in their size as they are in the activities which their members pursue. In general, the membership may be as large or as small as the members desire and the members may pursue any lawful activity or activities they wish. Considered together, they play a very significant part in community life.

Notwithstanding, the law with respect to unincorporated associations has developed many uncertainties both substantive and procedural. Generally they stem from the failure of the common law to reconcile with facility the corporate nature of an association with its lack of legal personality. Given the importance of unincorporated associations, it is in the community's interest that the law pertaining to them be simplified. The Attorney-General desires to introduce legislation to effect this result.

It is proposed in this commentary to discuss briefly the following background matters and then to outline the suggested legislation, a copy of which is annexed hereto:-

1. The nature of an unincorporated association;
2. Uncertainties arising from the law with respect to unincorporated associations;
3. The desirability of provision for incorporation;
4. Existing legislation.

#### 1. The nature of an unincorporated association

An association of persons for any purpose is merely a physical fact and does not depend on the law for its existence. It has no inherent legal existence apart from those persons who are its members. It is, in the eyes of the law, unincorporated. This absence of a legal existence independent of its members is the hallmark of the unincorporated association. (See Wise v. Perpetual Trustee Company Limited [1903] A.C. 139 and Williams v. Hursey (1959) 103 C.L.R. 30).

Fullagar J. in Williams v. Hursey, supra, at p.54 isolated the most fundamental difference between a corporation and an unincorporated association in this way:-

" ... a corporation has 'perpetual succession': it maintains its identity and its personality notwithstanding changes in its membership which may occur from day to day. Its property does not belong to its members. But the property of a 'society' does belong to its members from

time to time and that property may be owned by entirely different persons at (different dates)."

The judgment stresses that the unincorporated association has no existence separate from its members and that it can remain in existence only so long as there are members.

An unincorporated association, in having no corporate personality as such, owes its existence purely to the agreement of its individual members and requires no specific authorisation. In legal theory the creation of such an association depends upon that branch of the law which deals with enforceable agreements, namely, the law of contract. In the same way the constitution of the association will only be enforceable insofar as it amounts to a binding agreement between the parties. (See Dawkins v. Antrobus 17 Ch.D. 615). It is as a contract that the rules and regulations by which the association is to be governed will be binding on the members. It must, however, be remembered that it is usual in the case of unincorporated associations to vest the common property in trustees for the benefit of the members and where this is done the nature of the trust may also constitute part of the governing rules of the association. This will be so where the trust is declared to be for the maintenance of some particular purpose: in such a case, if the trust is binding it will amount to a positive obligation not to divert the property to some other purpose. The trust may thus virtually amount to a limitation on the constitution of the association itself, in as much as it will prevent the property subject to the trust being used for purposes other than those originally laid down, even where the association has validly altered its rules and thereby changes its purposes. (See Overtoun v. Free Church of Scotland [1904] A.C. 515). In other words, an association's constitution may be derived from both the terms of the contract between the members and the trust on which the property is held, and a change in the rules as laid down by the original contract may be valid according to its terms, but will not enable the trust property to be diverted to the changed purposes of the society unless the original terms of the trust itself allow for modification of this sort. (From Lloyd, Law of Unincorporated Associations, pp. 97-99).

## 2. Uncertainties arising from the law with respect to unincorporated associations

In recent years a number of decided cases have illustrated the uncertainties that confront members of unincorporated associations and those who deal with them. The uncertainties arise from the anomalies which flow from the operation of the present legal rules applicable to unincorporated associations. An appreciation of the extent of those uncertainties is readily gained by considering the following situations:-

- (a) The devise of property to unincorporated associations  
In Leahy v. Attorney-General (1959) 101 C.L.R. 611 the Privy Council concluded that a testamentary gift to an unincorporated association simpliciter is prima facie valid

as a gift to its members at the date of the gift as joint tenants or tenants in common; but that the presumption was rebutted by considering: the form of the gift; the number and distribution of the members; the subject matter of gift; and the capacity of the members to put an end to the association and distribute the assets. These circumstances might indicate that the gift was in fact intended as a trust for both present and future members in which case the gift would fail as infringing the rule against perpetuities; or they might indicate that it was not a trust for the benefit of individuals at all but stood revealed as a trust for some purpose or purposes disclosed by the terms of the bequest in which case the gift would fail unless the purpose was, in a legal sense, charitable. This decision was followed by the High Court in Bacon v. Pianta (1966) 114 C.L.R. 634, an appeal from a decision of Hart J. in the Supreme Court of Queensland. It is binding authority in Queensland.

The difficulty of the decisions for those who wish to devise property to an unincorporated association is that in the majority of instances the presumption will be rebutted and the gift fail because the testator will, in fact, have intended that the gift be used to further the objects of the association and that it benefit both present and future members. Such was the fate of the gifts in both these cases. In fact, since the decision in Lahey's Case there have been few, if any, successful defences to challenges made against bequests to unincorporated associations. (See (1966) 40 A.L.J. 283).

Some judicial attempt to ameliorate this approach has been made in Re Goodson, deceased [1971] V.R. 801; but it has served to confuse rather than clarify the law.

The position that now pertains is that a person who wishes to devise property to an unincorporated association as "an entity", to further the objects of the association, where they are not charitable in the legal sense, faces great difficulty in so doing.

(b) The ability of associations to contract and hold property

A situation commonly encountered is where a voluntary association wishes to lease premises to carry on its activities. This poses the question whether such association simpliciter can hold property under a lease. The answer, in the negative, which is suggested by principle, was affirmed in Freeman v. McManus [1948] V.R. 15, where a landlord, The Melbourne Trades Hall Council, sought to evict certain tenants from a

building. To sustain the action under the relevant legislation the landlord had to show, inter alia, that there had been a lease or a letting of premises whereby the relationship of landlord and tenant was created. The alleged lease was with the Australian Labour Party, an unincorporated association. It was further contended that the tenants were the members for the time being of a fluctuating body of persons the existence of whose rights, obligations, powers and privileges as lessees of the premises would depend on whether they were members of the party. The action failed because "such a lease or tenancy is unknown to the law". (At p. 22). A similar conclusion was reached in Francis v. McKay (1967) Qd. R. 554.

The result is inconvenient to say the least. Generally, to avoid it, certain members of the association, often called "the trustees" enter into the lease or tenancy agreement personally with the landlord. This in itself is an inconvenient solution particularly where a "trustee" ceases to be a member of the association. In the case of sporting bodies, the Sporting Bodies' Property Holding Act 1975 - 1976 attempts to obviate this difficulty by providing for a Register of Trustees; yet it underscores in its terms the complexity of the solution.

The powerless position in which a party and the members of an unincorporated association may find themselves when the party purports to enter into an agreement with the association simpliciter is illustrated in Carlton Cricket and Football Social Club v. Joseph [1970] V.R. 487 (followed in Amey v. Fifer [1971] 1 N.S.W.L.R. 685) and Banfield v. Wells-Eicke [1970] V.R. 481. In the former case the plaintiff, a company, purportedly entered into an agreement with the Fitzroy Football Club, an unincorporated association, whereby Fitzroy agreed to play a certain number of its home football games at the Carlton ground for a period of 21 years. The agreement was executed by the duly appointed officers of Carlton and the President and Secretary of Fitzroy. It came to the notice of Carlton that officers of Fitzroy, not being those who had signed the agreement, intended to break it by entering an agreement with another cricket club and it sought interlocutory injunctions against Fitzroy. The plaintiff failed, inter alia, because even assuming that the word "Club" referred to all the members of the club from time to time, to find the contract existed at the time of the action required resort to "the fantastic notion" that each time a person ceased to be a member of Fitzroy "there is a novation of the contract ... and each time a new member is elected there is also a novation ...". (See p. 498). In the latter case the facts were similar though both parties to the



purported contract were unincorporated associations. The Plaintiff failed in an application for an interlocutory injunction on the basis that if the agreement for use of a football ground was made with the then members of a club, it could not be enforced later by a different group of members. The purported agreements in both cases were of a type that is of considerable commercial value and the result is cause for alarm because there probably are in existence numerous similar agreements which are completely unenforceable.

- (c) The liability of committee members of associations  
The common fund of an association is generally regarded as the limit of the liability of its members. It is clear from Wise v. Perpetual Trustee Company, supra, that no member is liable to an amount greater than his agreed subscription unless there is a contrary intention clearly expressed. An anomalous situation that is evident from certain reported cases arises where committeemen have been held liable to damages in tort and contract, notwithstanding that the liability goes beyond their own agreed subscription as members, the committeemen are held liable as principals. The cases are the product of a desire to find for a plaintiff by the pragmatic route of selecting some person or persons to shoulder responsibility.

In Bradley Egg Farm v. Clifford [1943] 2 All E.R. 378 the committee members of a poultry society were held liable, inter alia, in contract for damages. These damages flowed from the loss of fowls belonging to the plaintiffs who had on the invitation of the society allowed their birds to be tested for certain diseases. In addition a servant of the society was found to be negligent and the committee members were held to be vicariously liable. The committee members defended, denying that they were personally liable as the contracts were entered into on behalf of the society as a whole and the negligence of the servant was at the risk of the society as a whole. In each instance the committee members were held personally liable, the Court of Appeal holding that the fact that the members of the society by its constitution entrusted its affairs and management to a committee did not thereby give the committee authority to make contracts binding on them. Scott L.J. said at p. 386:-

" ... (the intention) on the plaintiff's part (was) to make the contract with the person or persons responsible. That cannot be the society for it does not exist ... the businessmen who accept the office of being on the executive council, seem to me to be the persons whom the law must regard as pledging their own credit in order to perform the duties which they voluntarily undertake for their so-called society ... "

The decision was followed in Smith v. Yarnold

(1969) 90 W.N. (Pt. 1) (N.S.W.) 316 where a committee of management in whom the management of a motor racing club was vested and who, as "trustees", had taken lease of land at which club race meetings were conducted were held liable in contract and in tort (as occupiers) to pay damages to a plaintiff, a paying spectator, who was injured when a grandstand on the land collapsed. An argument that the committee were acting on behalf of the members was rejected for the same reason that it was rejected in Bradley Egg Farm v. Clifford, *supra*. See also Peckham v. Moore [1975] 1 N.S.W.L.R. 353.

Certain practical difficulties are revealed in these cases. Firstly, it seems that before any credit of the members of an association may be pledged (and this may extend even to the common fund), authority must be given by the members of the association. The problem is that it may well be impossible to further the objects of the association unless a committee is empowered, at the minimum, to undertake the objects of the association. Secondly, it follows as a corollary that, independent of special agreement, committee members who find themselves in such a situation are not entitled to indemnity from the members.

(d) The rights of members of associations to maintain legal actions against fellow members and/or committeemen

The legal requirements necessary to give a member of an association standing to sustain an action against its committee is a matter which has troubled the courts over a number of years. Different views have been expressed leading to differing conclusions.

In Cameron v. Hogan (1934) 51 C.L.R. 358 the plaintiff who had not been endorsed for his State parliamentary seat by the executive branch of the Australian Labour Party sought, *inter alia*, an injunction or declaration against the executive. Any relief was denied to him on the ground that he lacked "some civil right of a proprietary nature proper" which, it was said, was the basis of the jurisdiction to grant an injunction. It was said that he lacked this right because of the nature of the association - one which had the general characteristics of a "voluntary association(s) ... without property and without giving to (its) member(s) any civil right of a proprietary nature" (at p.370). The Court classified social, sporting, political, scientific, religious, artistic and humanitarian associations as coming within this category. (at p.371). It differentiated associations which operate for private gain and material advantage.

The decision has not been overruled by the Court but has been so apparently ignored in that Court and other Courts that the true position is

uncertain. In Stevens v. Keogh (1946) 72 C.L.R. 1 a plaintiff successfully claimed that the committee of a police officers' association of which he was a member had acted ultra vires in supporting a libel suit by one of its members, notwithstanding that the association rules did not confer upon the member a right to share in the property of the association either during its existence or upon winding up. Latham C.J. distinguished Cameron v. Hogan, supra, by isolating an action to restrain misapplication of funds as a proper case for a remedy to be granted to a member. Starke, Dixon and McTiernan JJ. did not mention the case. In Harrison v. Hearne (1972) 1 N.S.W.L.R. 428 a student member of a university council, an unincorporated association, sought to restrain alleged ultra vires actions by the Executive. It was argued that the plaintiff had no standing because he had no proprietary rights in the funds or property of the students' council and that there was no contractual relationship between the body of members or any member and the student council. Helsham J. refrained from dealing with Cameron v. Hogan, supra, which was cited in argument but applied the words of Fletcher Moulton L.J. in Osborne v. Amalgamated Society of Railway Servants [1911] 1 Ch. 540 at p.562:

"There are many rights which in such a sense could not be called rights of property, which, nevertheless, the law will protect, as, for instance, if there was an association of men subscribing for a benevolent purpose, say for the endowment of a scientific institution, the whole funds of the association being dedicated to that charitable purpose on the terms that the administration should be under the control of the association, I can see no reason why membership of such an association should not have the same legal protection as would be given in the case of an association where the "members had a beneficial interest in the funds."

