



REPORTING TO CONSUMER AFFAIRS VICTORIA

Part 8 – Guide for Public Officers and Secretaries

REPORTING TO CONSUMER AFFAIRS VICTORIA

This part of the [Guide for Public Officers and Secretaries](#) covers the obligations of an incorporated association in Victoria to report to Consumer Affairs Victoria (**CAV**).

Key Points

1. What are the legal requirements for reporting to Consumer Affairs Victoria?

The public officer of an incorporated association is required to report to CAV about certain matters, including the organisation's financial affairs in an "annual statement". However, when new laws commence (expected to be 1 July 2012), the secretary will take on this task. The secretary, together with the organisation's management committee, prepares documents to be lodged with CAV.

2. Accounting requirements

Each incorporated association must maintain adequate and accurate accounting records. These records are the basis of the organisation's annual statement. There are extra requirements for "prescribed associations". The treasurer is usually responsible for gathering these, but the public officer must lodge them with CAV.

3. Preparing and lodging the annual statement

Every year, a financial statement must be submitted to members of the organisation at the annual general meeting. This must happen before the public officer lodges the annual statement with CAV. The financial statement must contain certain information, and there are particular requirements for preparing and lodging the annual statement.

4. Can Consumer Affairs Victoria refuse to register documents?

In some circumstances CAV can refuse to register documents. This includes when CAV considers a lodged document is not a valid document of the organisation. This Part explains what an organisation can do if CAV refuses to register a document.

Note:

This Part of the Guide deals mainly with duties of the *public officer* of an incorporated association. The secretary of your organisation may (or may not) also be the public officer. Check [Important Background Information](#) in this Guide for more information and to find out which parts of this Guide apply to your situation.

Important:

The AI Act is being changed to merge the roles of public officer and secretary. The new laws are not expected to start before 1 July 2012, and when they do the public officer will automatically be called the secretary under the AI Act. This Guide will be updated when these new laws start.

To make the transition to these new laws easier, if your organisation is changing its secretary and/or public officer, consider appointing the same person to both roles (that is, appoint one person as the public officer and secretary).

1. What are the legal requirements for reporting to Consumer Affairs Victoria?

The main legal duty of the public officer of an incorporated association in Victoria is to report to Consumer Affairs Victoria (**CAV**) about the affairs of the organisation.

The legal requirements arise under:

- the *Associations Incorporation Act 1981* (Vic) (the **AI Act**), and
- the *Associations Incorporation Regulations 2009* (Vic) (the **Regulations**).

AI Act requirements

Lodging the annual statement

Under the AI Act, every year the public officer must lodge an annual statement with CAV. This must be done within one month after the annual general meeting at which the organisation's financial statement is considered by the members of the organisation (although the public officer can seek an extension of time).

The AI Act and the Regulations set out what must be contained in the organisation's *financial* statement and the *annual* statement lodged with CAV (see section 30). See also [Tool 1: Flowchart for preparing and lodging the annual statement](#).

Remember!

If the public officer fails to lodge your organisation's annual statement within the required time, the organisation and each member of its management committee may be ordered to pay a penalty (section 30(8) of the AI Act). As at 1 October 2011, the maximum penalty under the AI Act is about \$610.

Other CAV reporting requirements

The public officer is also required to report to CAV, and lodge relevant documents or forms in other situations. These include:

- within 14 days after a new public officer is appointed or when the public officer's details change (see further [Appointing and Removing a Public Officer](#) in this Guide)
- to get approval from CAV for changes to the organisation, after members have passed a special resolution to change the organisation's name (section 13), rules or statement of purposes (section 22), or to amalgamate with another association (section 31) (see further [Procedures for Meetings](#) in this Guide), or
- when the organisation has given a notice of a proposal to remove an auditor to its members (section 30C) (see [Preparing and Giving Notice of Meetings](#) in this Guide).

These requirements are discussed in other parts of this Guide, and are not discussed in detail in this Part.

