

Maintaining an accurate Register of Members

This paper encourages not for profit organisations (“NFPs”) to maintain an up to date “Register of Members”. An accurate Register of Members is a handy tool for an NFP management committee or board (“the board”) and members to quickly identify who is entitled to the benefits and rights of membership.

Most NFPs such as incorporated associations, companies limited by guarantee and non-trading co-operatives must maintain a Register of Members either under their respective legislation or model rules.

We prepared this paper as many NFPs will be currently organising their annual general meetings (“AGMs”) and because the *Associations Incorporation Reform Act 2012* (Vic) (“the Reform Act”) is expected to come into force in November 2012. The Reform Act requires specific details in a Register of Members for associations incorporated in Victoria.

What’s the issue?

It is important to clearly define who is an NFP member to avoid disputes. For example it is only members who may:

- receive NFP meeting notices (some other persons such as an NFPs auditor may also receive meeting notices)
- approve business at an AGM
- approve amendments to the NFPs rules or constitution
- (generally) be appointed to the board
- use internal processes to discuss grievances with other members or with the board
- be subject to disciplinary processes (a process that can lead to expulsion from membership).

Disputes about membership can be a vexing drain on an NFPs resources. The disputes are vexing because sometimes they could be avoided by some simple “housekeeping” such as keeping an up to date Register of Members.

When does a person a Member?

NFPs generally require a person to submit a formal application for membership to the board for approval. A joining fee or annual subscription may not always be involved; however the application form usually requires the applicant to agree to be bound by the NFPs rules.

Depending on the NFPs specific legislation or model rules, membership may be created either:

- when the board accepts the membership application; or
- when the accepted member's name is placed in the Register of Members.

In the former case, the Register of Members can serve as a convenient means to locate all current members, rather than searching for the board minutes of perhaps many board meetings, to determine when a person became a member. In the latter case, the Register of Members may serve as conclusive evidence that a person is or is not a member.

The Register of Members

Generally a Register of Members must include:

- A member's name and address
- The class of member (eg a "Regular Member", a "Fellow" or an "Associate")
- the date the person became a member
- the date on which a person ceases to be a member.

Usually the NFP secretary has responsibility to maintain the Register of Members.

An NFPs rules or its relevant legislation may require the Register of Members be kept up to date. For example, the Reform Act requires a Register of Members to record the date a person ceases to be a member no later than 14 days after the person ceases to be a member. The Reform Act imposes a 10 penalty unit fine (currently \$1,408) for failure by an association incorporated in Victoria to maintain an up to date Register of Members.

Further assistance on disputes: the *Thompson Reuters Not for Profit Conference, 17-19 October 2012*

Derek Mortimer, Principal of DF Mortimer & Associates, will be speaking on NFP disputes at the *Thompson Reuters Not for Profit Conference* on 17-19 October 2012 at the Sydney Harbour Marriott. If you plan to attend this conference please contact us so we may direct you to a Thompson Reuters speaker's 10% discount off any published admission price.

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Disclaimer

The information presented on membership admission and the Register of Members in this paper is of a general nature only and does not constitute legal advice. Circumstances can vary depending on amongst other things, the type of NFP and applicable legislation or model rules. It is expected but not guaranteed that the model rules for incorporated associations in Victoria will be replaced with new model rules in November 2012.

If you require legal advice on disputes, membership or constitutional amendments relating to your NFPs particular circumstances, please contact DF Mortimer & Associates.

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