

Checklist: Rules required for incorporated associations

Legal information for incorporated associations in Victoria

This fact sheet covers:

- ▶ changes to the law about incorporated association rules
 - ▶ things you must include in your incorporated association's rules, and
 - ▶ things you don't need to include in your incorporated association's rules
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A Victorian incorporated association's (IA) rules must address certain items required by state laws.

The *Associations Incorporation Act 1981* (Vic) (**the old Act**) applied to IAs until 26 November 2012.

Since 26 November 2012, the *Associations Incorporation Reform Act 2012* (Vic) (**the AIR Act**) has applied to IAs in Victoria.

Summary of changes to laws about IA rules

Items that must be included in an IA's rules

Certain items must be included in an IA's rules. The items that must be included in an IA's rules are listed in a Schedule (**Scheduled Items**) to the AIR Act. (The old Act also listed items that must be included in a schedule).

The AIR Act has more Scheduled Items than the old Act and made changes to some of the items listed in the old Act.

Model rules

The *Associations Incorporation Reform Regulations 2012* (Vic) (**Regulations**) include model rules (**model rules**) which include all the Scheduled Items.

An IA can choose whether to adopt the model rules or create their own rules. Where an association's rules don't address a Scheduled Item, the model rules are automatically included in the association's rules.

What is the checklist for?

In the checklist below, we have listed the items that your IA must include in its rules.

Use the checklist to:

- work out whether your IA's rules meet AIR Act requirements, and
- understand where the model rules will automatically apply to your IA's own rules



What does the change in law mean for my IA?

The AIR Act applies to Victorian IAs and affects both IAs that use model rules and IAs that use their own rules.

You can't use the old model rules

From 26 November 2012, the model rules in the AIR Act can automatically apply to IAs.

If your IA adopted the old model rules, and those rules do not address a Scheduled Item in the AIR Act, the relevant model rule covered by the Scheduled Item will now apply automatically to your association.

Your IA can formally adopt the model rules by passing a special resolution at a general meeting in accordance with your association's requirements for changing rules.

The model rules are quite different to the old model rules, so you should carefully consider whether you wish to adopt the model rules.

Your association can also choose to write its own rules, so long as they address all the Scheduled Items. You may wish to do this if you are not comfortable with the model rules.



Related Not-For-Profit Law resource

For further information on writing rules and the procedure for changing your rules, go to [our resources on rules](#).

What if an IA's own rules aren't consistent with the model rules?

If your IA uses its own rules, it may not have to change its rules to match the model rules.

However, if your rules don't cover all the Scheduled Items:

- your rules that are inconsistent with the AIR Act will not be valid. If an IA follows invalid rules (even inadvertently), this will be a technical breach of the law, and
- the relevant model rule that deals with the item not covered by your rules will apply automatically to your IA

Deleting rules and reading model rules into your IA's rules can make them unworkable and confusing. To address this, we recommend IAs review and update their rules to make sure all rules are valid, and that each of the 23 Scheduled Items is addressed.

Checklist:

Your IA must include the Scheduled Items set out in the table below in its rules. These items are set out in Schedule 1 of the AIR Act.


Items that were not required under the old Act are marked 'new' in the table.

The table includes guidance notes to identify new requirements in the AIR Act that may affect the way you draft or apply your rules.

If any of the items listed in the table are not covered by your rules, you will need to update your rules. In the meantime, the model rule addressing the item will apply automatically to your IA.

Scheduled Items in the AIR Act

The association

Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
1	Your rules must include your IA's full name. This is a new Scheduled Item.	For new associations, Consumer Affairs Victoria (CAV) will now require the full name of the association be included in its rules. IAs using their own rules, or the old model rules, do not need to make any changes to address this Item. But if your IA changes its rules for another reason, it must include the name of the association in its rules then.
2	Your rules must include your IA's purposes. This is a new Scheduled Item.	IAs must set out their purposes in their rules rather than submitting them separately to CAV. IAs using their own rules don't need to make any changes. But if your IA changes its rules for another reason, it must include its purposes in its rules then.  Tip If your rules don't currently include your purposes, make a note of your purposes in your rules. If you aren't sure what your official purposes are, contact CAV to request a copy.