Important:

This Part of the Guide deals with CAV reporting requirements only. However your organisation may also have responsibilities to report to other institutions and government agencies (for example, under funding agreements) about changes to its governing documents (such as the rules), or the people who are authorised to act on behalf of the organisation.

For example, organisations should notify the Australian Tax Office of a change in their public officer or office bearers – see [Appointing and Removing a Public Officer](#) and [Appointing and Removing a Secretary](#) in this Guide.

2. Accounting requirements

An incorporated association must maintain “adequate and accurate” accounting records of all its financial transactions (section 30A of the AI Act). These accounting records are the basis of your organisation's financial statement submitted to members at the annual general meeting, and the annual statement lodged with CAV.

The treasurer of the organisation is generally responsible for overseeing and reporting on the organisation's financial affairs. Some organisations also have an auditor (an accountant who checks and confirms the accuracy of the organisation's accounting records). “Prescribed associations” under the AI Act are required to have an auditor and comply with special accounting requirements (see below, [Special requirements for “prescribed associations”](#)).

You should check your organisation's rules (see [Important Background Information](#) in this Guide) and any contracts (for example, funding agreements) for any particular accounting requirements. Do your rules require the accounts to be audited each year? Even if you are not a prescribed association, your rules (or a condition of funding from government) may require this.

Remember!

An organisation can be penalised under the AI Act for failing to keep adequate and accurate accounting records. As at 1 October 2011, the penalty under the AI Act is about \$610.

Special requirements for “prescribed associations”

If your organisation is a “prescribed association”, under the AI Act it must:

- comply with extra accounting requirements (see below), and
- keep all accounting records for a period of 7 years after the completion of the relevant transactions (or risk being fined) (section 30B(3)).

What is a “prescribed association”?

A “prescribed association” is an incorporated association that:

- had gross annual revenue over \$200,000 in its previous financial year
- has gross assets over \$500,000, or
- has been prescribed by regulation (section 3 of the AI Act).

Accounting standards

The financial statements of a prescribed organisation must be prepared in accordance with particular accounting standards (known as AAS's and AASB's).

Tip:

If your organisation uses an accountant that is registered with one of the three professional accounting bodies (CPA Australia, the Institute of Chartered Accountants, the National Institute of Accountants) then they are required to use the current standards.

Audit of accounts and auditor's report

If your organisation is a prescribed association (see above), after the end of each financial year it must have its accounts audited by:

- a registered company auditor, or a firm of registered company auditors
- a person who is a member of CPA Australia or the Institute of Chartered Accountants in Australia, or
- any other person approved by CAV as an auditor for this purpose (section 30B(1) of the AI Act).

CAV has advised that accountants who are members of National Institute of Accountants (**NIA**) have been approved by CAV.

The auditor must give your organisation a written report of the audit (section 30B(1A)). You must attach a copy of the audited accounts and the auditor's report to your organisation's annual statement when it is lodged with CAV (section 30(3A)(b) and 30(4)(aa)).

Remember!

There are penalties under the AI Act if your organisation is a "prescribed association" and fails to have its accounts audited. As at 1 October 2011, the maximum penalty is about \$1220.

Certain people cannot be the auditor for a prescribed association

If your organisation is a prescribed association, your auditor cannot be:

- a member of the management committee of your organisation
- an employer or employee of a member of the management committee
- a business partner of a member of the management committee, or
- an employee of your organisation (section 30B(2) AI Act).

Why can't anyone be an auditor?

As a matter of good practice (and to reassure members, funders and those dealing with your association that the auditor is not biased), the auditor should be as independent as possible from those connected with the association. This is the policy reason behind these requirements in the AI Act.

Important:

Currently under the AI Act there is a two-tiered reporting scheme for incorporated associations. Under this scheme, non-prescribed organisations (that is, organisations that have an annual revenue of less than \$200,000 or assets less than \$500,000) must provide a signed annual statement to CAV but do not have to provide audited accounts. However, 'prescribed organisations' (defined above) are required provide audited accounts.

As a result of recent changes to the AI Act (expected to start on 1 July 2012) this two-tiered reporting scheme will be replaced by a three-tiered reporting scheme.

