INCORPORATED ASSOCIATION MANAGEMENT COMMITTEE

SELF-EVALUATION CHECKLIST

NSW GOVERNMENT Fair Trading

This checklist is designed to support the management committee in understanding its responsibilities and ensuring the incorporated association (the Association) complies with the Associations Incorporation Act 2009 (the Act) and Association Incorporation Regulation 2022.

Every incorporated association has unique goals or purposes. This checklist serves as a general guide and does not cover all legal requirements comprehensively.

Where the Association's committee is unsure or answers no, it should serve to prompt a review of the Association's compliance with the Act.

Non-compliance with these obligations may lead to the issue of a penalty notice, prosecution, or in some instances, cancellation of the Association's incorporation.

Once completed, retain the checklist with the Association's official records. The checklist is not required to be submitted to NSW Fair Trading.

Objects/Purpose

The Act requires an incorporated association to be established with a purpose of engaging in small scale, not-for-profit and non-commercial activities.

When incorporating there must be a statement of objects that sets out the purpose and range of activities to be undertaken.

The Act also prohibits an incorporated association from providing pecuniary (monetary) gain for its members.

Requirement	Met	NSW Fair Trading reference
Do the original objects align with the Association's current current objects and activities and does its constitution support these and comply with the Act?	☐ Yes ☐ No	Where an incorporated associations objects or constitution are changed as set, in the Act it must notify NSW Fair Trading for the changes to take effect. https://www.nsw.gov.au/business-and-economy/associations/incorporated-associations-forms-and-fees/form-a6-application-to-register-change-of-objects-or-constitution
Are all funds and assets used for the Association's objects/purpose, with no monetary gains to members? (Section 40)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/starting-an-incorporated-association/commercial-activities-and-monetary-gain
Are the Association's activities small scale, not-for-profit and non-commercial in nature? (Section 73)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/associations/incorporated-associations-forms-and-fees/financial-threshold-for-incorporated-associations-under-associations-incorporation-act-2009 The policy outlines the financial limit considered by NSW Fair Trading for registering or maintaining an incorporated association. The Secretary can direct an association to deregister if it no longer aligns with the Act's objectives.

Annual General Meeting (AGM)

An AGM must be held every year within six months after the end of the incorporated association's financial year or within such further time as may be allowed by the Commissioner for NSW Fair Trading.

Newly registered incorporated associations must hold their first AGM within 18 months from the date of incorporation.

Requirement	Met	NSW Fair Trading reference
Is an AGM held every year within six months after the end of the Association's financial year, noting that it must be validly called and held in accordance with the Association's constitution? (Section 37)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/meetings The Association's constitution must provide for the financial year end date.
Does the management committee as soon as practicable after the end of the financial year, prepare the financial statements? (Section 47)	☐ Yes ☐ No	Refer to further information below under accounting records and financial reporting.
Is the Association able to hold an AGM within six months after the end of its financial year (unless exempt) and able to submit the required annual summary of financial affairs? (Sections 37(2), 45(2), 49(2))	☐ Yes ☐ No	Where an incorporated association is unable to meet these requirements, it should lodge a Form A11, extension of time, together with the prescribed fee. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/meetings https://www.nsw.gov.au/business-and-economy/associations/incorporated-associations-forms-and-fees/form-a11-application-for-extension-of-time
Has the Association kept a copy of the AGM minutes in English? (Section 50)	☐ Yes ☐ No	The association must keep a copy of the AGM minutes in either paper or electronic form which accurately records the events and decisions at that meeting. The inspection of these minutes is a matter dealt with by the incorporated association's constitution.

Accounting Records and Financial Reporting

Tier 1 and Tier 2 Associations

Tier 1 (Large) associations are those whose:

- total revenue as recorded in the income and expenditure statement (i.e. gross receipts) for a financial year is more than $250,000 or current assets* are more than $500,000.

Tier 2 (Small) associations are those whose:

- total revenue as recorded in the income and expenditure statement (i.e. gross receipts) for a financial year is $250,000 or less, and current assets* are $500,000 or less.

*Current assets refer to assets (other than real property or assets that are capable of depreciation) held by the association as at the end of the association's last financial year. It includes amounts held in financial institutions, stocks and debentures.

Requirement	Met	NSW Fair Trading reference
Are accurate accounting records being kept? (Section 50)	☐ Yes ☐ No	The financial accounts must record and explain their transactions, position and performance. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Are annual accounts prepared within 6 months after the end of the Association's financial year? (Section 47)	☐ Yes ☐ No	The accounts should give a true and fair view of the Association's position and financial performance for the financial year.
Are accounts prepared in accordance with the requirements of the Association's tier classification?	☐ Yes ☐ No	Refer to relevant tiers for further information. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/financial-reporting-requirements
Is the Association a registered charity with the Australian Charities and Not-for-Profits Commission (ACNC)?	☐ Yes ☐ No	If you have successfully lodged an annual information statement with the ACNC there is no requirement to separately lodge an annual summary with NSW Fair Trading. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/financial-reporting-requirements/auditor-qualifications-and-audit-exemptions To check if you are already registered with the ACNC, you can access Search for a charity | ACNC.
Tier 1 Financial reporting		
Is the Association classified as a Tier 1 for reporting requirements? (If you answer no to this question, refer to the checklist on Tier 2 reporting).	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/financial-reporting-requirements/tier-1-incorporated-associations-financial-reporting
If the Association is classed as a Tier 1, has it undertaken an audit of the financial accounts and does your auditor have the relevant qualifications?	☐ Yes ☐ No	Section 43 of the Act requires a Tier 1 Association have an independent audit report prepared on its financial accounts. An audit review report is not acceptable.
If the Association is classified as a Tier 1, is the committee aware of the audit exemptions?	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/financial-reporting-requirements/auditor-qualifications-and-audit-exemptions

