



Speech by

**Hon. Margaret Keech**

**MEMBER FOR ALBERT**

Hansard Tuesday, 28 November 2006

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## **ASSOCIATIONS INCORPORATION AND OTHER LEGISLATION AMENDMENT BILL**

### **Second Reading**

**Hon. MM KEECH** (Albert—ALP) (Minister for Tourism, Fair Trading, Wine Industry Development and Women) (2.57 pm): I move—

That the bill be now read a second time.

The Associations Incorporation and Other Legislation Amendment Bill 2006 amends the Associations Incorporation Act 1981. The key objectives of the bill are to address two main issues of concern to Queensland's incorporated associations—mandatory insurance cover and auditing requirements. This bill is the first of two phases of amendments identified through a recent review of the act by my department which included significant consultation. Other amendments in the bill will have the potential to reduce disputes between members of an association, improve compliance with the act and address other simple anomalies. Minor unrelated amendments are also to be made to two classification acts administered by my department. The Associations Incorporation Act commenced in 1982 and provides a simple and inexpensive mechanism for non-profit groups to incorporate. I seek leave to incorporate the remainder of my second reading speech in *Hansard*.

Leave granted.

Since 1991, the number of associations incorporated under the Act has risen dramatically and there are now approximately 20,000 registered associations across Queensland. These associations include social and sporting clubs, artistic societies, groups with religious, patriotic and political interests, professional associations, charitable organisations and youth, voluntary and community groups. They range from small, locally based organisations comprised entirely of volunteers, to licensed clubs staffed by professional managers with an annual turnover in the millions of dollars.

While incorporation under the Act is not compulsory, those organisations which elect to incorporate obtain a number of benefits by virtue of the association becoming a separate legal entity. The association has all the powers of an individual and is legally able to do things in its own name such as own property, enter a lease or sue or be sued. Additionally, the personal liability of an association's members and management committee is limited because of its incorporated status.

I am committed to ensuring that legislation administered by my Department is contemporary and relevant. This review of the Associations Incorporation Act commenced in 2003 and has included the release of a consultation paper in February 2005 which attracted 280 responses.

The review found that while incorporation under the Act has been popular, there are concerns with certain aspects of the Act's operation. This amendment bill responds in particular, to concerns about insurance and auditing requirements and will help reduce costs and administrative burdens for many organisations. These issues have been identified as a high priority. Other concerns identified in the review such as eligibility for incorporation, types of associations, dispute resolution and conflicts of interest raise complex issues and will be addressed in stage two amendments after further examination and consultation.

Some associations have found the current provisions requiring mandatory insurance cover extremely difficult to maintain due to the cost of premiums and the availability of appropriate insurance cover.

The bill proposes to remove the mandatory public liability insurance requirement and replace it with a series of steps to be taken by a management committee in considering the need for the association to take out such insurance. However the mandatory insurance requirement will still apply to associations which own or lease real property and associations that are trustees of land under the Land Act 1994.

The new obligations imposed on the management committee will ensure appropriate consideration is given to the need for public liability insurance. The amendments will provide for committee accountability to the association by mandating that the committee must report its decision about public liability insurance to members at the first annual general meeting of the association and at each subsequent annual general meeting. The management committee must also advise other parties that might be affected by the association's activities, whether or not it has public liability insurance.

These obligations significantly exceed the approach in other states and territories, which have no legislative requirements for public liability insurance, and take no legislative steps to encourage associations to consider whether they need to take out public liability insurance.

The other significant benefit in the bill for associations relates to auditing requirements. Currently, the Act requires all associations, regardless of size to submit professionally audited statements. However, as with mandatory insurance, a "one size fits all" approach is no longer considered appropriate.

The bill introduces a 'tiered reporting' system, which has three levels based on total revenue or assets.

- Level 1 associations, with at least total revenue or current assets of more than \$100,000, will continue to be fully audited as per current requirements.
- Level 2 associations are those which do not fall into either Level 1 or Level 3. They will not be required to provide fully audited statements but must instead have a registered accountant confirm that the books of the association have been kept in a manner consistent with good accounting practice.
- Level 3 associations are those with total revenue of \$20,000 or less and current assets of \$20,000 or less. These associations will only be required to lodge a statement by the association's president or treasurer, that they have kept accurate books of account.