Under the new scheme, an organisation's reporting obligations will depend on whether it is classified as a tier 1 organisation (annual revenue of less than \$250,000), tier 2 organisation (annual revenue between \$250,000 and \$1 million) and tier 3 (annual revenue exceeding \$1 million).

This Guide will be updated when these new laws start. More information about the impact of these and other recent amendments is available on the PilchConnect web portal. Go to www.pilch.org.au/legalupdates/

3. Preparing and lodging the annual statement

Financial statement (submitted to the members at the annual general meeting)

Depending on how your organisation is run, the financial statement may be prepared by the public officer, the secretary, treasurer or other member of the organisation's management committee, or staff. The financial statement must be presented to members of the organisation at the annual general meeting. This is so the members of your organisation have the opportunity to consider the financial statement before the *annual* statement is lodged with CAV. This is also important so that the members can check the financial dealings and position of the organisation.

Your organisation's financial statement must include certain details required by section 30(3) of the AI Act. These are set out in [Tool 1: Flowchart for preparing and lodging the annual statement](#). Overall, the financial statement must "give a true and fair view" of the financial position of your organisation during and at the end of its last financial year (section 30(3A)(a)).

At the annual general meeting, the financial statement must be submitted to the members of your organisation (section 30(3) of the AI Act) – see [Procedures for Meetings](#) in this Guide. Your organisation can be fined for failing to do this.

At the annual general meeting or as soon as possible afterwards, a member of the management committee must certify in writing that the financial statement was submitted to members at the annual general meeting. For more details about actions which must be taken after the annual general meeting, see [Tool 1: Flowchart for preparing and lodging the annual statement](#). Also check your organisation's rules to see if there are any extra requirements.

Remember!

The AI Act requires an organisation to keep:

- the financial statement (as submitted to members at the annual general meeting) for *at least 7 years* after the date it was submitted to members
- the certificate by a management committee member who attended the annual general meeting for *at least 7 years* after the date signed (section 30(4A)), and
- originals of all documents lodged with CAV (for example, audited accounts and the auditor's report) for *at least 7 years* after the date of lodging (sections 45A and 49A).

An organisation can be fined if it fails to keep these documents. As at 1 October 2011 an organisation can be ordered to pay as much as \$3,664 in some circumstances. Each management committee member can also be ordered to pay up to \$610, as at 1 October 2011, for failing to keep the financial statement and management committee member's certificate (section 30(8)).

For more information about the timing of annual general meetings under the AI Act, see [Preparing and Giving Notice of Meetings](#) in this Guide.

Annual statement (lodged with CAV)

Every year before your annual general meeting, CAV will send your organisation an “annual statement form”, which the public officer must complete and lodge with CAV after the annual general meeting. (As at 1 October 2011, you cannot download the form from the CAV website.)

The public officer must lodge a copy of the annual statement with CAV:

- within one month after your organisation’s annual general meeting, or
- if an extension of time for holding the annual general meeting has been granted by CAV, within a month after the end of that period (section 30(4) and (5) of the AI Act).

An organisation can also apply to CAV for an extension of time to lodge the annual statement (regardless of whether the time for holding the annual general meeting has been extended). See also below, [Applying for an extension of time](#).

The annual statement must include details required by section 30(4) of the AI Act and regulation 11 of the Regulations. When lodging the annual statement form with CAV, the public officer must attach certain documents and pay the prescribed lodging fee.

Remember!

If your organisation passed a resolution about the financial statement at the annual general meeting (for example, approving the financial statement with some modifications) this resolution must be attached to the annual statement lodged with CAV.

If your organisation is a prescribed association (see above, [Special requirements for “prescribed associations”](#)) the public officer must lodge additional documents, such as the auditor’s report, with the annual statement.

These are all discussed in [Tool 1: Flowchart for preparing and lodging the annual statement](#).

The public officer may lodge the annual statement in person, or by post or fax. CAV also accepts completed and signed forms scanned (PDF format) and sent by email. However the annual statement cannot, as at 1 October 2011, be lodged via CAV’s online system.