A similar approach was taken in Re Sick and Funeral Society of St. John's Sunday School, Golcar [1972] 2 W.L.R. 962.

The classification of associations based on the existence of a proprietary right made in Cameron v. Hogan, supra, has not been adopted generally but rather has been avoided. It is a testament to the difficulties Courts have in dealing with the constitution of unincorporated associations. That it has not been laid to rest leaves uncertainty for those who are members of such associations.

A further example worth noting is the decision in Heale v. Phillips (1959) Qd. R. 489. In that case the plaintiffs' income earning capacity was severely limited by the decision of this Canine Control Council (Queensland), but the court held that it had no jurisdiction to adjudicate upon the validity of the decision, even on the ground that it breached the rules of natural justice.

Another kind of difficulty that confronts the member of an unincorporated association who wishes to proceed against other members is demonstrated in Serbian Orthodox Ecclesiastic School Community "Saint Nikolas" Queensland v. Vlislavljevic [1970] Qd. R. 386. In that case certain members of an association purported to adopt a new constitution and to exclude some of the other members from use of a church built on land of which the president of the association was registered proprietor in his capacity as a corporation created by letters patent. One of the members so excluded, obtained an ex parte order that the defendants as President and Secretary of the Free Serbians, as the breakaway group were known, represent themselves and other members of the Free Serbians Group in proceedings intended to be brought against them. In an action for recovery of possession of the land brought in the name of the corporation, the defendants applied to have the representation order discharged and for an order staying proceedings in the corporate name. In discharging the representation order W.B. Campbell J. held that the mere fact of being a Free Serbian did not mean that that member could properly be sued in an action to recover possession of land because there might be many who had not used the land for some time and might never wish to use it. It seems that the only correct way that the plaintiff might have proceeded was to sue individually those persons who were refusing to deliver up possession of the land. Obviously this will be cumbersome where there are numerous defendants on whom originating process and orders must be served.

Yet another difficulty is that faced by a member of an unincorporated association who is injured on association premises and seeks to recover damages from other members for breach of duty as an occupier. There are a number of cases including Prole v. Allen [1950] 1 All E.R. 476 and Healey v. Ballarat East Bowling Club [1961] V.R. 206 which are authority for the proposition that a member will not succeed on the ground that as a member it is most improbable that he could be either an invitee or a licensee of the president, secretary, committee or members of the association. It is submitted that were the occupier a corporation and the member on the premises on corporation business or at the licence of the corporation, this difficulty would not arise.

The uncertainties to which reference has been made are by no means exhaustive. They are some that have been highlighted in recent decisions. Taken together, they illustrate the

difficulties that daunt at almost every turn those who venture to advise on the law relating to unincorporated associations. An interesting discussion of this topic is contained in The Dilemma of the Unincorporated Association - (1973) A.L.J. 305.

3. The desirability of provision for incorporation

It has been observed that generally these uncertainties stem from the failure of the law as developed by Courts to reconcile with facility the corporate nature of an association with its lack of legal personality.

It is submitted that the adoption of legislation of a general character which will in effect make it possible for various unincorporated associations to gain recognition as legal entities by some process of registration or formalisation allowing such bodies to obtain legal status, will remove in a satisfactory way these uncertainties for those associations which do obtain legal status.

The essential purpose of the draft bill appended hereto is to provide a simple system of registration allowing unincorporated associations to incorporate. In substance the system is not a reform of the law relating to unincorporated associations but the provision of machinery to allow such associations to avoid that law. The existing law relating to unincorporated associations will generally continue to apply to those associations which do not incorporate. However an important change is proposed in relation to dispositions of property in favour of an unincorporated association. Thus to be effective, the system requires public acceptance and general adoption of its facilities.

It should be noted that the proposed system deliberately leaves to the members of the unincorporated association the choice whether they will take the steps to incorporate. What this system does not do is confer automatic incorporation on all unincorporated associations upon formation of the association. Since an unincorporated association is, after all, no more than a physical fact of the association of persons each of legal status, the effect of such an approach might well have the result that the formation of a cricket team or a car club or a choir, any one of which might have the most transient existence, would cast upon the members an obligation to file returns and otherwise to subject themselves to the provisions of the legislation. One can foresee that there would be many corporations that would come into existence but of which no formal record could ever be kept because the members, through unawareness of the fact of incorporation or otherwise, would fail to file returns; and there would be many corporations that existed as a matter of law long after the association itself, as a physical fact, had ceased to exist. Other arguments against a compulsory provision are:-

- (i) there should not be any undue restriction on the freedom to associate;

- (ii) there is no demonstrated need for a requirement of compulsion in this area;
- (iii) once such a requirement was included in the legislation it would make the problems of administration enormous and costly.

Seen in this light, that kind of approach is quite impractical and it is for this reason chiefly that it has been rejected in favour of the approach contained in the draft bill.

#### 4. Existing legislation

Legislation of a general character allowing various unincorporated associations to obtain legal status has been in force for some time in New Zealand, and certain Australian States (Tas.: Associations Incorporation Act 1964 (as amended); S.A.: Associations Incorporation Act, 1956 (as amended); W.A.: Associations Incorporation Act, 1895 (as amended); A.C.T.: Associations Incorporation Ordinance 1953 (as amended); N.T.: Associations Incorporation Ordinance 1968 (as amended); N.Z.: Incorporated Societies Act 1908 - 1976). While the various legislative measures have many similar features, they are far from uniform in text. There is no similar legislation in the other three States, but Law Reform agencies in New South Wales and Victoria are considering the introduction of similar type legislation.

The absence of such legislation in Queensland has not meant that it has been impossible for the members of such associations to form a corporation to pursue its objects. They may now do so by virtue of the Companies Act 1961 - 1978 or, if the nature and constitution of the association are appropriate, by virtue of the Religious, Educational and Charitable Institutions Acts 1861 - 1967, they may seek the incorporation of "any person or persons and their successors forever holding any religious or secular office or preferment ...". There are also other statutes dealing with specific organizations.

If members of associations had to resort to the Companies Act to incorporate, it would inevitably add considerably to their expenses. It would also impose on them and their officers heavier duties and responsibilities than seem required having regard to the activities of most of them. Indeed, it is one of the objects of the proposed legislation to provide a system of registration and regulation which is less complex and onerous than the Companies Act.

#### Basic Approach to Proposed Legislation

If the Religious Educational and Charitable Institutions Acts (hereinafter referred to as R.E.C. Act) are to be repealed, all major religious bodies, not specifically incorporated by Statute, which desire corporate status, would either have to

incorporate under The Companies Act or under the proposed legislation. The Commission has concluded that the R.E.C. Act has worked well, and it fulfills a need which can be distinguished from that requiring the introduction of the proposed legislation. In consequence the Commission recommends that the R.E.C. Act should not be repealed, but should operate conjointly with the proposed legislation. There are obvious advantages in having major religious and charitable organisations incorporated by Letters Patent; they do have a status above that of the associations presently denied corporate standing. Further, there appears to be no necessity to compel the bodies presently enjoying a corporate status pursuant to Letters Patent issued pursuant to the R.E.C. Act to be dissolved (if only notionally) and then deemed to be incorporated under the new statute. Many such bodies would object, probably justifiably, to the inclusion of the term "Inc." at the end of their name. Once the proposed legislation became law without the repeal of the R.E.C. Act the Governor-in-Council would exercise a narrower discretion in determining what bodies should be granted corporate status by Letters Patent.

There may well be instances where an organisation having corporate status under the R.E.C. Act desired to relinquish the Letters Patent and seek incorporation under the new legislation. Further, as a matter of policy, it may be considered that some organisations enjoying corporate status pursuant to the R.E.C. Act should be subjected to the regulatory provisions in the proposed legislation. The proposed legislation has been so drafted that in appropriate cases the Letters Patent could be withdrawn so that the association could obtain corporate status under the new legislation.

Some associations these days are, in effect trading organisations, and trade with a view to obtaining profit or assets for distribution amongst the members. It is considered that such associations ought not to be entitled to corporate status pursuant to the legislation. If such a body wished to obtain corporate status then it should do so pursuant to the provisions of The Companies Act, and become subject to the more onerous obligations flowing from incorporation under that statute. Indeed, there are grounds for suggesting that such trading associations should be compelled to incorporate under The Companies Act.

Such considerations have led the Commission to exclude from the proposed legislation associations "formed or carried on for the purpose of trading or securing pecuniary benefits to its members".

The final matter which was of major concern to the Commission was the question of how the proposed legislation should be administered. The Commission circulated a series of Working Papers, and the Department of Justice submitted commentaries thereon. The Department has maintained that the proposed legislation should be administered by the Minister or the Under Secretary and not the Commissioner for Corporate Affairs. This matter has been of some concern to the Commission, but the Commission is strongly of the view that the proposed legislation would be best administered by the Commissioner. Whilst incorporation under the proposed legislation will facilitate the administration of the Collections Act 1966 - 1977 and the Art Unions and Amusements Act 1976, the proposed legislation is far more far reaching, and its implementation should not be governed

by considerations limited to the easier administration of those Acts.

The office of the Commissioner for Corporate Affairs is clearly fitted to deal with the procedural matters pertaining to the incorporation of associations. The regulatory provisions of the proposed legislation will also be more easily implemented by the Commissioner and his staff. The Commission considers that there is likely to be a fairly heavy volume of work associated with the administration of the legislation once it has become more generally accepted in the community. Indeed the Commission considers that the legislation is likely to receive wider community acceptance if the administration is along similar lines to that which applies to companies.

Simplicity must be the keynote of legislation providing for the incorporation of associations. If the consequences of incorporation are too complicated or onerous it is more likely than not that the decision will be taken not to seek incorporation. The legislation should be designed to foster, rather than hinder, incorporation.

The Commission considered the desirability of making more general amendments to the law relating to unincorporated associations. It can be readily argued that there is need for reform generally in that area. But no such far reaching legislation has yet been introduced in any of the Australian States. The Commission considers that eligible associations should be encouraged to incorporate under the proposed legislation, and the taking of that step carries with it the obligation of complying with the regulatory provisions in the legislation. The Commission considers it desirable that associations should comply with those regulatory provisions, and in consequence (at least at this stage) associations should be encouraged to accept those obligations in return for the benefits of incorporation. Offering the benefits without the obligations could produce an undesirable result.

This aspect should be reviewed from time to time. Once the proposed legislation has been in effect for some years, it will be possible to identify the remaining problem areas, and to deal with them by, if necessary, amending the general law relating to unincorporated associations.

## PART I - PRELIMINARY

1. Short Title. This follows the title given to corresponding statutes in other States.

2. Commencement of Act. It may be desirable to allow a short period after passage of the Bill through Parliament for the community to familiarize itself with the requirements of the legislation before it is proclaimed.



3. Arrangement. This is purely formal.

4. Meaning of terms. "Association" is given a wide meaning consistent with present community usage, but certain limitations are imposed. Associations which provide for members to have a proprietary interest in its property are excluded by the definition. As will be seen later not all associations within the definition may seek incorporation.

Other definitions do not require further commentary. In general the meanings follow, where appropriate, those found in the Companies Act.

## PART II - INCORPORATION OF ASSOCIATIONS

5. Incorporation. Comparable legislation in other States requires either a membership of 10 or 15 persons before an association may apply for incorporation. Submissions to the Commission after circulation of the working papers indicated some difference of opinion as to the minimum number of members required as a prerequisite for incorporation. It is considered that a number below 15 is too small, because of the real possibility of the group only having a transient existence.

