

## Associations Incorporation Act 1895–1969

### Terms of Reference

The *Associations Incorporation Act 1895-1969* (WA) ("the Act") was referred to the Committee for general review in 1971.

### Background of Reference

The Act provides for the incorporation of associations, the affairs of incorporated associations and connected purposes. The Committee was aware of prevailing criticism about certain aspects of the Act and proposed that it be given the task of reviewing the Act, with the object of considering:

- (a) whether any need at all existed for an alteration to the legislation dealing with the incorporation of non-profit associations; and
- (b) whether this should be achieved by radically reshaping the legislation or by introducing specific amendments.

### Nature and Extent of Consultation

In June 1971 the Committee issued a working paper setting out its provisional views, drawing attention to certain defects shown to exist and suggesting ways to deal with them. Nine commentators responded to the working paper, including legal academics, government departments and relevant associations. The commentators were in broad agreement with the proposals contained within the working paper. The Committee delivered its final report containing its recommendations for reform in March 1972.<sup>1</sup>

### Recommendations

Having considered the submissions, the Committee made 22 recommendations to amend the Act, dealing with broad areas of concern including:

- The approval of incorporation of associations including the requirements for approvals and advertising.
- The procedure for cancelling, dissolution and amalgamation of the incorporation of associations.
- The procedure for winding up incorporated associations including the disposal of surplus assets and administrative requirements.
- Allowable activities and powers of an incorporated association including allowable trade and allowing incorporated associations to act as trustees.
- Obligations of incorporated associations including the submission of documents, the requirement to have 'Inc' as part of their name and the requirement to make certain provisions in their rules.
- That the jurisdiction for appeals should be transferred from the Supreme Court to the District Court.

A comprehensive outline of the recommendations may be found at pages 2–9 of the final report.

### Legislative or Other Action Undertaken

In 1987 Parliament passed the *Associations Incorporation Act 1987* (WA) ("the new Act"), which adopted the majority of the recommendations of the report. Those that were not implemented were generally minor and included the requirements for verifying documents and some minor administrative requirements.

The new Act did however replace the previously existing jurisdiction of the Supreme Court to hear an appeal against rejecting an application for incorporation, with an appeal to the Minister whose decision on the matter is final. This differed from the Committee's recommendation that the appeal jurisdiction be transferred to the District Court.<sup>2</sup> Despite this difference the new Act appears to have been operating without significant criticism for the past 14 years.

<sup>1</sup> Law Reform Committee of Western Australia, *Associations Incorporation Act*, Project No 21 (1972).

<sup>2</sup> This matter was debated in Parliament but the provision passed unchanged. See Western Australia, *Parliamentary Debates*, Legislative Assembly, 28 October 1987, 5258 (Mr Mensaros).