See [Tool 2: Sample annual statement form](#) for an example of a completed annual statement form to be lodged with CAV.

Remember!

Documents submitted to members of an organisation at a general meeting and/or lodged with CAV should give a true and accurate picture of your organisation. It is an offence under section 49(1) of the AI Act to:

- knowingly make a statement that is false or misleading in a relevant detail, or
- knowingly leave out any matter or thing from the document, which makes the document misleading in a relevant detail.

It is also an offence for anyone to authorise someone to do any of these things, or to do any of the above without having taken reasonable steps to ensure that the statement or omission was not false or misleading (section 49(2) AI Act).

This is a serious matter under the law. As at 1 October 2011, the penalty for these offences is \$7328.

In exceptional circumstances, CAV may permit an organisation not to submit an annual statement (that is, “exempt” the organisation). An exemption can be either generally or for a specific year (section 30(7)). CAV has advised that an exemption may be granted when, for example, an organisation is a “prescribed association” only because it has valuable assets, however it does not have a sufficiently large turnover (cash flow) to justify paying for an audit of its annual accounts.

Remember!

If your organisation does not lodge its annual statement in each of two successive years, your organisation may be wound up (that is, closed down) by CAV (section 35(2)(e) of the AI Act).

Applying for an extension of time

The public officer may apply to CAV for an extension of time to hold an annual general meeting or to lodge the annual statement. To apply, the public officer can either:

- download the "Application for Extension of Time" form from CAV's website: www.consumer.vic.gov.au > [Incorporated Associations](#) > [All incorporated associations forms and publications](#) and follow the links. Complete the form, and then deliver, post or fax it to CAV
- apply online at online.justice.vic.gov.au and click on “Business Registration”, or
- CAV also accepts completed and signed forms scanned (PDF format) and sent by email.

Your organisation must pay the prescribed fee when applying for an extension of time. As at 1 October 2011 the prescribed fee is \$24.40.

4. Can Consumer Affairs Victoria refuse to register documents?

CAV can refuse to register or receive documents lodged by an organisation for a number of reasons (section 46), including:

- if the document does not comply with the requirements of the AI Act
- if the document is missing details or contains an error, or
- if CAV considers that the document is not a valid document of the organisation – for example, when an organisation splits into rival groups and each group seeks to lodge documents with CAV, claiming that they are the official version.

If CAV refuses to register a document because it is considered invalid, your organisation can request CAV to reconsider the decision. If CAV reconsiders, and still decides not to register the document, you can request CAV to refer the question to the Magistrates Court. CAV must ask the court to decide whether the document is valid or not. If the magistrate decides the document is valid, CAV must register it.

Further information

PilchConnect resources

The PilchConnect web portal contains a variety of resources and fact sheets for community organisations – see www.pilch.org.au/legal_info/

- See [Running the Organisation > Financial reporting](#), for summary information on the reporting obligations of incorporated associations.

Legislation

The [Associations Incorporation Act 1981](#) (Vic) is the legislation that regulates incorporated associations in Victoria.

The [Associations Incorporation Regulations 2009](#) (Vic) contain additional requirements for incorporated associations in Victoria.

Government

The Consumer Affairs Victoria website contains a variety of online resources, including online access for incorporated associations. See www.consumer.vic.gov.au > Incorporated Associations.

Other links

The Australian Accounting Standards Board (AASB) website contains information about current accounting standards and other relevant information. See www.aasb.com.au

CPA Australia website contains information about accountants who are members of CPA Australia as well as practice standards and a range of accountancy publications. See www.cpaaustralia.com.au

The Institute of Chartered Accountants in Australia website contains information about accountants who are members of the Institute as well as practice standards and a range of accountancy publications. See www.charteredaccountants.com.au

The National Institute of Accountants website contains information about accountants who are members, as well as practice standards and a range of accountancy publications. See www.nia.org.au