6. Exclusion from incorporation. Organisations having corporate or quasi-corporate status under other legislation ought not to be incorporated under this legislation. They can be regulated and controlled by the statute pursuant to which they have acquired that status. It is considered that associations primarily designed to provide "pecuniary gain" to members should be incorporated under the Companies Act (being regulated as any other incorporated commercial enterprise), and not entitled to the benefits of incorporation under this legislation with less stringent regulation. It is considered that an association coming within sub-clause (f) should be subject to more specific legislation.

7. Pecuniary Gain. This definition is largely based on that to be found in the New Zealand legislation. It has been modified to the extent that it gives greater recognition to the fact that most associations in our present society trade to some extent. For example, a sporting club holding a liquor licence, could still obtain incorporation under this legislation.

8. Resolution to incorporate. Again the procedure followed in other States has been largely followed. It appears to work well elsewhere.

9. Application for incorporation. This also follows the procedure to be found in the legislation in other States. South

Australia originally had a general requirement for advertising the application, but that was deleted after experience showed that advertising brought no response by way of objection to the application.

10. Determination by Commissioner. The decision in the first instance is that of the Commissioner. If he rejected an application there would be a right of appeal to the Supreme Court under the general appeal provision. The Commissioner is given wide powers to make enquiries or require advertisements if in his opinion the circumstances of the application so require.

11. Certificate of incorporation. This is self explanatory.

12. Incorporation of association. This provision has the effect of conferring on the incorporated association the normal attributes of a body incorporate. In consequence the disadvantages of being unincorporated discussed generally in this commentary are overcome.

13. Name of association. It is important that persons dealing with an incorporated association should be aware of that fact. This will be achieved by the use of the word "Incorporated" or the abbreviation "Inc." in the name. As under the Companies Act the Minister may dispense with such requirement. Further, the provision relating to the use of an "undesirable name" (including the definition thereof in clause 4) closely follows the Companies Act provision.

14. Change of name. This provision also is modelled upon that to be found in the Companies Act. Change of name does not affect legal liability in any way.

15. Name of incorporated association to appear on documents. This follows on clause 13 and is designed to ensure that persons dealing with an incorporated association are aware of that fact.

16. Incorporation of Branches. Many organisations which would be interested in seeking corporate status under this legislation have branches throughout the State. Many have regional "committees" which are reasonable for administration on a regional basis. Because of the importance of such regional bodies, and because of the degree of autonomy many of them enjoy, the benefits of incorporation should be available to such bodies. A similar argument applies to branches, particularly in country areas. This clause enables branches or groups of branches (that is, for example, a regional committee) to incorporate, provided that the parent body is incorporated under this legislation. But before a branch or group of branches can incorporate the members of the branch or group of branches will have to consent to that course. This provision is somewhat novel and is introduced to meet the peculiar needs of Queensland. The operation of the provision should be kept under review.

17. Amalgamation of Incorporated Associations. Provision has to be made to facilitate the amalgamation of incorporated associations without affecting the liability of the associations to third parties and/or the rights of members. This provision, again largely based on experience under the Companies Act, should enable amalgamations to take place where necessary without adversely affecting existing rights. The sanction of the Supreme Court will be necessary where it is considered that a creditor's rights may be jeopardized.

### PART III - EFFECTS OF INCORPORATION

18. Vesting of property in incorporated associations. This clause overcomes one of the basic problems discussed above when dealing generally with the need for incorporation. Trustees are no longer required; the incorporated association in its own right and in its own name may own or lease real or personal property. Much of the clause is dealing with machinery questions. Trusts are not affected and would still be enforceable. The Department of Justice and the Solicitor-General in submissions to the Commission agreed that vesting should be free of stamp duty.

19. Powers of incorporated associations. It is necessary to include a provision such as this to ensure that there is no possibility of dispute as to the basic powers of an incorporated association. If it were not included members and persons dealing with the association could seek to set aside decisions or contracts made in good faith.

20. Ultra vires transactions. A corporation created pursuant to statute is subject to the ultra vires rule: see Bonanza Creek G.M. Co. v. R. [1916] 1 A.C. 566. The confusion and hardship which this rule causes for those who deal with statutory corporations has been abolished in the case of companies incorporated pursuant to the Companies Act. (S.20) Since an association incorporated pursuant to the proposed legislation would otherwise be subject to the same rule, a provision similar to s.20 is obviously desirable and has been included.

21. Liability of Members. It is a common feature of similar legislation in other States that a member of an incorporated association is not liable to contribute in its winding up except as provided in its rules. (For example, see Tas., s.27; S.A., s.29) This is a reflection of a well established principle of company law. Given that the rules of an incorporated association will almost invariably provide for the payment of the subscription, is a relection also of the peculiar rules of the common law established in respect of clubs that the members are liable for club debts and liabilities only to the extent of their subscription.

22. Contracts. This provision does not alter the general law and is included to clarify the position in relation to contracts. It will make it easier for a party entering into a contract with an incorporated association to enforce the latter's contractual obligations.

#### PART IV - RULES

23. Registration of Rules. This provision will ensure that the rules of an incorporated association are available for search by members of the public. The rules are the equivalent of the Articles of Association of a company.

24. Model Rules. This makes the Second Schedule the equivalent of Table A in the Companies Act. The Model Rules may simply be adopted, and are deemed to be adopted if for any reason there appears to be no other rules in force and no formal adoption of the Model Rules.

25. Alteration of Rules. This provides for alteration of the rules by the passing of a special resolution, and requires notice of the alteration to be lodged with the Commissioner.

26. Affect of alteration of Rules. Theoretically an alteration of the rules could adversely affect a member's right, even by affecting his means of livelihood. A member adversely affected may seek a winding up order which could be granted by the Court if it considered that such a course was warranted. Otherwise an alteration to the rules will not affect rights and obligations between the association and non-members, but will affect rights and obligations between members and between the association and its members.

27. Special resolutions. This corresponds with the definition of that term in similar legislation.

28. Annual and special meeting. This is purely machinery

29. Management Committee. This is a crucial but somewhat novel provision. The questions as to where power to manage the association resides and who may bind the association have to be answered.

The general principle is that a corporation aggregate can only act by the authority of all of its members at the fully convened general meeting. The rules of the association may, however, invest a committee of members with some of these powers generally; alternatively, the members in general meeting may invest one or some of their number with some of these powers for

a specific purpose. In any event, if, before a transaction can be safely entered into with an incorporated association, the rules of the association have to be examined in detail and compliance with those rules reviewed, the resulting inconvenience both to members of the association and those who propose to deal with it demand some legislative provision to clarify the position. This clause provides for legislative recognition of a Management Committee which is akin to the Board of Directors of a company. The clause has two significant features which are not found in the Companies Act or in the similar legislation of other jurisdictions. They are adopted from the Co-operative and Other Societies Act 1967 as amended Part VI. Both features are introduced to avoid the inconvenience to which reference has been made. Firstly, it makes it mandatory for the Management Committee to control the business and operation of the incorporate association and invests it with power to do so. Secondly, it deems every member of the Management Committee acting in the business or operations of the association, to be the agent of the association for all purposes within the objects of the association. Objection may be taken that the clause is too broad in that it "compulsorily" removes authority from the members in general meeting and places it in the hands of a powerful committee and "compulsorily" deems committee members to have a general power to bind the association. The objection is more theoretical than real because it is a very common feature of the rules of associations that the power to manage its business and operations is vested in a committee and in that instance a committee member arguably has apparent authority to bind the then members of the association in matters relating to the business and operations of the association.

30. Election of Management Committee.
31. Meetings of Management Committee.
32. Tenure of Members of Management Committee.
33. Notification of Change of Members of Management Committee. Each of these provisions is machinery. To an extent the clauses adopt the provisions in the Companies Act relating to directors. The Commissioner will always have a record of the members of the Management Committee, and the public or members could search these records.
34. Public Officer. This clause makes provision for a particular officer of the association to be primarily responsible for seeing that the association complies with the provisions of the legislation. He is also the officer who can be called upon by the Commissioner to give further information etc. as may be required.
35. Notification of appointment and change of address of public officer. This is purely mechanical and is designed to ensure that the Public Officers can always be readily located.

36. Audit and statement. As the earlier clauses require prompt lodging with the Commissioner of particulars relating to rules, Public Officer and membership of Management Committee, the requirement of an Annual Return as such can be dispensed with. This clause requires the association's financial affairs to be audited annually and that a statement as to income and expenditure, assets and liabilities, securities over assets, and other association information be prepared annually and lodged with the Commissioner. This material could then be searched by members or by the public. The other matters in the clause are designed to give effect to that fundamental obligation and follows the provisions in the Companies Act.

#### PART V - RIGHTS AND OBLIGATIONS OF MEMBERS

37. Rights of Members. To overcome the difficulties referred to in the general discussion relating to the enforceability of membership rights, paragraph 1 of this clause provides that the rules of an incorporated association shall constitute the terms of a contract between the members from time to time and the incorporated association. Where those rules confer a right on a member of the association, the Supreme Court may be called upon to adjudicate upon the validity of a decision taken by the incorporated association depriving such member of such rights. In particular, where a member's means of livelihood are dependent upon his membership of the association, he could not be expelled without having the right, in appropriate circumstances, of appealing to the Supreme Court. Subparagraph 3 of this clause incorporates the general rules of natural justice into decision making procedures of incorporated associations.

38. Enforcement of rights and obligations. This provision is designed to give practical effect to the principles stated in the preceding clause. Subparagraph 2 does significantly alter the existing law relating to unincorporated associations; the existence of a proprietary right will no longer be a condition precedent to the exercise of the court jurisdiction.

39. Powers of Court. Generally, on an application brought under clause 38 the Supreme Court may exercise all of its powers, and grant such relief as it considers appropriate in the circumstances. In particular the court will have power to grant equitable relief in the form of injunctions. Because the District Court has no power to grant injunctive relief it is thought that it would be rather futile providing for that court to have jurisdiction in relation to actions brought pursuant to this Part. It therefore becomes necessary to ensure that only matters of substance are brought before the Supreme Court. With a view to preventing a disgruntled member from commencing proceedings with a view to embarrassing the association, paragraph 2 has been designed to give the court a specific power to summarily dismiss the application. Further, the court is given wide powers to make orders for costs, even against the successful party, if in all the circumstances it is considered that the action was unnecessarily brought. Such provisions should have the desired

effect of ensuring that only matters of substance are litigated. Many actions under clause 38 could be brought before the court by way of notice of motion for an injunction. This would, in general, provide a fairly cheap and ready method of resolving most of such disputes. When the Rules of the Supreme Court are being amended consideration could be given to specifically providing for applications under s.38 to be disposed of summarily in many instances.

## PART VI - WINDING UP

40. Voluntary winding up. As with companies it is considered desirable to provide for the voluntary winding up of an incorporate association. As time goes by undoubtedly many incorporated associations will become, for example, redundant, or their continued existence will be no longer justifiable. In those circumstances it is desirable that the incorporated association formally be dissolved so that the appropriate records can be concluded. A special resolution passed at a general meeting specially called for that purpose is all that is required to put in train the procedure for voluntary winding up. The provisions of the Companies Act relating to the voluntary winding up of companies will apply, with any necessary modifications, to such a winding up.

41. Winding up by the Court. This follows similar provisions in legislation on this topic in other States, and closely follows the provisions for the winding up of a company. The "just and equitable" ground will enable the court to exercise its discretion where there appears some good reason for the winding up of the incorporated association.

Sub-clause (2) is based on the Companies Act which empowers the Minister and not the Commissioner to present such a petition. This is somewhat anomolous and consideration should be given to empowering the Commissioner under each Act to present the petition.

42. Meaning of terms in winding up. This is merely a machinery provision facilitating the application of the Companies Act to a winding up of an incorporated association.

43. Distribution of surplus assets. Any surplus assets on a winding up of a company are distributed to such of the shareholders as are entitled to participate in such distribution. Because the members of an incorporated association have no right to share in a surplus, it is necessary that some appropriate provision be made for distribution of surplus assets. The proposal here largely follows that to be found in the legislation in Tasmania and New Zealand. The provision contemplates first that the members of the association will resolve in accordance with its rules how the surplus is to be distributed. If no resolution is made, the Governor in Council is empowered to vest the surplus assets in the Public Trustee of Queensland to be dealt with under the provisions of s.35 of the Collections Act 1966 - 1977.

