

Associations Incorporation Reform Act 2012

Problem issues for Incorporated Rotary Clubs

The *Associations Incorporation Reform Act 2012* (Act) was passed by the Victorian Parliament in April this year and should come into force by 1 December 2012. It will have a significant effect on incorporated Rotary clubs largely because of those its provisions which deal with issues required by Rotary International (RI) to be inserted in the rules of Rotary clubs. A good example of this would be the requirements of the Act in respect of 'disciplinary action' (which the Act defines as action, "*against a member in respect of that member's status as a member (of the club)*"). Substantial portions of RI's requirements for termination of membership (i.e. 'disciplinary action') do not accord with the new requirements which the Act provides. The Act specifically requires that where the rules of an incorporated association are inconsistent with the new requirements, the inconsistent part or parts of those rules will be invalid as and from the date the Act comes into force, creating a void in those rules. This effect (see Article on this Website titled

Overview of Incorporated Rotary Club Rules and Bylaws) actions a further provision of the Act which requires that in the circumstances outlined, the appropriate provision(s) of the Model Rules automatically become provisions of the club's rules in order to fill the void. All incorporated Rotary clubs should therefore bear in mind that appropriate changes should be made before any disciplinary actions are undertaken.

Incorporated Rotary clubs should also bear in mind that 'disciplinary action' relates just as much to non-payment of dues and non-attendance at sufficient regular club meetings as it does to the "other causes" which RI refers to.

Much the same issues as those referred to above will apply in the case of Grievance Procedures ('Arbitration and Mediation' in RI terms) and Temporary Suspensions and exactly the same advice is now offered as that contained above in respect of those matters. Indeed, Grievance Procedures may well occur as an addition to 'disciplinary action' and in either case, the Act clearly entitles each party to be heard and legally represented and requires the incorporated Rotary club to provide "an unbiased decision maker" to make decisions in each of these cases.

The Act replaces the previous requirements placed on Board members regarding their pecuniary (financial) interest in matters to be decided by the Board and replaces those interests with 'material personal interests' being I think best defined as "any direct or indirect advantage or benefit rather than simply a monetary gain" (although such a monetary gain would presumably also be a 'material personal interest'). RI has addressed this sort of problem in the past but the provisions of the Act will become paramount once it comes into force.

The Act is generous in its willingness to accept new technology for the holding of committee and general meetings. I might also add that this holds good as well for the rules I have prepared for incorporated Rotary clubs permitted (on a trial basis) to have corporate membership and the rules for incorporated E-Rotary clubs. Nevertheless, that 'generosity' needs to be tempered with common sense because the technology has not necessarily been developed to accord with other requirements of Rotary club rules.

There are many other problem issues between the provisions of the Act and RI requirements all of which need to be considered. McKean Park is conducting seminars for Victorian Rotary Districts at which it will draw attention to the changes that will have to occur in the wording of the rules of incorporated Rotary clubs and possibly of their Bylaws as well. Those wishing to attend any of the seminars to be provided (free of charge) need to contact the appropriate District Officers in order to register. I think it is fair to say that incorporated Rotary clubs will have a much more difficult task adapting to the requirements of the Act than other incorporated associations because of the possibility that the requirements of the Act will conflict with the current requirements of RI and possibly also with the amendments introduced by Council on Legislation 2013. I might also add that I am still awaiting the publishing by Consumer Affairs of the new Model Rules in order to ascertain what effect they will have in respect of the rules of incorporated Rotary clubs.

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