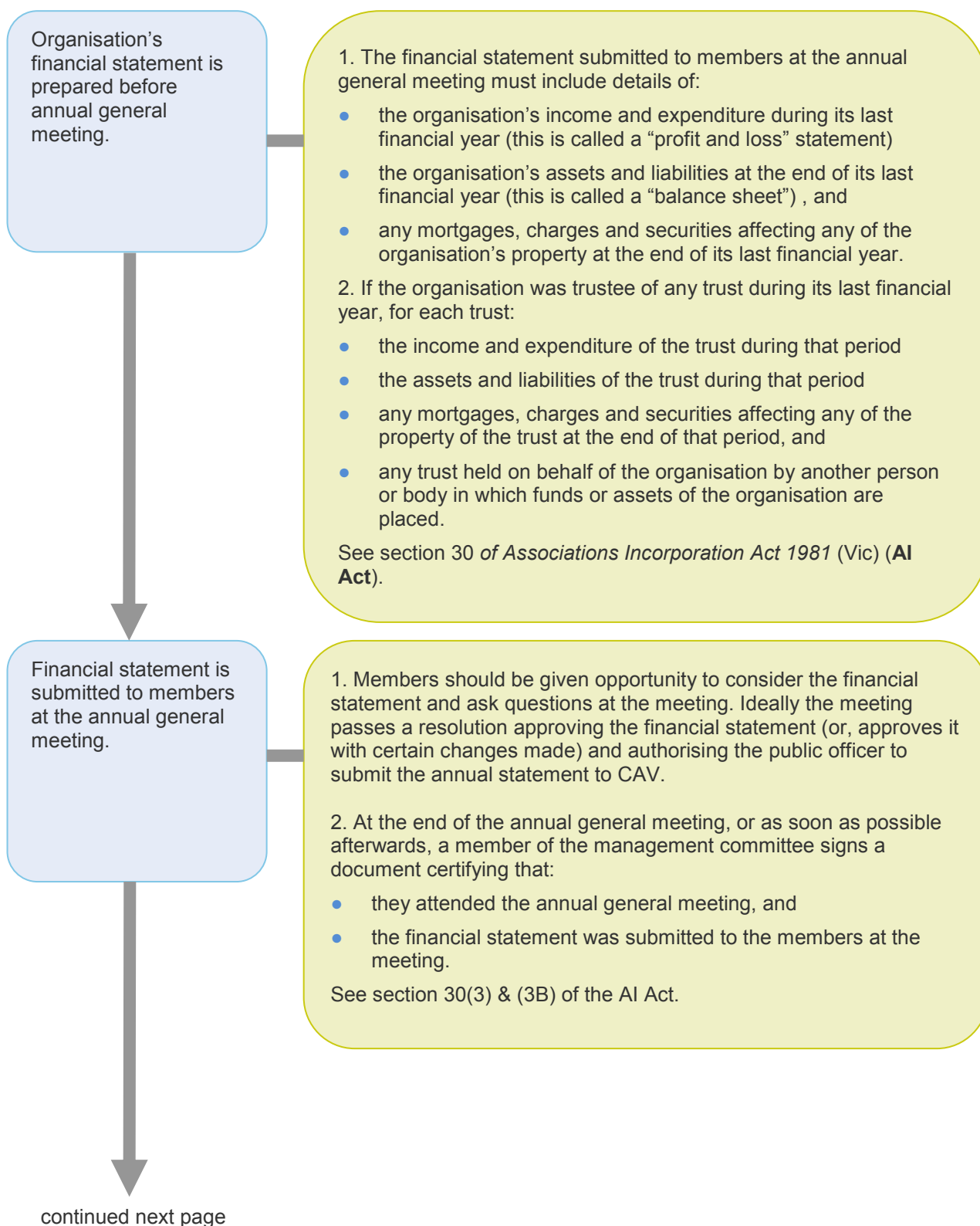
See [Important Background Information](#) in this Guide for links to other organisations and online resources to assist you and your organisation.