44. Cancellation of Incorporation. The Commissioner for Corporate Affairs is empowered to strike a defunct company off the Register pursuant to the provisions of the Companies Act. Following that provision, and also provisions found in similar legislation in Tasmania and South Australia, it is proposed that the Commissioner may cancel the incorporation of an incorporated association in certain specified circumstances. Clearly if the association has ceased to exist in fact, the Commissioner should be able to expunge it from the Register. The clause requires the giving of notice, to ensure that no injustice is done to an incorporated association.

45. Vesting of Property on Cancellation. This provides for all the assets of an association whose incorporation is cancelled to be disposed of as if they were surplus assets on a winding up.

#### PART VII - MISCELLANEOUS

46. Appointment of Inspector. This is an innovation, but one which is considered desirable in view of the obligations imposed upon incorporated associations. The Commissioner himself would not be able to follow up matters requiring detailed investigation, and it could well be that "white collar crime" could extend to the activities of incorporated associations. The provisions of the Companies Act are adopted, and these give very wide powers to the investigating inspector.

47. Limitation of Actions. This provision is included to ensure that no liability will attach to the Crown or the Minister in respect of acts done under this Act.

48. Extension of Time. This gives the Commissioner power to extend time for doing an act if, in his opinion, there are special circumstances justifying such an extension. It is a useful provision found in many comparable statutes.

49. Appeal from Commissioner. This is modelled on s.12(6) of the Companies Act. It gives a wide right of appeal from a decision of the Commissioner, but should be included to ensure judicial supervision of such decisions.

50. Proceedings for Offences. This provides generally for the taking of proceedings in respect of offences against the Act. A general penalty of \$100 is provided. Generally, prosecutions will be under the Justices Act.

51. Service. This will facilitate service of documents, court or otherwise, by enabling service to be effected on the Public Officer at his registered address.



52. Fees. Provision is made for fees to be recovered by the Commissioner as provided for in the Third Schedule. The Schedule may be amended from time to time by Order-in-Council.

53. Evidentiary Provisions. This is a machinery provision making a certificate under the hand of the Commissioner admissible in various legal proceedings.

54. Dispositions of Property. This is one of the most important clauses in the legislation. It reverses the rule referred to above in the general commentary as applied in Leahy v. Attorney-General (1959) 101 C.L.R. 611 and Bacon v. Pianta (1966) 114 C.L.R. 634. The proposed clause will apply to any disposition of property to an association, whether incorporated or not. It is designed to give effect to the intent of the disponent (usually a testator) in that such person generally intends that his gift shall be used by the association in carrying out its functions and activities. The provision provides that such a disposition shall be construed as a disposition in augmentation of the general funds of the association. Such a provision makes the question whether the purposes of the association are charitable or not, irrelevant. Subparagraph 2 is a transitional provision, and is designed to meet what is in general the intention of the disponent.

This clause is complementary to (but somewhat wider than) the provision found in clause 63 of the Commission's draft Succession Bill contained in Report No. 22.

55. Delegation of Powers. Again this is a purely machinery provision, designed to facilitate the administration of the legislation in the office of the Commissioner.

56. Amendment etc. of Schedules. Each of the three Schedules to the Act may be amended by Order-in-Council.

57. Recall of Letters Patent. As indicated in the general commentary it is proposed that The Religious Educational and Charitable Institutions Act 1861 - 1967 remain in force. It is proposed that bodies incorporated under that statute should remain as bodies incorporated pursuant to Letters Patent. However, if for some good reason (for example, the nature of the activities carried on by the body) the Minister considered that such body should be subjected to the obligations imposed by this statute upon incorporated associations, the Minister could recall the Letters Patent as a prelude to incorporation of the organisation under this legislation. As the granting of Letters Patent under the earlier statute is a function of the Crown, it is the Minister and not the Commissioner who should have the power of recall.

58. Regulations. This confers upon the Governor-in-Council a wide power to make regulations under the Act.

59. Publication of Orders in Council. This is a machinery provision, and is to be found in comparable statutes.

60. Irregularities in Proceedings. This clause is largely based on s.366 of the Companies Act. It is felt that a provision along these lines should be included because from time to time it will be found that incorporated associations do not comply strictly with the requirement of the legislation or of the rules governing their activities. Frequently it would be unjust to treat as invalid an act or proceeding merely because of some minor irregularity. This clause will give the court a wide jurisdiction to validate steps taken by an incorporated association even though there be some minor irregularity associated therewith, or some failure to comply with a time requirement or other provision in the applicable statute of rules.

An Act to provide for the incorporation of certain associations, for the regulation of the affairs of incorporated associations, and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:-

PART I - PRELIMINARY

1. Short title. This Act may be cited as the Associations Incorporation Act 1979.

2. Commencement of Act. This Act shall commence on a day to be fixed by Proclamation.

3. Arrangement. This Act is arranged as follows:-

- PART I - Preliminary (ss. 1-4)
- PART II - Incorporation of Associations (ss. 5-17)
- PART III - Effects of Incorporation (ss. 18-22)
- PART IV - Rules (ss. 23-36)
- PART V - Rights and obligations of members (ss. 37-39)
- PART VI - Winding up (ss. 40-45)
- PART VII - Miscellaneous (ss. 46-60)

4. Meaning of terms. (i) In this Act, unless a contrary intention appears -

"Association" means an association of members established for the pursuit of certain objects, on the basis that

- (i) the pursuit of those objects,
- (ii) the application of any common property to those objects, and
- (iii) the rights and obligations of the members for the time being,

will continue in accordance with the rules of the association (whether written or not), notwithstanding changes in the membership of the association, but does not include a partnership within the meaning

of the Partnership Act 1891 - 1965, or any association the dominant purpose of which is the holding of property -

- (iv) in which the members have a disposable interest, whether directly, or in the form of shares in the capital of the association or otherwise;
- (v) of which members are entitled to require a division; or
- (vi) with a view to the distribution of the property, or of income derived from the property or the use of the property amongst members or persons claiming through or nominated by members."

"Commissioner" means the Commissioner for Corporate Affairs and includes any Deputy or Assistant Commissioner for Corporate Affairs;

"committee", in relation to an association which is not an incorporated association, means the committee of the association or, if there is no committee thereof, the persons, however, styled, having the management of the affairs of the association: A committee shall consist of not less than three persons;

"court" means the Supreme Court or a Judge thereof;

"incorporated association" means an association incorporated under this Act;

"Minister" means the Minister for Justice and Attorney-General or other Minister of the Crown for the time being charged with the administration of this Act: The term includes a Minister of the Crown temporarily performing the duties of a Minister;

"public officer", in relation to an incorporated association means the public officer of that association appointed in pursuance of Section 34;

"special resolution" means a special resolution within the meaning of Section 27;

"undesirable name" in relation to an association, means a name that -

- (a) is the same as a name by which another association is incorporated or deemed to be incorporated under this Act or a name that is registered or incorporated or by which any body or association of persons is registered or incorporated under any other Act or law of the State, or is so similar thereto, as, in the opinion of the

Commissioner, to be mistaken therefor or confused therewith;

- (b) in the opinion of the Commissioner is undesirable or is a name, or a name of a kind, that pursuant to Section 22 of the Companies Act 1961 - 1978 or Section 9 of the Business Names Act 1962 - 1976, the Commissioner has been directed not to accept for registration.

(ii) A reference in this Act to the rules of an association includes a reference to the constitution, regulations, and by-laws, if any, of the association.

## PART II - INCORPORATION OF ASSOCIATIONS

5. Incorporation. An association of not less than fifteen persons associated for lawful purposes may, subject to this Act, be incorporated under this Act.

6. Exclusion from Incorporation. An association may not be incorporated under this Act if it is -

- (a) an association which is formed or carried on for the purpose of pecuniary gain to its members;
- (b) a corporation;
- (c) an association which is subject to a special Act which incorporates the executive committee or other governing organ or the trustees of the property of, the association, or provides that it may sue or be sued or hold property in its own name or in the name of an officer of the association, or otherwise specially regulates the affairs of the association;
- (d) a trade union within the meaning of The Industrial Conciliation and Arbitration Act 1961 - 1976;
- (e) a society or branch required to be registered under the Friendly Societies Act 1913 - 1978, or which has been registered under that Act;
- (f) a body the objects of which include the raising of a fund by Subscription of its members and the making of loans from that fund to its members.

7. Pecuniary Gain. An association shall not be held to be formed or carried on for the purpose of pecuniary gain to its members merely by reason of all or any of the following circumstances:-

- (a) that the association itself makes a pecuniary gain, unless that gain or some part thereof is divided among or received by the members or some of them;
- (b) that the members of the association are entitled to divide between them the property of the association on its dissolution;
- (c) that the association is established for the protection or regulation of some trade, business, industry, or calling in which the members are engaged or interested, if the association itself does not engage or take part in any such trade, business, industry, or calling, or any part or branch thereof;
- (d) that any member of the association derives pecuniary gain from the association by way of salary as the servant or officer of the association;
- (e) that any member of the association derives from the association any pecuniary gain to which he would be equally entitled if he were not a member of the association;
- (f) that the members of the association compete with each other for trophies or prizes other than money prizes;
- (g) that the association may or does itself make a gain from subscriptions or donations or by trading in accordance with paragraph (i) hereof;
- (h) that the association provides facilities or services for its members;
- (i) that the association trades or may trade with its members or with the public, provided that:
  - (i) the trading is ancillary to the main purpose of the association,
  - and
  - (ii) any trading with the public is not substantial in volume in relation to its other activities;
- (j) that the association charges admission fees to displays, exhibitions, contests, sporting fixtures or other occasions organised for the promotion of the association's objects.

8. Resolution to incorporate. (1) The members of an association may by special resolution resolve to apply for incorporation of the association under this Act.

(2) Upon the members of an association so resolving to apply for incorporation, they shall by resolution appoint a person to prepare an application for that purpose. The person so appointed

by virtue of his appointment shall be empowered to do all such acts and things as may be necessary for the securing of the incorporation of the association.

9. Application for incorporation. An application for the incorporation of an association shall be made to the Commissioner in the prescribed form and shall -

- (a) state the name of the association and the name under which it is proposed that it be incorporated;
- (b) annex a statutory declaration, made by the person authorised to prepare the application verifying -
  - (i) the passing of the special resolution referred to in section 8(1) hereof;
  - (ii) the passing of the resolution referred to in section 8(2) hereof;
- (c) annex a copy of the proposed rules;
- (d) be signed by the persons being the existing committee members and stating their occupations and addresses;
- (e) include such other information or documents, verified in such manner, as may be prescribed.

10. Determination by Commissioner. (1) The Commissioner shall on receipt of an application for incorporation and after making such enquiries as he shall think fit, determine whether the association should be incorporated or not.

(2) For purposes of making such determination, the Commissioner may -

- (a) give notice, or require the association to give notice, of the application to such persons and in such manner as he sees fit or require such advertising of the application to be made as in the circumstances he sees fit;
- (b) have regard to representations made to him by persons concerning the application;
- (c) require the applicants to give explanations or further particulars concerning the application.

11. Certificate of incorporation. Upon a determination being made that an association shall be incorporated under this Act, the Commissioner shall issue to the association a certificate of incorporation in the prescribed form and shall, by notice published in the Gazette, give notice of the incorporation of the association.

12. Incorporation of association. Upon the issue of a certificate of incorporation to an association the persons who are the members of the association together with such persons as may from time to time become members of it, shall become a body corporate by the name contained in the certificate of incorporation with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name and of doing and suffering all such other things as are necessary for the purpose of its constitution.

13. Name of association. (1) An association shall not be incorporated under a name that is an undesirable name.

(2) An incorporated association shall have the word "incorporated" or the abbreviation "inc." as part of and at the end of its name.

(3) It is sufficient if the abbreviation "inc." is used in place of the word incorporated in the name of the association as appearing on its seal.

(4) When the name of an incorporated association is included in any document, it is sufficient if the abbreviation "inc." is used in the place of the word "incorporated".

(5) Subject to this section, the common seal of an incorporated association is of no effect unless the name of the association is inscribed on the seal in legible characters.

(6) If any person or unincorporated association carries on business under any name or title including the word "incorporated" or any abbreviation thereof, the person or every member of the committee of such association shall be guilty of an offence against this Act.

(7) Where it is established to the satisfaction of the Minister that there is good reason for not requiring an incorporated association to have as part of its name the word "incorporated" or the abbreviation "inc.", the Minister may by licence direct that it be incorporated without such word or abbreviation in its name, and it shall be incorporated accordingly.