Membership

Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
3	If your IA has qualifications that limit who can be a member, these must be set out in your rules. This item is the same as in the Schedule to the old Act.	An IA's rules should already address this item (because it was scheduled item 1 under the old Act). If your rules do not include Scheduled Item 3 requirements, it's likely that model rule 8 will apply automatically.
4	If your IA requires members to pay a membership fee, a joining fee, or if other fees apply to members (such as a subscription fee), your rules must set out these fees and the circumstances in which they must be paid.	An association's rules should already address this item (because it was scheduled item 3 under the old Act). If your rules do not meet the requirements of Scheduled Item 4, it's likely that model rule 12 will apply automatically.



Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
	<p>This item is the same as in the Schedule to the old Act.</p>	
5	<p>Your IA's rules must set out the rights, obligations and liabilities of members.</p> <p>This is a new Scheduled Item.</p> <p>The AIR Act contains new rights of members.</p>	<p>In addition to any members' rights provided in an association's rules, the AIR Act gives IA members the following minimum rights:</p> <ul style="list-style-type: none"> the IA must allow a member at a reasonable time to inspect and copy the rules and minutes of the IA's general meetings (section 53) the IA must allow a member at a reasonable time to inspect the members register (section 57) subject to restrictions of access to personal information (sections 59 and 59A), and a member has a right to attend, and if entitled to do so, may vote, at the IA's general meetings (section 61). <p>An IA's rules can't be inconsistent with these rights.</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 5, it's likely that Part 3 of the model rules will apply automatically.</p>
6	<p>Your IA's rules must provide for the resignation of a member or end of membership.</p> <p>This is a new Scheduled Item.</p>	<p>If your IA's rules don't meet the requirements of Scheduled Item 6, it's likely that model rules 16 and 17 will apply automatically.</p>
7	<p>Your IA's rules must include the procedure (if any) for disciplining members and the mechanism (if any) for members' appearances at disciplinary action taken against them.</p> <p>This item is the same as in the Schedule to the old Act.</p> <p>However, note that the AIR Act sets out new requirements for disciplinary procedures - these do not have to be included in rules, but must be followed.</p>	<p>An IA's rules should already address this item (because it was scheduled item 16 under the old Act). However, IAs must now comply with the additional requirements of section 54.</p> <p>An IA's disciplinary procedure can't be inconsistent with section 54 of the AIR Act. Section 54 requires that, when applying a disciplinary procedure:</p> <ul style="list-style-type: none"> the relevant member must be informed of the grounds for the disciplinary action the IA proposes to take against them, and must also be given an opportunity to be heard on the matter the outcome of the disciplinary procedure must be determined by an unbiased decision-maker, and the disciplinary procedure must be completed as soon as is reasonably practical, to the extent that this is compatible with the above requirements. <p>A member who is the subject of a disciplinary procedure must not initiate a grievance procedure until the disciplinary procedure is complete.</p> <p>An IA's own rules can provide additional details for a disciplinary procedure, so long as they are consistent with the requirements in the AIR Act.</p> <p>An IA can provide in its rules that members will not be disciplined.</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 7, it's likely that model rules 19-24 will apply automatically.</p>
8	<p>Your IA's rules must include grievance procedures for settling disputes under the rules between the IA and any of its members or between a member and any other member.</p> <p>This item is the same as in the Schedule to the old Act.</p>	<p>An IA's rules should already address this item (because it was scheduled item 17 under the old Act).</p> <p>The grievance procedure can have additional requirements but must not be inconsistent with section 55 of the AIR Act.</p>




Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
	<p>However, the AIR Act has new requirements for grievance procedures.</p>	<p>Under section 55 of the AIR Act, an IA's rules must set out a grievance procedure for dealing with a dispute under the rules between:</p> <ul style="list-style-type: none"> • a member and another member, or • a member and the association. <p>A member may appoint any person to act on their behalf in the grievance procedure. When an IA applies its grievance procedure, it must make sure that:</p> <ul style="list-style-type: none"> • each party involved in the dispute has had an opportunity to be heard on the matter, and • an unbiased decision-maker determines the outcome of the dispute <p>If a member initiates a grievance procedure against an IA, the IA can't take disciplinary action against the following persons in relation to the subject matter of that grievance procedure until the procedure is completed:</p> <ul style="list-style-type: none"> • the member who initiated the grievance procedure (complainant member), or • a member who is appointed to act on behalf of the complainant member in the grievance procedure <p>If your rules don't meet the requirements of Scheduled Item 8, it's likely that model rules 25-29 will apply automatically.</p>