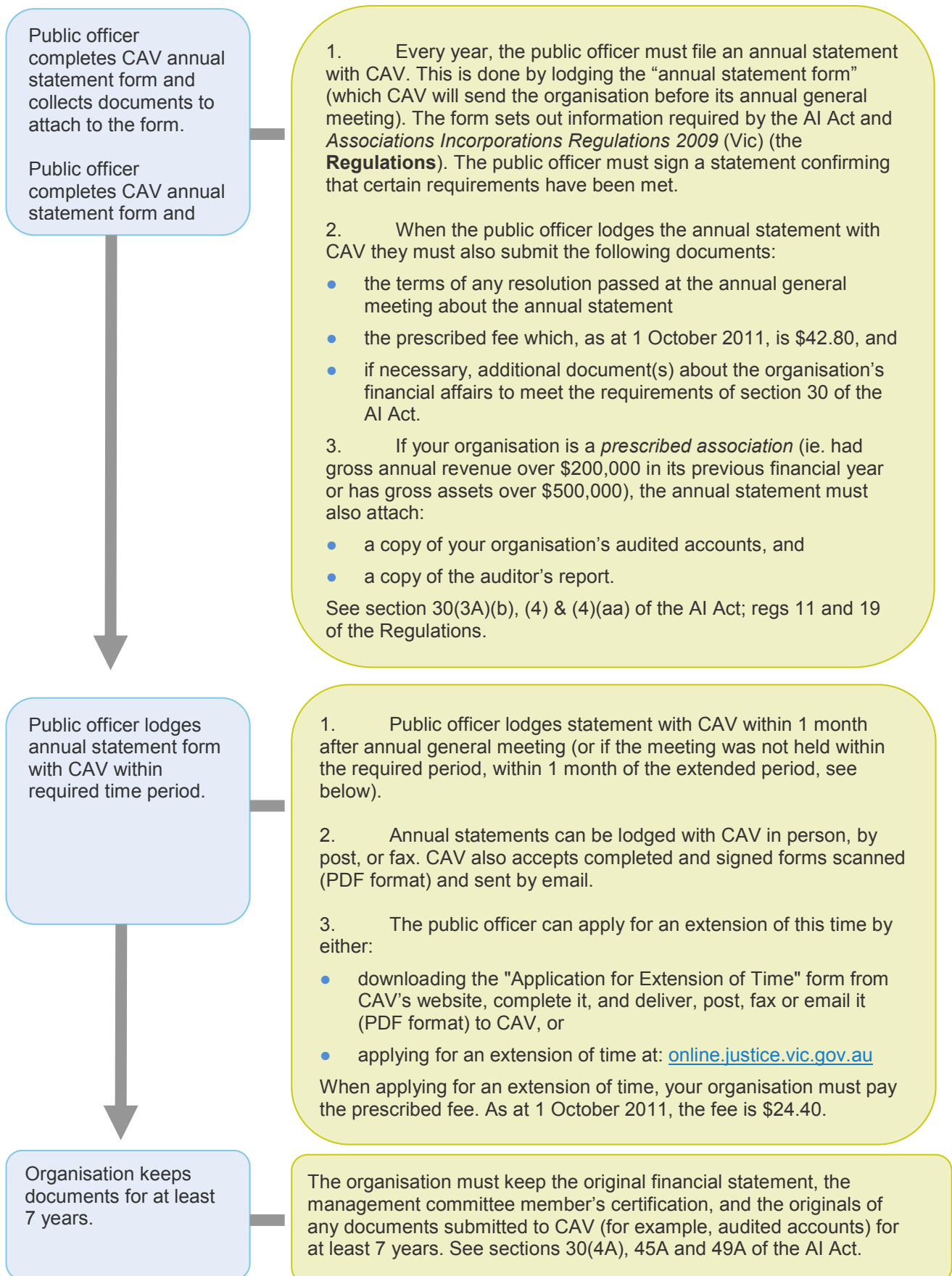
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Tool 1: Flowchart for preparing and lodging the annual statement





1. Every year, the public officer must file an annual statement with CAV. This is done by lodging the "annual statement form" (which CAV will send the organisation before its annual general meeting). The form sets out information required by the AI Act and *Associations Incorporations Regulations 2009* (Vic) (the **Regulations**). The public officer must sign a statement confirming that certain requirements have been met.

