



# PREPARING OFFICIAL AND PUBLIC DOCUMENTS

**Part 9 – Guide for Public Officers and Secretaries**

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# PREPARING OFFICIAL AND PUBLIC DOCUMENTS

This Part of the [Guide for Public Officers and Secretaries](#) covers the legal requirements for official and business documents of incorporated associations in Victoria.

## Key Points

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### 1. What are “official and business documents”?

Official and business documents include documents that are prepared in the name of the organisation and documents which are distributed to members or the public on behalf of the organisation.

### 2. What are the legal requirements for official and business documents?

The *Associations Incorporation Act 1981 (Vic)* sets out some specific requirements for official and business documents of incorporated associations in Victoria. In some circumstances, federal legislation (such as corporations and tax laws) may also be relevant to an incorporated association. This Part sets out what information you must include to satisfy these requirements.

**Note:**

This Part of the Guide deals with duties which are usually performed by the *secretary* 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.

## 1. What are “official and business documents”?

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Essentially, “official and business documents” of an organisation are documents which:

- are prepared in the name of, and on behalf of, the organisation, and
- are issued to the organisation’s members and/or to the general public in the name of the organisation.

These include letterhead, advertisements, notices, flyers, invoices and stationery for the organisation.

The secretary is often responsible for organising these documents and must make sure that formal documentation complies with various legal requirements. These are discussed below.

### **Important!**

The *content* of documents required of an incorporated association under the *Associations Incorporation Act 1981* (Vic) (for example, its annual statement) are not discussed in this Part. Those documents are discussed elsewhere in this [Guide for Public Officers and Secretaries](#). To find out which parts of this Guide apply to your situation, see [Important Background Information](#) in this Guide.

## 2. What are the legal requirements?

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The main legal requirements for the official and business documents of an incorporated association in Victoria arise under:

- the *Associations Incorporation Act 1981* (Vic) (the **AI Act**)
- the *Corporations Act 2001* (Cth) (the **Corporations Act**) — if your organisation is a “Registrable Australian Body” because it carries on business (activities) outside Victoria
- the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (the **GST Act**) — if your organisation is registered for GST, and/or
- the *Income Tax Assessment Act 1997* (Cth) (the **Income Tax Act**) – if your organisation has Deductible Gift Recipient (**DGR**) status.

### **How should the organisation be identified?**

To make sure your organisation satisfies the relevant legal requirements, the following information should be displayed legibly on all official and business documents:

- full name of the organisation, and

- incorporation registration number (which is specified on the certificate of incorporation received from Consumer Affairs Victoria (**CAV**)).

**Remember!**

Incorporated associations must include the word “Incorporated” or the letters “Inc” at the end of their name (section 12 of the AI Act).

The AI Act specifically requires an incorporated association to include its name and registration number legibly on the following documents:

- all the organisation’s notices (including notices to members)
- all the organisation’s advertisements
- all other official publications of the organisation (which include newsletters, flyers, brochures), and
- all “business documents” of the organisation (section 12A).

**Tip:**

A “business document” (sometimes called a “public document”) is any document issued, signed or endorsed by or on behalf of your organisation, including:

- a business letter, statement of account, invoice or order for goods or services
- a bill of exchange, promissory note, cheque or other negotiable instrument, or
- a receipt or letter of credit (section 12A(4)).

There are other specific requirements in certain situations, discussed below.

### If the organisation has a common seal

A common seal is a rubber stamp that is used when signing documents in the name of the incorporated association. If your organisation has a common seal, the full name of the organisation (which must include the word “Inc” or “Incorporated” as the last word) must be included on the common seal (section 12A(1)).

**Remember!**

Your organisation can be fined (as at 1 August 2009, up to \$584) for failing to include its full name and registration number legibly on any of the documents listed above.

### What if the organisation is a “Registrable Australian Body” under Corporations Act?

Some associations that operate outside Victoria are also registered as a “Registrable Australian Body” with the Australian Securities and Investments Commission under Part 5B.2 of the Corporations Act.

These organisations are “recognised” by the Commonwealth government and can therefore operate in any State or Territory in Australia.

If your organisation is a Registrable Australian Body, the organisation must ensure that particular details are displayed on all of the organisation’s public documents and negotiable instruments (for example, cheques).

“Public documents” are essentially those discussed above; however, see section 88A of the Corporations Act for the specific definition for the purposes of that Act.

The details required to be displayed on public documents and negotiable instruments are:

- your organisation’s name
- your organisation’s Australian Registered Body Number (**ARBN**) or, if the last 9 digits of your Australian Business Number (**ABN**) are identical to the last 9 digits of its ARBN, the words “Australian Business Number” followed by your organisation’s ABN
- your organisation’s place of origin (that is, Victoria), and
- notice of the members’ limited liability (section 601DE of the Corporations Act).

The secretary of an organisation is usually responsible for ensuring that the organisation complies with these requirements.