Tier 2 Financial reporting		
Is the Association classified as a Tier 2 for reporting requirements?	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/financial-reporting-requirements/tier-2-incorporated-associations-financial-reporting
Tier 1 and 2 Lodgement of Annual Summaries of Financial Affairs with NSW Fair Trading		
After the AGM have you lodged the Form A12 Annual summary on behalf of the Association with NSW Fair Trading. (Sections 45, 49)	☐ Yes ☐ No	The Form A12 must be lodged within 1 month of holding the AGM. Late fee may apply if the Association lodges after this timeframe. To complete the Form A12 visit https://www.nsw.gov.au/business-and-economy/incorporated-associations/incorporated-associations-forms-and-fees
Has there been a change to the public officer?	☐ Yes ☐ No	When lodging the Form A12 you will be required to provide the details of the current public officer. Refer to the section below on reporting changes to NSW Fair Trading.
Are financial records being kept for 5 years? (Section 50) (Regulation 15 (b))	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers

Record Keeping

Requirement	Met	NSW Fair Trading reference
Incorporated Association Constitution		
Does the Association have a current copy of its constitution, including any amendments made since incorporation? (Sections 10, 14)	☐ Yes ☐ No	Any amendments to the Association's constitution must be passed by special resolution and must be registered, within 28 days by NSW Fair Trading, before taking effect. https://www.nsw.gov.au/business-and-economy/incorporated-associations/starting-an-incorporated-association/an-incorporated-associations-constitution An Association constitution must address the matters as required under Schedule 1 of the Act. A copy of the registered constitution can be obtained from NSW Fair Trading following payment of the set fee. https://www.nsw.gov.au/business-and-economy/incorporated-associations/obtaining-incorporated-associations-public-records
If the Association has adopted its own constitution, does it address each of the matters referred to in Schedule 1 of the Act? (Section 25)	☐ Yes ☐ No	Where an incorporated association fails to address a matter in Schedule 1, the provision of the model constitution with respect to that matter is taken to be part of the Association's constitution. As a matter of good governance, the Association should regularly review its constitution to ensure it complies with the Act and meets the operational needs of the group.
Is the Association registered as a charity with the ACNC?	☐ Yes ☐ No	Regardless of being registered with the ACNC the Association must lodge all changes to its constitution with NSW Fair Trading.

Incorporated Association Registers		
Does the Association have a members' register as required by its constitution? (Schedule 1)	☐ Yes ☐ No	Whilst the Act requires a members register to be kept, the Association's constitution must contain the provisions for this register including the establishment, maintenance, safekeeping and inspection. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Does the Association keep a register of committee members? (Section 29)	☐ Yes ☐ No	The register of committee members must be kept in physical or electronic form. The record must include the name, appointment and cessation dates for each committee member. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Is the Register of committee members updated within 1 month after any change. (Section 29)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Does the management committee ensure any requests for a copy of the Register of committee members, are given to a person within a reasonable period, free of charge? (Section 29)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Does the Association keep a Record of disclosure of committee members' interests. (Section 31)	☐ Yes ☐ No	The committee must maintain a record of any disclosure by a committee member of a direct or indirect interest. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Are the records of any committee member disclosure of interests recorded and open for inspection by any member of the Association on payment of the fee determined by the committee (but not exceeding the maximum fee prescribed by the regulations). (Section 31)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Other record keeping		
Does the management committee keep minutes of meetings? (Section 50)	☐ Yes ☐ No	The Association must keep minutes of the proceedings of all committee meetings and general meetings. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Does the management committee keep records of authorised signatories? (Section 36)	☐ Yes ☐ No	An incorporated association must keep accurate records of its authorised signatories. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Does the Association have a public officer and official address? (Section 34)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/starting-an-incorporated-association/role-of-public-officer
Does the Association make available for inspection records, in accordance with its constitution? (Schedule 1, 15)	☐ Yes ☐ No	The Association's constitution must specify what rights members have to inspect records. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers

Committee Responsibilities

The committee has an obligation to act within the limits of the Association's constitution, their obligations under the Act and the law generally.

Committee members need to ensure they have policies and procedures in place to ensure they are able to monitor and meet all these and other legal requirements.