2. When the public officer lodges the annual statement with CAV they must also submit the following documents:

- the terms of any resolution passed at the annual general meeting about the annual statement
- the prescribed fee which, as at 1 October 2011, is \$42.80, and
- if necessary, additional document(s) about the organisation's financial affairs to meet the requirements of section 30 of the AI Act.

3. If your organisation is a *prescribed association* (ie. had gross annual revenue over \$200,000 in its previous financial year or has gross assets over \$500,000), the annual statement must also attach:

- a copy of your organisation's audited accounts, and
- a copy of the auditor's report.

See section 30(3A)(b), (4) & (4)(aa) of the AI Act; regs 11 and 19 of the Regulations.

1. Public officer lodges statement with CAV within 1 month after annual general meeting (or if the meeting was not held within the required period, within 1 month of the extended period, see below).

2. Annual statements can be lodged with CAV in person, by post, or fax. CAV also accepts completed and signed forms scanned (PDF format) and sent by email.

3. The public officer can apply for an extension of this time by either:

- downloading the "Application for Extension of Time" form from CAV's website, complete it, and deliver, post, fax or email it (PDF format) to CAV, or
- applying for an extension of time at: online.justice.vic.gov.au

When applying for an extension of time, your organisation must pay the prescribed fee. As at 1 October 2011, the fee is \$24.40.

The organisation must keep the original financial statement, the management committee member's certification, and the originals of any documents submitted to CAV (for example, audited accounts) for at least 7 years. See sections 30(4A), 45A and 49A of the AI Act.

Tool 2: Sample annual statement form

This is an example of a completed annual statement form to be lodged with Consumer Affairs Victoria.

Note: The sample form below is for an organisation which is not a “prescribed association” under the *Associations Incorporation Act 1981 (Vic)*. A similar (but slightly different) annual statement form must be completed by prescribed associations.



0410

Annual Statement by Public Officer

Annual fee is \$40.90

Non-Prescribed Association

Assoc. Name **XYZ Club Inc.**

Associations Incorporation Act 1981 - Section 30(4)

Registration Number Association ABN

A00003333 **123 456 789**

Postal address **123 Frank Street
Mowtown VIC 3999**

Name and residential address of public officer

**Ms. T Bag
1 Smith Street
Melbourne VIC 3000**

Registered address
as above

The information currently held about your association is listed above.

- This statement is for the association's financial year ending 30 June 2009
- For the association's financial year, did the association have gross income over \$200,000 or gross assets over \$500,000?

- No Go to question 3.
 Yes This means the association is a prescribed association and you will need to complete a different form. Please call 1300 381 673 for more details.

- Is the registered address shown above correct?

- Yes Go to question 4.
 No New registered address (PO Boxes cannot be accepted)

State VIC Postcode

Date registered address changed

- Is the postal address shown above correct?

- Yes Go to question 5.
 No New postal address (if same as new registered address write "as above")

Postcode

Date postal address changed

- Are the public officer's details shown above correct?

- Yes Go to question 6.
 No Complete the details below

Name of new public officer (if applicable)

Public Officer's residential address (must be a Victorian address)

State VIC Postcode

Date address changed or new public officer appointed

- Is there an ABN shown above?

- Yes Go to question 7.
 No If the association has an ABN write it here

- What date was the annual general meeting held (must be within 5 months of the association's financial year)

31/08/09

- What is the number of members at the end of the association's financial year?

106

- Go to question 10 on the back of this page and complete the financial statement section.