**Tip:**

An organisation’s details are usually set out on public documents and negotiable instruments (such as cheques) in this form:

- [name of incorporated association] [notice of members’ limited liability] [place of origin]  
[incorporation registration number] [ABRN/ABN number]

For example (if the last 9 digits of an organisation’s ABRN are identical to its ABN), “XYZ Inc Limited Liability (Vic) A1234567A, ABN 123 456 789”.

## What if the organisation has an ABN or is registered for GST?

It is not compulsory for an organisation to have an ABN, unless it has a goods and services tax (**GST**) turnover of \$150,000 or more (in which case it is required to register for GST, and must have an ABN to do this). However, even if your organisation is not required to register for GST, you can still apply for an ABN.

Commonly, organisations choose to have an ABN so that they can:

- claim GST credits
- deal with businesses more easily (especially for ordering and invoicing purposes), and

- apply for endorsement as a deductible gift recipient or an income tax exempt charity (or both) – see below, [What if the organisation has DGR status and can receive tax deductible donations from the public?](#).

According to the Australian Taxation Office (**ATO**), documents on which an ABN should be quoted include:

- invoices
- quotes
- renewal notices (such as for subscriptions)
- order forms
- receipts
- contracts or lease documents
- letterheads, emails or internet records (web pages)
- records of over-the-phone quotation of an ABN, and/or
- catalogues (and other promotional documents) the supplier produces.

For more information about ABNs, see the ATO website: [www.ato.gov.au](http://www.ato.gov.au) and go to Tax topics - ABN essentials.

#### **If your organisation is registered for GST**

If your organisation is registered for GST under Part 2-5 of the GST Act, any invoices issued by the organisation that are “tax invoices” must:

- be in the form approved under the GST Act, and
- set out your organisation’s ABN and name (section 29.70 of the GST Act).

For further information about GST, see the ATO website: [www.ato.gov.au](http://www.ato.gov.au) > [Non-profit](#) and go to Tax topics – GST. You may wish to download the Fact sheet: “GST tips for non-profit organisations” from the ATO website.

#### **What if the organisation has DGR status and can receive tax deductible donations from the public?**

Some organisations have been granted DGR status under the Income Tax Act. This status allows them to receive tax deductible donations from the public. For more information on DGR status and tax issues generally, go to the PilchConnect webportal, [www.pilch.org.au/legal\\_info](http://www.pilch.org.au/legal_info) > [Getting started](#) > [tax issues](#).

If your organisation has DGR status, the receipt for a tax deductible donation must contain the following information:

- your organisation's ABN
- the date the donation was received
- the name of the organisation or person making the donation
- the name of the fund
- the signature of a person authorised to act on behalf of the fund
- the name of the donor
- type of donation (money or property) and value, and
- if applicable, an indication that the fund is listed on a particular register maintained under subdivision 30-B of the Income Tax Act (such as the Register of Cultural Organisations).

If your organisation issues a receipt for a donation in relation to an eligible fundraising event, there are extra requirements. For more information see the ATO publication "Non-profit organisations and fundraising" (NAT 13095), available on the ATO website.

## Further information

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### PilchConnect resources

The PilchConnect web portal contains a variety of resources and fact sheets for community organisations – go to [www.pilch.org.au/legal\\_info/](http://www.pilch.org.au/legal_info/)

- See [Getting started > Choosing the right incorporated legal structure](#) and download Fact sheet: "Incorporated association or a company limited by guarantee?" This explains Registerable Australian Bodies.
- See [Getting started > tax issues](#) for an overview of tax issues for Victorian community organisations.
- See [Raising money > Fundraising](#) for information about the main legal issues that may arise for community organisations when they organise fundraising activities.

### 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.

[A New Tax System \(Goods and Services Tax\) Act 1999](#) (Cth) establishes the federal system of registration for GST and sets out the law relating to GST.

The [Corporations Act 2001](#) (Cth) is a federal piece of legislation which regulates corporations. An incorporated association is not generally required to comply with the Corporations Act, however an association may be caught by parts of the Corporations Act if they are registered by the Australian Securities and Investments Commission under Part 5B.2 of the Corporations Act (that is, they are a “Registrable Australian Body”).

The [Income Tax Assessment Act 1997](#) (Cth) sets out the law relating to income tax exemptions, DGR and charity tax concessions.

### Government

The Consumer Affairs Victoria website has a variety of online resources, including online access for incorporated associations. See [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au) > [Associations Clubs and Fundraising](#) and click on “Fundraising” and/or “Incorporated associations”.

ATO’s website has a range of fact sheets and resources for not-for-profit (or non-profit) organisations. See [www.ato.gov.au](http://www.ato.gov.au) > [Non-profit](#).

The Australian Securities and Investments Commission (ASIC) website has information for organisations who are considering registering, or who are already registered, as a Registrable Australian Body. See [www.asic.gov.au](http://www.asic.gov.au) > [For companies > Starting > Registrable Australian Bodies](#).

### Other links

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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