14. Change of name. (1) An incorporated association may by special resolution with the approval of the Commissioner change its name to a name which is not an undesirable name.

(2) An application for the approval of the Commissioner to a change of name pursuant to this section -

(a) shall be in the prescribed form;



- (b) shall be verified by the statutory declaration of the public officer;
  - (c) shall be made by the public officer within fourteen days after the date of the meeting at which the special resolution for the change of name was passed;
- and
- (d) shall be lodged with the Commissioner together with such other documents as may be prescribed.

(3) Before approving the change of name the Commissioner may make such enquiries as he thinks fit.

(4) If the Commissioner approves the change of name he shall issue a fresh certificate of incorporation in the new name upon the return of the old certificate or proof of its loss or destruction and shall, by notice published in the Gazette, give notice of the change of name. The Commissioner may direct such further notice of the change to be published in such manner as he thinks fit.

(5) Change of name pursuant to this Act shall not affect the identity of the association or any right or obligations of the association or render defective any legal proceedings by or against the association and any legal proceedings that might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

15. Name of incorporated association to appear on documents.  
An incorporated association shall cause every notice, bill of exchange, promissory note, endorsement, order, way-bill, invoice, receipt, letter or other document given, published, drawn, endorsed or issued by it, and any advertising material whatsoever, to contain the name of the association in legible characters.

16. Incorporation of Branches. (1) Any incorporated association may apply in accordance with this Act for the incorporation of any local branch having not less than 15 members, or for the incorporation of a group or groups of such branches of that association.

(2) No application for the incorporation of a local branch shall be made unless the members of that branch resolve in accordance with section 8 hereof, and no application for the incorporation of a group of branches shall be made unless the members thereof resolve in accordance with section 8 hereof.

(3) Any group of local branches may be incorporated notwithstanding that the whole or any number of such branches may be already incorporated.

(4) All the provisions of this Act relating to incorporated associations (including the powers conferred upon such associations to hold land) shall, so far as applicable and with the necessary modifications, apply to branches of associations or to groups of such branches incorporated under this Act.

(5) The incorporation of a branch of an association under this Act shall not relieve the members of that branch from any liabilities or obligations incident to their membership of such association, whether under the Act, or the rules of the association, or otherwise howsoever.

(6) For the purposes of this Act membership of a branch of an association shall be determined in accordance with the rules of the association and the special rules (if any) of the branch in that behalf, and not otherwise, and every member of a local branch shall be deemed to be a member of the association and liable to all the obligations of membership.

(7) Every application for the incorporation of a branch or group of branches of an incorporated association, shall, so far as applicable, and with all necessary modifications, comply with the requirements of an application for incorporation under this Act.

(8) A branch upon incorporation shall have as part of its name the word "Branch" and other words identifying it as a branch whether by reference to locality or otherwise.

17. Amalgamation of Incorporated Associations. (1) Two or more incorporated associations may, by special resolution of both or all of those incorporated associations passed in accordance with the rules of each incorporated association respectively, amalgamate and become one incorporated association with or without a dissolution or division of the funds of those incorporated associations or any of them.

(2) The Public Officer of each of the incorporated associations to be amalgamated shall lodge with the Commissioner notice in the prescribed form of the passing of the special resolution and of the name of the incorporated association proposed to be created by the amalgamation.

(3) The Public Officer of each association to be amalgamated shall give notice of such proposal to the creditors thereof, and a creditor may notify the Commissioner that he is opposed to such amalgamation. If such a notice is received by the Commissioner he shall not issue a certificate of incorporation to the amalgamated association without the sanction of the Supreme Court.

(4) Upon receipt of a notice under subsection 2 the Commissioner if satisfied that the incorporated association to be created by the amalgamation is desirable and is able to be incorporated without contravention of this Act, issue a certificate of incorporation upon return of the old certificates or proof of their loss or destruction and shall, by notice published in the gazette, give notice of the amalgamation of the association.

(5) Upon the issue of a certificate of incorporation pursuant to subsection (4) the provisions of this Act shall apply to the incorporated association created by the amalgamation and, without limiting the generality of the foregoing, all the property of the amalgamated incorporated associations shall vest in the incorporated association created by the amalgamation and the provisions of section 18, with necessary adaptations, apply to and in relation to that property accordingly.

(6) The amalgamation of two or more incorporated associations does not prejudice any right of a creditor of, or any person having a claim against, any of the amalgamated incorporated associations, and any such right or claim may be enforced against the incorporated association created by the amalgamation.

PART III - EFFECTS OF INCORPORATION

18. Vesting of property in incorporated association. (1) Upon the incorporation of an association under this Act, any personal property held by a person, in trust or otherwise, for or on behalf of the association or its objects, becomes, subject to this section, vested in the association.

(2) The public officer of an incorporated association may at any time after the incorporation of the association deliver or lodge with the Registrar of Titles (appointed pursuant to The Registrar of Titles Act of 1884), the Registrar of Dealings (within the meaning of the Land Act 1962 - 1978) or other person required by any Act or law to register, make or enter any note or memorial on or in respect of any instrument of title to land on receiving notice thereof, as the case requires, a memorial or notice in writing setting forth, in relation to any estate or interest in land held by any person in trust for or on behalf of the association or its objects, such particulars and other matters as may be prescribed and the Registrar of Titles, the Registrar of Dealings or other person aforesaid, shall, subject to subsection (3), register the memorial or notice, or make or enter a note or memorial on or in respect of the instrument of title that the estate or interest in land is vested in the incorporated association, as the case requires.

(3) A memorial or notice delivered or lodged in accordance with subsection (2) shall be accompanied by -

- (a) the Certificate of Incorporation, or a copy thereof certified by the Commissioner and by a statutory declaration made by the public officer, and by a declaration made by the person or, where more than one, at least one of the persons in whom the estate or interest in land is held in trust for or on behalf of the association or its objects;
- and
- (b) any appropriate fee prescribed under The Real Property Act 1861 - 1978, the Land Act 1962 - 1978 or other Act under which registration is to be effected or a note or memorial is to be made or entered as referred to in subsection (2) as the case requires.

(4) The vesting of property pursuant to this section and any document relating thereto shall not attract duty under the Stamp Act 1894 - 1979.

(5) After incorporation and vesting as aforesaid, property shall not be dealt with contrary to the provisions of any trust affecting the property immediately before incorporation.

(6) Any property vested pursuant to this section becomes vested subject to any covenant, contract or liability affecting the property.

(7) Except when otherwise expressly provided by this Act or by its rules, membership of an incorporated association shall not be deemed to confer upon the members any right, title or

interest; either legal or equitable, in the property of the incorporated association.

(8) Upon property vesting as aforesaid in an incorporated association the persons previously holding such property on trust shall be discharged from all future obligations in respect of the said property.

19. Powers of incorporated associations. (1) Unless expressly excluded or modified by its rules, the powers of an incorporated association include the power to own, take or otherwise acquire (whether on trust or absolutely) real and personal property of any kind or description but nothing in this section shall be taken

- (a) to empower the incorporated association to deal with property contrary to the provisions of any trust affecting the property; or
- (b) to empower an incorporated association to do anything which would have excluded it from incorporation pursuant to section 6 hereof; or
- (c) to limit in any respect the nature or extent of the powers conferred by this Act.

(2) Unless expressly excluded or modified by its rules the power of an incorporated association shall include the following powers:-

- (a) to take, or otherwise acquire, and hold shares, debentures or other securities of any company or body corporate;
- (b) to invest and deal with the money of the association not immediately required in such manner as may from time to time be thought fit;
- (c) in furtherance of its objects to lend and advance money or give credit to any person or body corporate; to guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or body corporate, and otherwise to assist any person or body corporate;
- (d) to borrow or raise money either alone or jointly with any other person or legal entity in such manner as may be thought proper and whether upon fluctuating advance account or overdraft or otherwise to represent or secure any moneys and further advances borrowed or to be borrowed alone or with others as aforesaid by notes secured or unsecured, debentures or debenture stock perpetual or otherwise, or by mortgage, charge, lien or other security upon the whole or any part of the association's property or assets present or future and to purchase, redeem or pay-off any such securities;

- (e) to remunerate any person or body corporate for services rendered, or to be rendered and whether by way of brokerage or otherwise in placing or assisting to place or guaranteeing the placing of any unsecured notes, debentures or other securities of the association, or in or about the association or promotion of the association or in the furtherance of its objects;
- (f) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, and other negotiable or transferable instruments;
- (g) to take or hold mortgages, liens or charges, to secure payment of the purchase price, or any unpaid balance of the purchase price, of any part of the association's property of whatsoever kind sold by the association, or any money due to the association from purchasers and others;
- (h) to do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the association.

20. Ultra vires transactions. (1) No act of an incorporated association (including the entering into of an agreement by the incorporated association) and no conveyance or transfer of property, whether real or personal, to or by an incorporated association shall be invalid by reason only of the fact that the incorporated association was without capacity or power (whether by provision of this Act or by its Rules or otherwise) to do such act or to execute or take such conveyance or transfer.

(2) Any such lack of capacity or power may be asserted or relied upon only in -

- (a) proceedings against the incorporated association by any member of the incorporated association to restrain the doing of any act or acts or the conveyance or transfer of any property to or by the incorporated association;
- (b) any proceedings by the incorporated association or by any member of the incorporated association against the present or former officers of the incorporated association.

(3) If the unauthorised act, conveyance or transfer sought to be restrained in any proceedings under paragraph (a) of subsection (2) of this section is being or ought to be performed or made pursuant to any contract to which the incorporated association is a party, the Court having jurisdiction in the matter may if all the parties to the contract are parties to the proceedings and if the Court deems it to be just and equitable set aside and restrain the performance of the contract and may allow to

the incorporated association or to other parties to the contract (as the case requires) compensation for the loss or damage sustained by either of them which may result from the action of the Court in setting aside and restraining the performance of the contract but anticipated profits to be derived from the performance of the contract shall not be awarded by the Court as a loss or damage sustained.

21. Liability of Members. A member of an incorporated association by reason only of such membership is not liable, except as provided in the rules of the association, to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of a winding up of the association.

22. Contracts. (1) Contracts entered into by an incorporated association shall be made as follows:-

- (a) a contract which, if made between private persons, would be required by law to be in writing and under seal shall be made in writing and under the common seal of the incorporated association;
- (b) a contract which, if made between private persons, would be required by law to be in writing signed by the parties to be charged therewith may be made in writing signed by any person acting under the express or implied authority of the incorporated association;
- (c) a contract which, if made between private persons, would be valid in law although made by parol only, and not reduced into writing may be made by parol on behalf of the incorporated association by any person acting under authority express or implied.

(2) All contracts made according to the provisions contained in this section shall be effectual in law and shall bind the incorporated association and its successors and all other parties thereto, and may be varied or discharged in the manner in which it is authorised to be made.

(3) A document or proceeding requiring authentication by the incorporated association may be signed by the public officer and need not be under its common seal.

#### PART IV - RULES

23. Registration of Rules. (1) Forthwith on receiving a certificate of incorporation the association shall lodge with the Commissioner for registration a copy of its rules, certified

by the public officer as being correct.

(2) Such rules shall at all times state and provide for the matters set forth in the First Schedule to this Act, and may contain any other provision not inconsistent with this Act or the law.

(3) The rules shall be printed or typewritten and shall be readily available to members of the association.

24. Model Rules. (1) An incorporated association may adopt as its Rules all or any of the model rules set forth in the Second Schedule to this Act.

(2) Where such an association adopts as its rules all or any of the model rules the public officer shall forthwith lodge with the Commissioner a copy of the special resolution adopting such rules.

(3) If no rules are registered and no resolution adopting the model rules are registered, then the model rules shall be deemed for all purposes to be the rules of the association.

25. Alteration of Rules. (1) The members of an incorporated association may by special resolution alter its rules.

(2) The public officer of the association shall, within one month after the passing of a special resolution to alter the rules lodge with the Commissioner notice of the special resolution.

(3) An alteration of the rules of an incorporated association is of no effect until subsection (2) of this section has been complied with in respect of that alteration and, in the case of an alteration of such rule or rules of an incorporated association as related to its objects, unless the alteration is approved by the Commissioner.

26. Affect of Alteration of Rules. (1) Subject to this section alteration of the rules of an incorporated association shall not affect any right, liability or obligation existing before such alteration took place.