Management and record keeping

Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
9	<p>Your IA's rules must include the name, membership and powers of the committee or other body (for example, a 'board') that manages the IA. This includes details of:</p> <ul style="list-style-type: none"> • the procedure for electing or appointing committee members • the terms of office of committee members <p>This item is the same as in the Schedule under the old Act.</p> <ul style="list-style-type: none"> • the grounds on which, or reasons for which, the office of a committee member becomes vacant • the filling of casual vacancies in the committee, and • the quorum and procedure at committee meetings 	<p>An IA's rules should already address this item (because it was scheduled item 4 under the old Act).</p> <p>An IA's rules can provide additional details for removal of, and vacation of office, as long as they are consistent with the section 78 requirements and comply with all laws (including anti-discrimination laws).</p> <p>Section 78 of the AIR Act provides for removal from, and vacation of, the office of a committee member. This must be done in accordance with your IA's rules.</p> <p>A committee member of the IA vacates their office if any of the following circumstances occur:</p> <ul style="list-style-type: none"> • the committee member resigns their office by written notice addressed to the committee • the committee member is removed from office by special resolution of members • the committee member dies, becomes insolvent under administration, becomes a represented person (within the meaning of the Guardianship and Administration Act 1986), or is disqualified from managing a corporation, an Aboriginal and Torres Strait Islander corporation or a co-operative. • the committee member is also a secretary and they stop living in Australia (only applies to secretary), or • a statutory manager is appointed under section 116 of the AIR Act to conduct the IA's affairs. <p>If your IA's rules don't meet the requirements of Scheduled Item 9, it's likely that Part 5 of the model rules will apply automatically.</p>



Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
10	<p>Your IA's rules must include the procedure for the appointment and removal of the IA's secretary (previously the public officer).</p> <p>This is a new Scheduled Item.</p>	<p> Note The AIR Act replaces the term 'public officer' with the term 'secretary'.</p> <p>Under the old model rules, the committee included a president, vice-president, treasurer and secretary. The rules then allowed a public officer to be appointed, whose details were provided to CAV.</p> <p>Under the new model rules, the details of the secretary on the committee must be given to CAV. This means the two different roles have been merged.</p> <p>Don't confuse the new definition of secretary under the AIR Act with the role of 'secretary' that may appear in an IA's rules.</p> <p>IAs that want flexibility to separate the secretary on the committee and the secretary notified to CAV will need to amend their rules. The best approach is to call the secretary on the committee something other than secretary, (for example, Second Vice President).</p> <p>The AIR Act includes provision for filling the role of secretary temporarily and the grounds on which the office of secretary will become vacant. Under section 73(1) of the AIR Act, if the secretary's position becomes vacant, the IA must:</p> <ul style="list-style-type: none"> • fill the vacancy within 14 days in accordance with the procedure in its rules, and • notify CAV of that appointment in the approved form within 14 days after being appointed (section 74) <p>If an IA's rules allow for an election or appointment of a new secretary otherwise than by the committee and 14 days is not long enough to carry out the procedure, the committee must appoint a temporary secretary within 14 days. This 'interim' secretary only holds the position until a permanent secretary is elected or appointed under the IA's rules.</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 10, it's likely that model rules 52 and 56 will apply automatically.</p>
11	<p>Your IA's rules must provide for custody of records, securities and other relevant IA documents.</p> <p>This is substantially the same as in the Schedule to the old Act.</p> <p>'Relevant documents' was changed to 'records and other relevant documents'.</p>	<p>An IA's rules should already address this item (because it was scheduled item 13 under the old Act).</p> <p>'Records and other relevant documents' don't expressly include general meeting minutes and financial records.</p> <p>Section 206 of the AIR Act provides that IAs are now able to keep records in a language other than English. However, they must make records available in English when asked by an association member or CAV.</p> <p>If your rules do not meet the requirements of Schedule Item 11, it's likely that model rule 75 will apply automatically.</p>
12	<p>Your IA's rules must provide for custody and use of the IA's common seal (if it has one).</p> <p>This item is the same as in Schedule to the old Act.</p>	<p>An IA's rules should already address this item (because it was scheduled item 12 under the old Act).</p> <p>IAs don't have to have a common seal, but if they wish to, their rules must address the custody and use of the seal.</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 12, it's likely that model rule 72 will apply automatically.</p>




Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
13	<p>Your IA's rules must provide for members to have access to, and to be able to obtain copies of, the IA's records, securities and other relevant documents.</p> <p>This is a new Scheduled Item.</p> <p>Under the old Act, an IA's rules only had to include a right of members to inspect 'relevant documents'.</p>	<p>An IA's rules should already address access to and inspection of relevant documents (item 13), but should be amended to extend this to a member's right to a copy of an IA's records.</p> <p>As the definition of 'relevant documents' has changed to 'records and other relevant documents' (see Item 12), members now have broader access to documents.</p> <p>Under the AIR Act, an IA's rules must provide for inspection of records, securities and other relevant documents.</p> <p>IAs should also be aware of members' rights regarding an IA's general meeting minutes (see Item 15 below).</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 13, it's likely that model rule 75 will apply automatically.</p>
14	<p>Your IA's rules must provide for the preparation and retention of accurate minutes of:</p> <ul style="list-style-type: none"> • the IA's general meetings, and • the IA's committee meetings (or meeting of another body that manages the IA). <p>This is a new Scheduled Item.</p>	<p>If your IA's rules don't meet the requirements of Scheduled Item 14, it's likely that model rules 41 and 66 will apply automatically.</p>
15	<p>Your IA's rules must provide for members to have access to, and to be able to obtain copies of, the IA's general meeting minutes, including financial statements submitted at a general meeting.</p> <p>This is a new Scheduled Item.</p>	<p>Under section 53 of the AIR Act, an IA's rules must provide for members inspecting and making copies of the IA's general meeting minutes.</p> <p>In particular, under section 53(1), if an IA is requested to do so by one of its members, the IA must allow the member at a reasonable time to inspect the IA's:</p> <ul style="list-style-type: none"> • rules, or • general meeting minutes. <p>Under section 53(2), IAs must provide copies of these documents to a member who makes a written request within 14 days of the request. IAs can charge a fee for providing copies.</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 15, it's likely that model rule 75 will apply automatically.</p>
16	<p>Your IA's rules must outline members' right of access (if any) to committee meeting minutes, including any terms and conditions that access may be subject to.</p> <p>This is a new Scheduled Item.</p>	<p>An IA's rules only need to provide for members' access to committee meeting minutes if the IA is willing to allow this.</p> <p>If your IA wants to allow, or already allows, access to committee meeting minutes, the process for accessing the minutes should be set out in your IA's rules (for example, model rule 75).</p> <p>If your IA doesn't want to allow access to committee meeting minutes, we recommend that the rules explicitly state that the IA does not permit access to committee meeting minutes.</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 16, it's likely that model rule 75 will apply, which automatically permits access to committee meeting minutes.</p>



Meetings

Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
17	<p>Your IA's rules must set out the intervals between general members meetings and the way general meetings are called</p> <p>This item is the same as in the Schedule of the old Act.</p>	<p>An IA's rules should already address this item (because it was scheduled item 9 under the old Act).</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 17, it's likely that model rules 30, 31 and 32 will apply automatically.</p>
18	<p>Your IA's rules must set out the quorum and procedure for general meetings and whether members may vote by proxy at general meetings.</p> <p>This item is the same as in the Schedule of the old Act.</p>	<p>An association's rules should already address this item (because it was scheduled item 5 under the old Act).</p> <p>Under section 62 of the AIR Act, members can take part in general meetings using technology to facilitate their attendance (for example, through video or phone conferencing).</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 18, it's likely that model rules 34, 35 and 36 will apply automatically.</p>
19	<p>Your IA's rules must set out the time within which, and the way that notices of general meetings and notices of motion must be given, published or circulated.</p> <p>This item is the same as in the Schedule of the old Act.</p>	<p>An IA's rules should already address this item (because it was scheduled item 6 under the old Act).</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 19, it's likely that model rule 33 will apply automatically.</p>

Funds

Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
20	<p>Your IA's rules must state the sources from which the IA may raise funds.</p> <p>This item is the same as in the Schedule of the old Act.</p>	<p>An IA's rules should already address this item (because it was scheduled item 7 under the old Act).</p> <p>The AIR Act removed the restriction on trading for IAs (although the prohibition on distributing funds to members remains).</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 20, it's likely that model rule 68 will apply automatically.</p> <p> Note on trading</p> <p>Under the AIR Act, IAs are no longer prohibited from trading.</p> <p>Under Section 51 of the old Act, certain IAs were allowed to trade if they met a set of requirements. Some IA rules will still include provisions about these requirements. In some cases, IAs may have had particular trading requirements imposed on them by an executive order made under section 51 of the old Act. These orders required some IAs to notify a minister before changing any rules about trading. IAs should check whether their rules include any extra requirements like these. And IAs that still have a trading order in place could act to revoke the order.</p>
21	<p>Your IA's rules must set out the way in which the IA's funds will be managed and, in particular, the way that cheques</p>	<p>An IA's rules should already address this item (because it was scheduled item 8 under the old Act).</p>



Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
	<p>may be drawn and signed on behalf of the IA.</p> <p>This item is the same as in Schedule of the old Act.</p>	<p>If your rules don't meet the requirements of Scheduled Item 21, it's likely that model rule 69 will apply automatically.</p>

Changing your rules


Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
22	<p>Your IA's rules must set out the procedures for adding, changing and deleting rules.</p> <p>This item is the same as in the Schedule of the old Act.</p>	<p>An IA's rules should already address this item (because it was scheduled item 11 under the old Act).</p> <p>Under section 50 of the AIR Act, rules may only be changed by special resolution of the IA's members.</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 22, it's likely that model rule 77 will apply automatically.</p>

Winding up and dissolution


Item no	Scheduled Item under the AIR Act	Note and guidance on the rule
23	<p>Your IA's rules must set out how any surplus assets will be disposed of on the IA's winding up or dissolution.</p> <p>This item is the same as in the Schedule of the old Act.</p>	<p>An IA's rules should already address this item (because it was scheduled item 15 under the old Act).</p> <p>If your IA's rules don't meet the requirements of Scheduled Item 23, it's likely that model rule 76 will apply automatically.</p>

Changes in the Act – beware of inconsistencies

When updating your IA's rules, note the issues below. Your rules should be consistent with the AIR Act.

Issue	 Note
The IA's members register	Under the AIR Act, IAs must keep a members register and the register must be available for inspection by other members. The AIR Act also allows members to apply in writing to the IA secretary to have access to their entry and personal details on the members register restricted where they have special circumstances. In certain circumstances, the secretary may also apply for an exemption from being required to allow a member to inspect the register.
Disciplinary and grievance procedures	The AIR Act sets out new minimum requirements for disciplinary and grievance procedures. Procedures in your IA's rules must be consistent with these minimum requirements.
Officers or directors indemnity	The AIR act includes a statutory indemnity for directors and office holders – your rules can't exclude this indemnity.



Issue	 Note
Directors and office holders' duties	Directors and office holders' duties are set out in the AIR Act. If your IA's rules say anything about directors' duties, they must be consistent with the AIR Act requirements, particularly around managing conflicts of interest.
Waiver of notice for meetings	<p>Some IA's rules provide that members can agree not to receive notice of meetings (a waiver of notice).</p> <p>As the AIR Act makes notice of meetings to members a statutory requirement, a rule that allows a waiver of notice is no longer allowed.</p>
Number of members required to demand a poll	<p>Some IA rules allow members to require a poll where a vote at a general meeting has been taken using another method (such as show of hands). Some IA rules specify the number of members required to request a poll before the meeting Chair is required to provide a poll.</p> <p>Section 65(3) of the AIR Act provides that any member can request a poll, so IA rules should no longer include a minimum number of members required to request a poll.</p>

Resources

Not-for-profit Law resources

▶ [Not-for-profit Law's Simple rules](#)

Not-for-profit Law has developed a set of rules to help Victorian incorporated associations draft their own rules

▶ [Not-for-profit Law's Secretary Satchel](#)

The Secretary's Satchel is a comprehensive guide to the secretary's role (previously 'public officer') in running an incorporated association

Other related resources

▶ [Consumer Affairs Victoria – incorporated associations](#)

Visit the incorporated associations section of the CAV website for information on how to become, manage or find an incorporated association

▶ [Database of Victorian incorporated associations](#)

The CAV website features a tool for searching for incorporated associations in Victoria

▶ [Consumer Affairs Victoria – Model rules](#)

Visit the CAV website to download a copy of the model rules for an incorporated association, extracted from Part 3 of the Associations Incorporation Reform Regulations 2012 (Vic).

Legislation

▶ [*Associations Incorporation Reform Act 2012 \(Vic\)*](#)

▶ [*Associations Incorporation Act 1981 \(Vic\)*](#)

▶ [*Associations Incorporation Reform Regulations 2012 \(Vic\)*](#)