I certify that:

- a statement has been signed by a member of the committee who attended the annual general meeting certifying that:
- the committee member attended the annual general meeting; and
- the accounts of the Incorporated association containing the particulars required by section 30(3) of the Associations Incorporation Act 1981 were presented to the members at that meeting;
- the signed statement is being kept by the association;
- the particulars contained in this annual statement are true and correct and I acknowledge that it is an offence under section 49 of the Associations Incorporation Act 1981 to make a false or misleading statement in relation to an annual statement;
- copies of any documents and instruments accompanying this annual statement are true copies;
- if the public officer has changed for this association, the new public officer named in this form is a resident of Victoria; and is 18 years of age or older; and consents to being the public officer;
- a statement of the terms of any resolution passed concerning this annual statement at the Annual General Meeting held on the date listed in this form are attached.

Signature

X

Date

Contact email address

Daytime telephone number



10. Financial requirements

You must either:

- fill in the financial statement below; or
- use your own format for the financial statement as set out in section 30 of the Associations Incorporation Act 1981 and attach it to this form.

Financial Statement

For end of financial year: 30 June 2009

Income	Amount \$
Trading receipts (bar sales, merchandise etc.)	1060.00
Fees/Subscription from members	100.00
Fundraising receipts	400.00
Grants (Government/Corporate)	1000.00
Donations	300.00
Sponsorships	
Bank interest received	44.00
Other (specify)	
Total income (A)	3000.00
Expenditure	Amount \$
Trading costs (eg. bar stock, merchandise etc.)	100.00
Rent/hire (hall, meeting room, equipment etc.)	175.00
Water, gas, electricity, insurance etc.	100.00
Salaries and wages	200.00
Office expenses (stationery, postage, phone etc.)	60.00
Fundraising costs	250.00
Bank fees and charges	15.00
Other (specify)	
Total expenditure (B)	2500.00
Surplus (A - B)	500.00
Assets	Amount \$
Cash in hand or in the bank	1000.00
Value of stock on hand	
Amount owed to association	100.00
Property, equipment, furnishings	500.00
Investments	400.00
Other (specify)	
Total assets (C)	2000.00
Liabilities	Amount \$
Secured loans (outstanding balance)	
Unsecured loans (outstanding balance)	
Other (specify) <i>unsecured grant</i>	1000.00
Total liabilities (D)	1000.00
Association's equity (C - D)	1000.00

You must also list all mortgages, charges and securities affecting property here (or attach a separate sheet if needed)

During its financial year, did the association hold any trusts?

No

Yes

- You must also attach for each trust:
- the income and expenditure of the trust
 - the assets and liabilities of the trust
 - the mortgages, charges and securities affecting any property of the trust.

How to lodge and pay

Make sure the public officer has signed on the front page of this form.

The fee of \$40.90 can be paid by cheque, money order or credit card. Do not send cash through the mail. Cash will be accepted if paying in person. Cheques and money orders are to be made payable to: "Consumer Affairs Victoria". Please attach financial statements, cheques or money orders and other documents by paperclip. Do not staple.

Deliver in person to:

Victorian Consumer & Business Centre
113 Exhibition Street, Melbourne
Counter area (cnr Little Collins St) is open 8.30am - 5.00pm
Monday to Friday (closed on public holidays)

Send by post to:

Consumer Affairs Victoria
GPO Box 4567, Melbourne 3001
(please use a large envelope and fold this form as little as possible)

If paying by credit card, fill in your credit card details below

Name of cardholder

Visa Mastercard Amex

Card number

Card expiry date

Amount

\$40.90

CCV number *(see note below)

Signature of cardholder

Date

X

/ /

Daytime telephone number

* Note on CCV numbers: Credit card cards are now issued with a CCV number. This is the last three numbers located on the signature strip on the back of the card. If your credit card has been allocated this number enter the 3 numbers in the space provided.

Privacy

CAV is committed to responsible and fair handling of your personal information, consistent with the laws we administer and the Information Privacy Act 2000. The information on this form will be placed on the public register in accordance with the Incorporated Associations Act 1981. We may be unable to process this form if you do not provide the required information. You can contact us at any time to request access to the personal information we hold about you. In exceptional circumstances, you may apply to have public access to your personal information restricted. Our privacy statement, and other privacy information, is available at www.consumer.vic.gov.au or on request.



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www.consumer.vic.gov.au





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Twitter: www.twitter.com/pilchconnect

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