(2) Rights, liabilities and obligations existing -

(a) between a member and the association; and/or

(b) between members;

not subject to pending legal proceedings at the time of such alteration shall be extinguished and the rights, liabilities and obligations between a member and the association and between members shall thenceforth be governed by the altered rules.

(3) A member whose rights are affected by an alteration of the rules may apply to have the association wound up by the court and the provisions of section 41 hereof shall apply to such an application.

27. Special resolutions. (1) For the purpose of this Act a resolution is a special resolution if it is passed by a majority of not less than three-quarters of such members entitled under the rules to vote as may be present in person at any general meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with those rules.

(2) At any general meeting to which subsection (1) of this section relates, unless a poll is demanded, a declaration by the Chairman that the resolution has been carried is conclusive evidence of the fact.

28. Annual and special meeting. (1) A general meeting of an incorporated association shall be held once at least in every period of twelve months within three months after the close of its financial year and shall be called the annual general meeting.

(2) General meetings of the association shall be held or may be called as prescribed by the rules of the association.

(3) Unless otherwise provided by its rules at any meeting of an incorporated association no item of business shall be transacted unless a quorum of members entitled under those rules to vote is present when the meeting is considering that item. The quorum shall be as prescribed by those rules.

29. Management Committee. (1) Subject to this Act, the business and operations of an incorporated association shall be controlled by a committee, in this Act called the Management Committee.

(2) Every member of the Management Committee and any manager duly appointed by the Management Committee acting in the business or operations of the incorporated association shall be deemed to be the agent of the incorporated association for all purposes within its objects.

(3) The acts of a member of the Management Committee shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualifications.

30. Election of Management Committee. (1) The members of the Management Committee shall be elected at the annual general meeting or any general meeting of the incorporated association in accordance with its rules:

Provided that upon incorporation of the incorporated association the members of the Management Committee shall be those persons who are members of the committee of the association at the time when the application for incorporation is lodged with the Commissioner and whose names are set out in that application.



(2) Notwithstanding the provisions of subsection (1) the rules of an incorporated association may permit the Management Committee to fill a casual vacancy on the Management Committee.

31. Meetings of Management Committee. Meetings of the Management Committee shall be held so often as may be necessary for properly conducting the business and operations of the incorporated association, but shall be held at least once in every two calendar months and a quorum for a meeting shall be prescribed by the rules.

32. Tenure of Members of Management Committee. (1) The members of the Management Committee shall hold office and retire and may be removed from office as prescribed by the rules.

(2) The office of a member shall be vacated in such circumstances if any, as may be prescribed by the rules of the incorporated association and if the person holding that office:-

- (a) dies;
- (b) becomes bankrupt or compounds with his creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (c) becomes mentally ill; or
- (d) is convicted of an offence under this Act, or if he is convicted of an indictable offence or of an offence punishable on summary conviction for which he is sentenced to imprisonment otherwise than in default of payment of a fine.

33. Notification of Change of Members of Management Committee. The public officer shall, within 14 days after a change in the membership of the Management Committee, give notice in writing to the Commissioner of the name, address and occupation of each person who has become a member of the management committee, or who has ceased to be a member of the Management Committee as the case may be.

34. Public Officer. (1) The Management Committee of an incorporated association shall within 14 days after incorporation appoint a natural person who is resident in the State to be the public officer of the association and, if that office at any time becomes vacant, shall, within 14 days after it becomes vacant, appoint a natural person who is resident in the State to fill that vacancy.

(2) If the Committee of an incorporated association fails to comply with subsection (1), each member of the Management Committee is guilty of an offence.

(3) Notwithstanding anything in the rules of an incorporated association, the Management Committee shall have power from time to time to appoint a public officer and to remove any person so appointed.

(4) The public officer may, unless the rules of the incorporated association otherwise provide, hold any other office in the incorporated association except the office of Auditor.

(5) The office of public officer shall become vacant if the person holding that office -

- (a) dies;
- (b) becomes bankrupt or compounds with his creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (c) becomes mentally ill;
- (d) is convicted of any offence under this Act, or if he is convicted of any indictable offence or of any offence punishable on summary conviction for which he is sentenced to imprisonment otherwise than in default of payment of a fine;
- (e) resigns his office by writing under his hand addressed to the Management Committee of the incorporated association;
- (f) ceases to be resident in the State.

35. Notification of Appointment and Change of Address of Public Officer. (1) A public officer shall, within 14 days after his appointment, give notice in writing to the Commissioner of his appointment and of his full name and address.

(2) If a public officer changes his address, he shall, within 14 days after the change give notice in writing to the Commissioner of the change.

36. Audit and Statement. (1) The Management Committee of an incorporated association shall, once in each period of twelve months, or more frequently if the rules of the incorporated association so provide -

- (a) cause the financial affairs of the incorporated association to be audited by a person registered as a public accountant under the Public Accountants Registration Act 1946 - 1975 or approved by the Commissioner; and

- (b) prepare, or cause to be prepared, a statement containing the following particulars:
- (i) the income and expenditure of the incorporated association during its last financial year;
  - (ii) the assets and liabilities of the incorporated association at the close of the said year; and
  - (iii) all mortgages, charges and securities of any description affecting any of the property of the incorporated association at the close of the said year.

(2) If the Management Committee of an incorporated association fails to comply with subsection (1) each member of the Management Committee is guilty of an offence.

(3) No person shall knowingly consent to be appointed, or knowingly act, as the auditor of an incorporated association, or prepare for or on behalf of such an incorporated association any financial statement or any report or certificate relating thereto that is required by or under this Act to be prepared by the auditor of such an incorporated association if he is -

- (a) the Public Officer, or a member of the Management Committee, of the incorporated association;
- (b) a servant of the incorporated association; or
- (c) a partner, employer, or employee of the Public Officer, or of a member of the Management Committee, of the incorporated association.

(4) A firm shall not knowingly consent to be appointed, or knowingly act, as the auditor of an incorporated association or prepare for or on behalf of such an incorporated association any financial statement or any report or certificate required by or under this Act to be prepared by the Auditor of such an incorporated association, if any of the partners is disqualified under subsection (3) of this section from acting as auditor of the incorporated association.

(5) A person who or a firm which contravenes any of the provisions of subsection (3) or subsection (4) of this section is guilty of an offence.

(6) The Public Officer of an incorporated association shall, within one month after the preparation of the statement as required by subsection (1), lodge with the Commissioner a copy of that statement certified to be correct by the person who audited the financial affairs of the incorporated association.

(7) The Commissioner may, in any case where he considers it desirable so to do, direct in writing an incorporated association to publish in such manner and within such time as is set out in the direction a copy of the statement certified to be correct

referred to in subsection (6) and the Management Committee of the incorporated association shall comply in all respects with the terms of such direction.

(8) If the Management Committee of an incorporated association fails to comply with subsection (7) each member of the Management Committee is guilty of an offence.

PART V : - RIGHTS & OBLIGATIONS OF MEMBERS

37. Rights of Members. (1) Upon incorporation the rules of the association shall constitute the terms of a contract between the members from time to time and the incorporated association.

(2) Where a member of an incorporated association is deprived by a decision of that association of a right conferred on him by the rules of that association as a member thereof, the Court shall have jurisdiction to adjudicate upon the validity of that decision under the rules.

(3) An incorporated association shall be bound by the rules of natural justice in adjudicating upon the rights of its members conferred by the rules of such association on its members.

38. Enforcement of Rights and Obligations. (1) The Court may, on the application of an association (whether incorporated or not), or of a member thereof, or a trustee of the property thereof, make orders, including interim orders, -

- (a) giving directions for the performance and observance of the rules of such association by any person who is under an obligation to perform or observe those rules;
- (b) declaring and enforcing the rights or obligations of members of such association between themselves, and/or the rights or obligations between such association and any member or members thereof.

(2) An order may be made under this section notwithstanding that no right of a proprietary nature is involved, or that the applicant has no interest in the property of the association.

39. Powers of Court. (1) The Court may on an application brought pursuant to the preceding sections of this Part exercise all the powers of the Supreme Court and grant such relief as is appropriate in the circumstances.

(2) The Court may refuse to entertain such an application, or to make an order on such application, or may refuse an order for costs, or may make an order for costs against a party, whether successful or not, if it is of opinion that -

- (a) the issue raised in the application is trivial;
- (b) having regard to the importance of the issue, the nature of the association, any other available method of resolving the issue, the costs involved, lapse of time, acquiescence or any other relevant circumstance, it was unreasonable to make the application;
- (c) the unreasonable or improper conduct of a party has been responsible for the making of an application, or has added to the cost of the proceedings.

#### PART VI - WINDING UP

40. Voluntary Winding Up. (1) An incorporated association may be wound up by special resolution of the members passed at a general meeting called for that purpose. A copy of the special resolution shall be lodged with the Commissioner forthwith.

(2) Subject to this Act and to any regulations made under the authority thereof, the provisions of the Companies Act 1962 - 1978 relating to the voluntary winding up of companies apply, so far as they are applicable and with the prescribed modifications (if any), to and in relation to the voluntary winding up of incorporated associations.

41. Winding up by the Court. (1) An incorporated association may be wound up by the Court under the following circumstances, that is to say:-

- (a) if the incorporated association suspends its operations for the space of a whole year; or
- (b) if the members of the incorporated associations are reduced in number to less than 15; or
- (c) if the incorporated association is unable to pay its debts; or
- (d) if the incorporated association carries on any operation whereby any member thereof makes any pecuniary gain contrary to the provisions of this Act; or
- (e) if the Court is of the opinion that it is just and equitable that the incorporated association should be wound up.

(2) Any application to the Court for the winding up of an incorporated association shall be by petition presented either by the incorporated association, or by a member thereof, or by a creditor thereof, or by the Minister.

(3) Subject to this Act and to any regulations made under the authority thereof, the provisions of the Companies Act 1962 - 1978 relating to the winding up of unregistered companies apply, so far as they are applicable and with the prescribed modifications (if any), to and in relation to the winding up of incorporated associations by the Court.

42. Meaning of Terms in Winding Up. For the purposes of Sections 40 and 41 -

- (a) a reference in the Companies Act to an unregistered company shall be read as a reference to an incorporated association;
- (b) a reference in the Companies Act to the directors of a company shall be read as a reference to the members of the Management Committee of such an incorporated association;
- (c) a reference in the Companies Act to the secretary of a company shall be read as a reference to the Public Officer of such an incorporated association; and
- (d) a reference in the Companies Act to the principal place of business of the company shall be read as a reference to the place where the Public Officer of such an incorporated association resides.

43. Distribution of Surplus Assets. (1) Where, upon the winding up of an incorporated association, a special resolution relating to the distribution of the surplus assets of the incorporated association has been passed by its members in accordance with its rules, all surplus assets shall, subject to any trust affecting the same, be disposed of in the manner so resolved.

(2) Where no such special resolution has been passed the Governor in Council may by Order in Council vest all or any of the surplus assets of the association in the Public Trustee of Queensland to be dealt with under the provisions of section 35 of the Collections Act 1966 - 1977.

(3) In this section, "surplus assets" means, in relation to the incorporated association, the assets remaining on a winding up of the incorporated association after payment of the debts and liabilities of the incorporated association and the costs, charges and expenses of the winding up.

44. Cancellation of Incorporation. (1) In any case where the Commissioner has reasonable cause to believe that an incorporated association has ceased to exist or that its affairs have been fully wound up or that its transactions are such that it is not, or has ceased to be, an incorporated association within the meaning of this Act, or that it is desirable that its incorporation

--

be cancelled he may serve, by pre-paid registered post, on the person appearing to him from records kept under this Act to be the Public Officer of the incorporated association a notice requiring him, within the period of one month from the date thereof, to satisfy the Commissioner that the incorporated association has not ceased to exist or, as the case may be, that its transactions are not such that it is not, or has ceased to be, an incorporated association within the meaning of this Act, or, that it is not desirable that its incorporation be cancelled, and stating that, unless cause is shown to the contrary within that period, a notice will be published in the Gazette cancelling the incorporation of the incorporated association.

(2) If cause is not shown as provided in subsection (1) within the time specified therein, the Commissioner may cause to be published in the Gazette and serve, by pre-paid registered post, on the person appearing pursuant to subsection (1) to be the Public Officer of the incorporated association a notice that, at the expiration of three months from the date of publication of the notice in the Gazette, the incorporation of the incorporated association will, unless cause is shown to the contrary, be cancelled.