The lesser requirements for Level 2 and Level 3 associations is expected to benefit some 80% of Queensland associations.

Consultation indicated very strong support for a 'tiered reporting' system with 85% of stakeholders agreeing to such a system.

The bill does, however, contain exemptions for associations that are required to produce audited accounts under other legislation such as the Gaming Machine Act 1991 or pursuant to funding or grants agreements with the government. Those associations will continue to be subject to full auditing requirements.

The bill also contains a number of other amendments to the Associations Incorporation Act to clarify existing provisions and to correct simple anomalies.

The Act is to be amended to give the Office of Fair Trading a power to require the production of documents (such as financial records, contracts, minutes of meetings, membership register, etc) in order to make an assessment as to whether an association is complying with its objectives.

This will be particularly useful when investigating allegations an association is providing financial gain to its members.

This power will also assist the Office of Fair Trading to oversee the financial affairs of associations, especially in cases where concerns are raised an association is being mismanaged.

Failure to comply with the reporting requirements in the Act is proposed to constitute grounds for cancellation of the incorporation of the association. This will provide a further incentive for associations to comply with their obligations. The service requirements for notices relating to cancellation have also been simplified.

The Act is to be clarified to enable the Chief Executive of my Department to refuse an application for incorporation where satisfied that the association's proposed rules do not comply with the requirements of the Act. Further, if a rule of an association is inconsistent with the Act, it will be made clear the Act prevails to the extent of the inconsistency.

A number of other amendments have the potential to reduce disputes and ensure transparency between members of an association, or between members of an association and the management committee. These amendments are:

- a new provision granting members access to minutes of any general meeting and financial documents;
- a requirement that an association includes its registered name on all documentation endorsed or issued by the association;
- a requirement that if an association's rules or other documentation lodged with the Office of Fair Trading are in a language other than English, a certified English translation must also be provided. This is similar to requirements in the Commonwealth Corporations Act 2001; and
- revised requirements for the quorum needed to hold a general meeting, to better accommodate smaller associations.

Other miscellaneous amendments will clarify the voting rights of an association secretary and that the rules of an association may allow technology such as teleconferencing to be used to facilitate holding and voting at general meetings.

Additional clarification will include that:

- a three quarters majority will be required for a resolution to incorporate and adopt proposed rules;
- casual vacancies on the management committee will be allowed in situations where an elected member of the committee resigns or dies; and
- appeals in respect of disputed decisions under the Act may be made to the District Court.

The requirement for associations to have a registered office has been removed.

The bill introduces a new requirement preventing the use of information obtained from the Departmental register of associations for direct marketing purposes, and enables the Chief Executive to withhold information from the register in certain circumstances, such as where the health or safety of a member may be at risk.

The bill also allows the Chief Executive to delegate the power to grant or refuse an application to use an unsuitable name or to exempt an association from using the word 'incorporated' in its title. This will significantly simplify the operation of the Act.

The bill also contains unrelated amendments to the Classification of Computer Games and Images Act 1995 to address an incorrect reference to a repealed schedule within the Commonwealth Classification (Publications, Films and Computer Games) Act 1995. Amendments to the Commonwealth Act have created a separate National Classification Code which replaces the previous schedule. The Queensland Act will now refer to the Code.

A proposed amendment to the Classification of Publications Act 1991 results from a recent decision of the District Court which highlights the Act does not currently allow evidentiary certificates to be used where a publication was not classified at the time of the

offence. The practical effect of this decision is that oral evidence will be required in these cases. The proposed amendment will allow a certificate to be used in evidence which states that a publication would, if classified on a certain date, have held a stated classification.

The bill is considered to be reasonable and appropriate and will address the priority issues for associations of mandatory insurance, financial auditing and reporting. It will reduce the financial burden on associations and reduce red tape.

As I have indicated there are issues about eligibility for incorporation, types of associations, dispute resolution and conflicts of interest which are complex and require further policy development. Those issues will be considered in stage 2 amendments which will now be progressed.

I am proud to introduce the Associations Incorporation Act and other Legislation Amendment Bill 2006. This bill demonstrates this Government's commitment to associations and the broader community which benefits from the continued operation of strong and viable associations.

I commend the bill to the House.