

UniSA SPORT FACT SHEET

INCORPORATION FOR CLUBS

This form is intended as a guide only. Please visit any of the following websites for comprehensive information on incorporation:

- <http://www.ausport.gov.au> (Australian Sports Commission)
 - <http://www.ausport.gov.au/supporting/clubs>
- <http://www.recSPORT.sa.gov.au> (SA Office of Recreation and Sport)
 - <http://www.recSPORT.sa.gov.au/training-support/associations.html>
- <http://www.cbs.sa.gov.au/wcm> (SA Department of Consumer and Business Services)
 - <http://www.cbs.sa.gov.au/wcm/associations-and-charities/incorporated-associations/>

What is incorporation?

Incorporation provides a legal identity for a club, separate from that of its members, which relieves the members of the committee and the club from liability for authorised acts of the club. It is important to remember that the committee members of an incorporated association still have a fiduciary duty to members and stakeholders. Incorporation does not prevent actions of negligence against individual members in all circumstances.

Eligibility for incorporation

An association is eligible to be incorporated if it has more than five members and is formed for sport, recreation or amusement purposes. An association formed for the purposes of trading or securing a pecuniary profit for the members from the transactions of the association is not eligible.

Advantages of incorporation

- Provides protection of members and office bearers against personal liability incurred by the organisation
- Provides the ability for the association to own assets, including property
- Ability to prevent others from using the association's name
- Increases status of the club and ability to negotiate contracts

Disadvantages of incorporation

- Necessity to comply with legal formalities and penalties for not doing so
- Expenses associated with incorporating and dissolving
- Ability to be sued

Process of incorporating

1. Have a meeting of members
 - a. Authorise a person to apply (the Public Officer)
 - b. Decide on an intended name and check availability
 - c. Create and approve rules (constitution)

2. Seek endorsement from UniSA Sport for approval for the club to use the 'UniSA' name
3. Apply for incorporation
 - a. Complete appropriate application forms
 - b. Attach an endorsed copy of the association's rules
 - c. Attach endorsement letter from UniSA Sport
 - d. Enclose the incorporation fee
4. Common seal (once the Commissioner approves the incorporation of your association, a stamp showing association's name and logo to be used on formal documents must be developed)

Running an incorporated association

The [Association Incorporations Act 1985](#) sets out the management responsibilities of an incorporated association, including the responsibilities of committee members to ensure compliance by the Association with the provisions of the Act. Penalties are payable. It is advisable that each committee member should be issued with a copy of, and be aware of, the provisions of the Act and any amendments. Here are some of the main requirements of the Act.

Constitution

- Must be accessible to all members.
- Altering the constitution must be done in accordance with the Act.

Committee

- Conflict of interest - committee members are required to disclose any direct or indirect financial interest they may have in any contract or proposed contract, entered into or being considered by the committee.
- Complying with the Act - if a member of a committee of an association fails to take all reasonable steps to ensure the association complies with its obligations under the act, the member commits an offence and is liable to pay a fine.

Meetings

- Must be run in accordance with the association's constitution

AGMs

- Except for its first annual general meeting, which can be held up to 18 months after incorporation, AGMs must be held at least once in each 12 months and within four months of the end of the association's financial year.

Record keeping

- Associations must maintain:
 - Up to date version of the constitution (rules)
 - Register of members including the names and addresses of people who are office holders under the rules of the association, including committee members, trustees and those authorised to use the common seal

- Accounting records which correctly record and explain the financial transactions and position of the association, in such a manner that enable true and fair accounts to be prepared and for these accounts to be conveniently audited.
- Up to date register of all members, including their residential or postal address.

Trading or securing a pecuniary profit for members

- As a general rule, associations are not eligible to be incorporated under the Act if the purpose is to trade or secure financial benefits for their members.

Process to Check Incorporated Associations in SA

You can search all incorporated associations registered in South Australia, as follows.

Step 1

Search the ASIC Registers via the ASIC website

<http://www.asic.gov.au/asic/asic.nsf>

Category - Organisations and Business Names

For - <type in known details of the club>

Select the most appropriate club from the search results.

Save the *pdf* version of the 'Association Summary'

Step 2

To obtain an extract, email SA Government's Office of Consumer and Business Services

CBS-LARASSOCIATIONS@agd.sa.gov.au

Provide the following information:

- Name and Number of the Club, as per the ASIC search
- Credit Card details for payment of fee
- A postal address for the extract to be received
- Provide a copy of the *pdf* version of the ASIC search

The extract will provide the name and details of the Club's Public Officer.

Other Details**Contact**

Full contact details for Consumer and Business Services

<http://www.cbs.sa.gov.au/cooperatives/contact.html>

Website

The SA Incorporated Associations page is part of the Consumer and Business Services website

<http://www.cbs.sa.gov.au/Associations/what.html>