(3) At the expiration of the period of three months referred to in subsection (2) the Commissioner may, unless cause to the contrary is previously shown, cancel the incorporation of the incorporated association and publish notice of the cancellation of the Gazette.

45. Vesting of Property on Cancellation. Where the incorporation of an incorporated association is cancelled pursuant to section 44, the Governor in Council may by Order in Council vest all or any property of such association in The Public Trustee of Queensland to be dealt with under the provisions of section 35 of the Collections Act 1966 - 1977.

#### PART VII - MISCELLANEOUS

46. Appointment of Inspector. (1) Where it appears to the Commissioner that -

- (a) it is desirable for the protection of the public or of members or other persons interested in an incorporated association;
- or
- (b) it is in the public interest,

to appoint an inspector to investigate the affairs of the incorporated association he may by instrument in writing appoint an inspector.

(2) The provisions of Part VIA-Special Investigations-of the Companies Act 1961 - 1978, shall, mutatis mutandis, apply to such an investigation.

47. Limitation of Actions. No matter or thing done by the Commissioner or by any other person in good faith and without negligence for the purpose of executing this Act or in the execution or performance of his powers, authorities, functions and duties under this Act shall subject the Crown, the Minister or any other person as aforesaid to any liability in respect thereof.

48. Extension of Time. Where under this Act an act or thing is required to be performed or done within a specified time the Commissioner may, if he thinks fit, if in his opinion there are special circumstances, extend the time for the performance or doing of that act or thing.

49. Appeal from Commissioner. (1) Any association, incorporated or otherwise, or any person aggrieved by a determination or decision of the Commissioner made pursuant to this Act may appeal to the Court which may confirm that determination or decision or make such other determination as it deems proper or may give such directions as it deems proper in relation to the question before the Commissioner.

(2) Such appeal shall be to a Judge of the said Court exercising jurisdiction in Chambers and his decision thereon shall be subject to the same Rules of Court as any order made by a judge exercising such jurisdiction.

50. Proceedings for Offences. (1) Any person who contravenes or fails to comply with any provision of this Act is guilty of an offence against this Act.

(2) A person guilty of an offence against this Act is liable, if no specific penalty is provided for that offence, to a penalty not exceeding \$100.

(3) All offences against this Act may be prosecuted and any fees or other monies due and payable under this Act may be recovered in a summary way under the Justices Act 1886 - 1979.

51. Service. Unless otherwise provided in this Act, a document may be served on an incorporated association by leaving it at or sending it by post to the Public Officer at the address notified under section 35.

52. Fees. There shall be paid to the Commissioner such fees as are set out in the Third Schedule to this Act.



53. Evidentiary Provisions. (1) The Commissioner may, by writing under his hand, certify -

- (a) that, on a date specified in the certificate, an association so specified was, or was not, an incorporated association; or
- (b) that, on a date specified in the certificate, a person so specified was, or was not, the Public Officer of an incorporated association so specified,

and such a certificate is, in all Courts and for all purposes, evidence of the matter stated in the certificate.

(2) In any legal proceedings, a copy of any rules of an incorporated association or other document lodged with him certified by the Commissioner to be a true copy thereof, shall be evidence that such rules were rules of the incorporated association in force on the date mentioned in the certificate or of the contents of such document.

(3) Judicial notice shall be taken of the signature of the Commissioner appearing on a certificate under this section and of the fact that the person by whom the certificate purports to have been signed is the Commissioner.

54. Dispositions of Property. (1) A disposition in favour of an association (whether incorporated or unincorporated) shall be construed as a disposition in augmentation of the general funds of that association and not, unless the context otherwise requires, as -

- (a) a disposition in favour of the individual members of the associations; or
- (b) a disposition in trust for the objects or purposes, or any of them, of the association.

(2) A disposition in favour of an unincorporated association shall, unless the context otherwise requires, take effect in favour of that association incorporated pursuant to this Act where such incorporation is effected after the document evidencing the disposition was made or executed but before the disposition was perfected.

(3) In this section disposition means any disposition by will, written instrument, or otherwise, which takes effect after the commencement of this Act.

55. Delegation of Powers. (1) The Commissioner may from time to time, in relation to any matters or class of matters, by instrument in writing under his hand delegate all or any of his powers, authorities, functions and duties under this Act as may be specified in the instrument other than this power of delegation

to any person or the holder of any office so that any delegated power, authority, function or duty may be exercised or, as the case may be, shall be performed by the delegate with respect to the matters or class of matters specified in the instrument.

(2) The Commissioner may subject any such delegation to such conditions or limitations as he thinks fit.

(3) The Commissioner may, at his discretion, revoke a delegation made by him under this section.

(4) No delegation shall prevent the exercise of any power, authority, function or duty by the Commissioner.

56. Amendment etc. of Schedules. The Governor in Council may from time to time by Order in Council amend all or any of the schedules to this Act by revoking, amending, altering or otherwise modifying any of the provisions thereof, or by inserting therein or adding thereto new provisions, and thereupon the said schedules as so amended for the time being shall become and be the schedules to this Act.

57. Recall of Letters Patent. The Minister at his discretion may recall any Letters Patent issued under The Religious, Educational and Charitable Institutions Acts 1861 - 1967 and require the association to apply for incorporation under this Act in lieu thereof.

58. Regulations. The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to -

- (a) the keeping of any register under and for the purposes of this Act, the circumstances and manner in which and the person by whom such register shall be kept, and the transfer or custody of a register kept under this Act or under the repealed Acts;
- (b) records to be kept for the purposes of this Act, the manner of keeping such records, and the transfer of custody of records kept under this Act or under the repealed Acts;
- (c) the inspection by members of the public of any register or document kept pursuant to this Act relating to incorporated associations;
- (d) the issuing of a certificate of incorporation of an association or any other certificate or of a copy or extract

of any document or part of a document kept pursuant to this Act;

- (e) forms to be used under this Act, the prescribing of forms and the respective purposes for which any such forms shall be used;
- (f) the form of, and the matters of certain specified matters to be provided for in, the rules of incorporated associations;
- (g) the prescribing of penalties, not exceeding a fine of \$50.00 for offences against the regulations;
- (h) all matters required or permitted by this Act to be prescribed where the method of prescription is not otherwise provided;
- (i) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

59. Publication of Orders in Council. (1) Every Order in Council made under this Act shall -

- (a) be published in the Gazette;
- (b) upon its publication in the Gazette, be judicially noticed and such publications shall be conclusive evidence of the matters contained therein;
- (c) take effect from the date of such publication.
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication, if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Order in Council has been laid before it disallowing the same or part thereof, that Order in Council, or part thereof shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Order in Council.

60. Irregularities in Proceedings. (1) No proceeding under this Act shall be invalidated by any defect, irregularity or deficiency of notice or time unless the Court is of opinion that substantial injustice has been or may be caused thereby which cannot be remedied by an order of the Court.

(2) The Court may if it thinks fit make an order declaring that such proceeding is valid notwithstanding any such defect, irregularity or deficiency.

(3) Without affecting the generality of subsection (1) and subsection (2) of this Section or of any other provision of this Act, where any omission, defect, error or irregularity (including the absence of a quorum at any meeting of the association or of the Management Committee) has occurred in the management or administration of an association incorporated under this Act (whether or not such omission, defect, error or irregularity occurred before or after the passing of this Act and whether it occurred before or after the association became incorporated under this Act) whereby any breach of any of the provisions of this Act has occurred or whereby there has been default in the observance of the rules or constitution of the association or whereby any proceedings at or in connection with any meeting of the association or of the Management Committee thereof or any assemblage purporting to be such a meeting have been rendered ineffective, the Court -

- (a) may, either of its own motion or on the application of any interested person, make such order as it thinks fit to rectify or cause to be rectified or to negative or modify or cause to be modified the consequences in law of any such omission, defect, error or irregularity, or to validate any act matter or thing rendered or alleged to have been rendered invalid by or as a result of any such omission, defect, error or irregularity;
- (b) shall before making any such order satisfy itself that such an order would not do injustice to the association or to any member or creditor thereof;
- (c) where any such order is made, may give such ancillary or consequential direction as it thinks fit;
- and
- (d) may determine what notice or summons is to be given to other persons of the intention to make any such application or of the intention to make such an order, and whether and how it should be given or served and whether it should be advertised in any newspaper.

(4) The Court may enlarge or abridge any time for doing any act or taking any proceeding allowed or limited by this Act or any rules or regulations made thereunder upon such terms (if any) as the justice of the case may require and any such enlargement may be ordered although the application for the same is not made until after the time originally allowed or limited.

F I R S T     S C H E D U L E

(s.23)

MATTERS TO BE PROVIDED FOR IN RULES

1. The name of the incorporated association.
2. The objects of the incorporated association.
3. The qualifications (if any) for membership of the incorporated association.
4. Termination of membership of the incorporated association.
5. The keeping of a Register of Members of the incorporated association.
6. The subscription (if any) to be made or paid by the members of the incorporated association.
7. The membership of the incorporated association and:-
  - (a) the election or appointment of members of the Management Committee;
  - (b) the terms of office of the members of the Management Committee;
  - (c) the resignation of members of the Management Committee;
  - (d) removal from office of members of the Management Committee;
  - (e) the filling of casual vacancies occurring on the Management Committee;
  - and
  - (f) the quorum and procedure at meetings of the Management Committee.
8. The quorum and procedure at general meetings of members of the incorporated association.
9. The interval between general meetings of members of the incorporated association, the manner of calling general and special meetings, and the requisite notices of meetings of the incorporated association.
10. The manner of altering and rescinding the rules, and of making additional rules.
11. The purposes for which the income and property of the incorporated association shall be used and applied.
12. The manner in which the income and property of the incorporated association are to be managed, and in particular, the mode of drawing and signing cheques for and on behalf of the incorporated association.
13. The keeping of books of account of the incorporated association.
14. The closing date of the financial year of the incorporated association.

15. The preparation of a statement of income and expenditure and a balance sheet for each financial year and the presentation of the same to the members.
16. The frequency at which the financial affairs of the association are to be audited and the presentation of an auditor's report to the members.
17. The form custody and use of the common seal of the incorporated association.
18. The custody of the books, documents, instruments of title and securities of the association.
19. Distribution of surplus assets on winding up.

S E C O N D     S C H E D U L E

(s.24)

MODEL RULES

NAME

1. The name of the association shall be . . . . .

OBJECTS

2. The objects of the association shall be . . . . .  
.....  
(these should be set out fully)

CLASSES OF MEMBERS

3. The members of the association shall consist of ordinary members, life members and/or honorary members.  
(Delete "Life members" and/or "Honorary members" if not applicable).

MEMBERSHIP

4. (a) The number of ordinary members and of life members shall be not less than fifteen.  
(Delete from "and" to "members" if not applicable).
- (b) Subject to these rules any person who is not less than . . . . . years of age and . . . . . (insert qualifications, if any) shall be eligible to become a member of the association upon payment or tender to the association of the annual subscription for the current financial year.

LIFE MEMBERS

5. (a) The association may from time to time, at any annual or general meeting, determine the fee to be paid by any member desiring to compound for the annual subscription and to become a life member of the association.
- (b) Any ordinary member upon payment of the fee as determined by paragraph (a) shall be entitled to become a life member, having all the privileges appertaining to an ordinary member of the association without

payment of the annual subscription. Save as aforesaid a life member shall be subject to all the provisions of these rules.

(If life membership is not allowed delete clause 5(a) and (b)).

#### HONORARY MEMBERS

6. (If honorary membership is allowed in accordance with clause 3 the conditions and qualifications attached to the conferring of such membership should be set out fully herein).

#### ANNUAL SUBSCRIPTIONS

7. (a) The annual subscription for each financial year shall be . . . . . or such other sum in lieu thereof as the members at any annual or general meeting may from time to time determine.
- (b) The annual subscription shall be payable in advance on the First day of . . . . . in every year after which no registration, termination or forfeiture of membership shall exempt a former member from payment of the current year's subscription.
- (c) Payment or tender of the annual subscription shall be made to the secretary personally or through the post addressed to the secretary.
- (d) A financial member at any material time is a member who is not then indebted to the association in respect of any annual subscription or levy or other payment whatsoever.
- (e) Only those members who are financial members at the time shall be entitled, subject to the lawful procedure of the meeting to speak or vote upon any motion at any annual or general meeting of the association.
- (f) A member who is in arrears with his annual subscription for . . . . . calendar months shall be deemed to have forfeited his membership but the committee or, on appeal from an adverse decision of the committee, the members, may reinstate him on payment of the amount due.