Requirement	Met	NSW Fair Trading reference
Does the Association's management committee have 3 or more members? (Section 28)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/management-committee-obligations Where an Association fails to establish and maintain a committee its registration may be cancelled. (Section 76)
Does the Association have a current public officer and official address recorded with NSW Fair Trading? (Sections 13, 14, 34, 35)	☐ Yes ☐ No	The committee must fill any vacancy in the office of public officer within 28 days of the vacancy occurring. Refer to the section on reporting changes to NSW Fair Trading. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association Where an incorporated association's committee has not appointed a public officer as required by section 34, its registration may be cancelled. (Section 76).
Does the management committee intend to or has it made any key changes required to be reported to NSW Fair Trading?	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/resolutions Refer to the section below on reporting changes to NSW Fair Trading.
Legal Duties of the Management Committee and Public Officer		
Does each committee member ensure they carry out their functions for the benefit of the Association with due care and diligence? (Section 30A)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association
Does the management committee ensure that any conflicts of interest that may arise are disclosed, managed and recorded? (Section 31)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Does the management committee ensure they do not misuse their position or information, to which they access dishonestly for advantage or to cause detriment to the Association? (Sections 32, 33)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association
Does the management committee understand and ensure when debts are incurred that the Association will be able to pay those debts? (Sections 68, 69)	☐ Yes ☐ No	If the management committee believe the Association unable to pay its debts it should seek appropriate professional advice as a matter of urgency. There are substantial penalties where a committee member knowingly allows an incorporated association to incur a debt where there are reasonable grounds to believe that it will become insolvent.
Does the management committee understand when NSW Fair Trading gives written notice to a person relating to compliance with the Act they must produce such information or documents sought? (Section 85)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association

Resolving Disputes		
Is the management committee clear on how complaints between, about and from members must be dealt with? (Schedule 1(6))	☐ Yes ☐ No	The management committee is responsible for resolving internal disputes between members and members and the Association. The Association's constitution must set out provisions for managing internal disputes. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/resolving-disputes **NSW Fair Trading cannot intervene in internal disputes within an incorporated association.**
Delivery of Records and Documents		
Have outgoing committee members delivered all the Association documents in their possession to the public officer within 14 days after vacating office? (Section 28)	☐ Yes ☐ No	The public officer is responsible for collecting all association documents from former committee members and delivering the documents to the new committee. https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers
Has the outgoing public officer returned all Association documents in their possession to a committee member within 14 days upon vacating office? (Section 35)	☐ Yes ☐ No	https://www.nsw.gov.au/business-and-economy/incorporated-associations/running-an-incorporated-association/keeping-minutes-records-and-registers

General Obligations

	Met	NSW Fair Trading reference
Does the full name of the Association appear on all documents in legible characters? (Section 18(1) and 41)	☐ Yes No	An association's full name (including the word 'Incorporated' or the abbreviation 'Inc') must appear in legible characters on any letter, statement, invoice, notice, publication including its website, order for goods or services, or receipt in connection with its activities.
Does the Association have at least 5 members and 3 committee members? (Sections 6, 28, 76)	Yes No	An incorporated association must at all times have a minimum of 5 members and 3 committee members to remain registered.

Reporting Changes to NSW Fair Trading

Requirement of the Act	NSW Fair Trading reference information
Public Officer and Change of Address (Form A9).	Changes to the public officer or official address must be reported to NSW Fair Trading within 28 days. https://www.nsw.gov.au/business-and-economy/incorporated-associations/incorporated-associations-forms-and-fees
Change of objects or constitution (Form A6).	This form is to be lodged within 28 days of the passing of a special resolution to change the objects or constitution of an incorporated association. The alteration takes effect when it is registered by Fair Trading. https://www.nsw.gov.au/business-and-economy/associations/incorporated-associations-forms-and-fees/form-a6-application-to-register-change-of-objects-or-constitution
Change of name of the association (Form A7).	Form A7 must be lodged within 28 days of the passing of the special resolution to change the association's name. https://www.nsw.gov.au/business-and-economy/associations/incorporated-associations-forms-and-fees/form-a7-application-to-register-change-of-name
Application for approval to transfer registration (Form A10).	This form must be lodged where an association intends to transfer its registration to a company under the Corporations Act 2001, a corporation under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 or a co-operative under the Co-operatives National Law (NSW). https://www.nsw.gov.au/business-and-economy/associations/incorporated-associations-forms-and-fees/form-a10-application-for-approval-to-transfer-registration
Application for registration of an amalgamated incorporated association (Form A3).	This form is used where two or more incorporated associations wish to amalgamate to create one incorporated association. https://www.nsw.gov.au/business-and-economy/associations/incorporated-associations-forms-and-fees/form-a3-application-for-registration-of-an-amalgamated-incorporated-association
Application for voluntary cancellation of registration of an incorporated association (Form A8).	This form is used to apply for the cancellation of the registration of an incorporated association. https://www.nsw.gov.au/business-and-economy/associations/incorporated-associations-forms-and-fees/form-a8-application-for-voluntary-cancellation-of-registration-of-an-association

Disclaimer: Information contained in this checklist is provided as general information only and is not intended as a substitute for advice from a qualified professional.