## ADMISSION AND REJECTION OF ORDINARY MEMBERS

8. (a) Admission to ordinary membership shall be by election of the committee or, upon appeal, by the members. At the committee meeting next following the payment or tender to the secretary of the annual subscription for the current financial year as provided by these rules, the committee shall consider each application and shall elect or reject the applicant as a member.
- (b) Any applicant who receives a majority of the votes of the members of the committee present at the meeting at which the application is being considered shall be declared elected by the chairman as an ordinary member.
- (c) Upon the election or rejection of an application for membership the secretary shall forthwith give to the applicant notice in writing of such election or rejection.

## APPEAL AGAINST REJECTION OF MEMBERSHIP

9. (a) A person whose application for membership has been rejected may, within one month after receiving written notification of such rejection, appeal against the decision of the committee to a general meeting of the members of the association held for the purpose of determining that appeal.
- (b) Notice in writing of intention to appeal shall be given to the secretary.
- (c) The committee shall convene such a general meeting so that the general meeting is held within three months of the date of receipt by the secretary of a notice of appeal, at a time suitable to the majority of members to attend thereat.
- (d) At such meeting the appellant shall be given the opportunity to fully present his case either orally or in writing or partly by one of these means and partly by the other and the committee or those members thereof who rejected the application shall subsequently likewise have the opportunity of presenting its or their case. The appeal shall be determined by the vote of the majority of the financial members present at that meeting.
- (e) Where a person, whose application is rejected does not within the time prescribed by these rules, appeal against the decision of the committee, or so appeals but the appeal is

unsuccessful, the secretary shall refund the amount of the annual subscription paid to the secretary.

#### TERMINATION OF MEMBERSHIP

10. A member may resign from the association at any time by giving notice in writing to the secretary. Such resignation shall only take effect at the time such notice is received by the secretary unless a later date is specified in the notice when it shall take effect on that later date.

11. (a) If a member -

- (i) is convicted of an indictable offence; or
- (ii) fails to comply with any of the provisions of these rules; or
- (iii) conducts himself in a manner considered to be injurious or prejudicial to the character or interests of the association,

the committee shall consider whether his membership shall be terminated.

- (b) The member concerned shall be given a full and fair opportunity of presenting his case and if the committee resolves to terminate his membership it shall instruct the secretary to advise the member accordingly. The member may, within one month after receiving such written notification, appeal to a general meeting of members.
- (c) Notice in writing of his intention to appeal shall be given to the secretary.
- (d) The committee shall convene a general meeting so that such meeting is held within three months of the date of receipt by the secretary of a notice of intention to appeal, at a time suitable to the majority of members to attend thereat.
- (e) At such meeting the appellant shall be given the opportunity of fully presenting his case either orally or in writing or partly by either of these means and the committee or those members thereof who intend to terminate his membership shall subsequently likewise have the opportunity of presenting its or their case.
- (f) The appeal shall be determined by the vote of a majority of the financial members present at that meeting.

- (g) Where any person, whose membership the committee intends to terminate, does not appeal against the decision within the time provided by these rules, or so appeals but his appeal is unsuccessful, the membership of that person shall thereupon be deemed to be terminated.
12. (a) The committee shall cause a register to be kept in which shall be entered the names and residential addresses of all persons admitted to membership of the association and the dates of admission.
- (b) Particulars shall also be entered of resignations, terminations and reinstatement of membership and any further particulars as the committee or the members at any annual or general meeting may require from time to time.
- (c) The register of members shall be open for inspection at all reasonable times by any financial member who previously applies to the secretary for such inspection.

#### MEMBERSHIP

13. The Management Committee of the association shall consist of a president, vice-president, secretary, treasurer and such number of committee members not being less than . . . . nor more than . . . . as the members of the association at any annual general meeting or general meeting may from time to time appoint.
14. At the annual general meeting of the association, all the members of the Management Committee for the time being shall retire from office, but shall be eligible for re-election.
15. (a) Any member of the Management Committee may resign at any time from membership of the committee by notice in writing delivered to the secretary but such resignation shall only take effect at the time when such notice is received by the secretary unless some later date is specified in the notice when it shall take effect on that later date or he may be removed from office at a general meeting of the association convened for that purpose.
- (b) At any such general meeting the member shall be given the opportunity to fully present his case either orally or in writing or partly by either of these means. The question of removal shall be determined by the vote of the majority of the financial members present at such general meeting.

VACANCIES ON MANAGEMENT COMMITTEE

16. (a) The Management Committee shall have power to appoint a financial member who may or may not then be a member of the Management Committee to fill any casual vacancy on the committee until the next annual general meeting.
- (b) Every member so appointed shall retire at the next annual general meeting but shall be eligible for election as a member of the Management Committee at such meeting.

MEETINGS OF THE COMMITTEE

17. (a) The Management Committee shall meet at least once in every two calendar month(s) to exercise its functions.
- (b) A special meeting of the Management Committee shall be convened by the secretary on the requisition in writing of not less than . . . . members of the Management Committee, which requisition shall clearly state the reasons why such special meeting is being convened and the nature of the business to be transacted thereat.
- (c) At every meeting of the Management Committee . . . . members of the Management Committee shall constitute a quorum.
- (d) Subject as previously provided in this Rule, the Management Committee may meet together and regulate its proceedings as it thinks fit:

Provided that questions arising at any meeting of the Management Committee shall be decided by a majority of votes and in the case of equality of votes on any question or at any meeting of the Management Committee the question shall be deemed to be decided in the negative.

- (e) Not less than 14 days notice shall be given to members of the Management Committee of any special meeting of the Management Committee.

ANNUAL GENERAL MEETINGS OR GENERAL MEETINGS

18. (a) Subject to this constitution, the annual general meeting shall be held in the month of . . . . in each year.

Business to be transacted at every annual general meeting shall be:

- (i) the receiving of the Management Committee's report and the balance sheet and statement of accounts for the preceding financial year;
- (ii) the receiving of the auditor's report upon the books and accounts for the preceding financial year;
- (iii) the election of members of the Management Committee;
- (iv) the appointment of an auditor.

19. (a) The secretary shall -

- (i) when directed to do so by the Management Committee; or
- (ii) upon being given a requisition in writing signed by not less than . . . . members of the Management Committee or not less than . . . . ordinary members and clearly stating the purpose for which the general meeting is desired; or
- (iii) upon being given a notice in writing of appeal against the decision of the Management Committee to reject an application for membership or of intention to terminate the membership of any person,

convene a general meeting of members.

(b) In the absence of a direction pursuant to subrule (a) (i) the secretary shall convene a general meeting once in every . . . . month(s).

(c) At every general meeting . . . . members shall constitute a quorum.

20. (a) If after the expiration of . . . . minutes from the notified time of commencement of any Management Committee meeting, annual general meeting or general meeting pursuant to rule 20(b) a quorum is not present the meeting shall stand adjourned for . . . . week(s) to the same time and place. The secretary shall give notice of the adjournment to every member.

- (b) If after the expiration of . . . . minutes from the notified time of commencement of the adjourned meeting a quorum is not present the meeting shall proceed with those members present.
  - (c) If after the expiration of . . . . minutes from the notified time of commencement of a general meeting pursuant to rule 20(a) a quorum is not present the meeting shall lapse.
  
- 21.
  - (a) The secretary shall convene all annual and general meetings of the association by giving not less than 14 days notice of such meeting.
  - (b) The manner by which such notice is given shall be determined by the Management Committee.
  
- 22. Unless otherwise provided by these rules, at every annual and general meeting -
  - (a) the president shall be chairman and in his absence a chairman shall be elected by resolution of a majority of the financial members present at the meeting;
  - (b) the chairman shall maintain order and conduct the meeting in a proper and orderly manner;
  - (c) every question, matter or resolution shall be decided by a majority of votes of the financial members present;
  - (d) every financial member present shall be entitled to one vote and in the case of an equality of votes the chairman shall have a second or casting vote;
  - (e) voting shall be by show of hands or a division of members, unless not less than . . . . financial members present demand a ballot, in which event there shall be a secret ballot;
  - (f) the chairman shall appoint two members to conduct the secret ballot in such manner as he shall determine and the result of the ballot as declared by the chairman shall be deemed to be the resolution of the meeting at which the ballot was demanded;
  - (g) the secretary shall cause full and accurate minutes of all questions, matters, resolutions and other proceedings of every Management Committee meeting, annual meeting and general meeting to be entered in a book to be open for inspection at all reasonable times by any financial member who previously applies to the secretary for that inspection.

## BY-LAWS

23. The Management Committee may from time to time make, amend or repeal by-laws, not inconsistent with these rules, for the internal management of the association and any by-law may be set aside by a general meeting of members.

## ALTERATION OF THESE RULES

24. These rules may be altered, rescinded or added to from time to time by a special resolution carried at any annual or general meeting.

## COMMON SEAL

25. The Management Committee shall provide for a common seal and for its safe custody. It shall only be used by the authority of the Management Committee and every instrument to which the seal is affixed shall be signed by the president and shall be countersigned by the secretary or by some other person appointed by the Management Committee for the purpose.

## FUNDS

26. (a) The income and property of the association shall be applied in promotion of its objects.
- (b) The funds of the association shall be banked in the name of the association in such bank as the Management Committee may from time to time direct.
- (c) Proper books and accounts shall be kept and maintained showing correctly the financial affairs of the association and the particulars usually shown in books of a like nature.
- (d) All moneys shall be banked as soon as practicable after receipt thereof.
- (e) All amounts of \$20 or over shall be paid by cheque signed by any two of the president, secretary or treasurer.
- (f) Cheques shall be crossed "not negotiable" except those in payment of wages, allowances or petty cash recoupments which may be open.
- (g) The Management Committee shall determine the amount of petty cash which shall be kept on the imprest system.
- (h) Accounts for payment shall be presented and passed at a committee meeting.

- (i) As soon as practicable after the end of each financial year the treasurer shall cause to be prepared a statement of receipts and payments and income and expenditure and a balance sheet for the financial year just ended.
- (j) all such statements shall be examined by the auditor who shall present his report upon such audit to the secretary prior to the holding of the annual general meeting next following the financial year in respect of which such audit was made.
- (k) No honorarium shall be granted to any person from the funds of the association and no dividend shall be paid to, and no income or property of the association shall be distributed amongst the members.

#### DOCUMENTS

27. The Management Committee shall provide for the safe custody of books, documents, instruments of title and securities of the association.

#### FINANCIAL YEAR

28. The financial year of the association shall close on . . . . in each year.

#### DISTRIBUTION OF SURPLUS ASSETS

29. If the association shall be wound up in accordance with the provisions of the Associations Incorporation Act 197, the property and other assets of the association remaining after payment of all expenses and liabilities may be handed over to some other association having similar objects or in part similar objects as the members of the association in general meeting may by special resolution decide.



FEEES

On an application for incorporation, including the lodging of all necessary documents in support, and issue of certificate of incorporation	\$ 30.00
On an application for approval of amalgamation of incorporated associations, including the lodging of all necessary documents in support, cancellation of certificates of incorporation and issue of fresh certificate of incorporation	30.00
On an application for approval of change of name, including the lodging of all necessary documents in support, cancellation of certificate of incorporation and issue of fresh certificate of incorporation	30.00
On lodging notice of a special resolution	10.00
On lodging of annual return or any other document	5.00
On lodging of resolution for winding-up	5.00
For a copy or extract made and certified by the Minister of any document in his custody for each copy or extract not exceeding one page	3.00
For each additional page	1.00
For certifying by the Commissioner of a copy or extract of any document in his custody where a printed or typed copy is supplied for each copy or	
For each copy or extract not exceeding one page	2.00
For each additional page	1.00
For each search or inspection, in relation to an incorporated association, of the registers kept by or documents lodged with the Commissioner	2.00
For furnishing information at the request of a person made by post a further fee of	1.00
For late lodgment of annual return -	
(a) if lodged within one month after the period prescribed by law	1.00
(b) if lodged more than one month after the period prescribed by law but within two months after the period so prescribed	2.00
(c) if lodged more than two months after the period prescribed by law	10.00

Provided that the Commissioner may, if satisfied that just cause existed for the late lodgment, waive in whole or in part the additional fee under subparagraphs (a), (b) or (c) of this item.