

# Associations Incorporation and Other Legislation Amendment Regulation 2023

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence provide this human rights certificate with respect to the *Associations Incorporation and Other Legislation Amendment Regulation 2023* (Amendment Regulation) made under the *Associations Incorporation Act 1981* (AI Act) and the *Collections Act 1966* (Collections Act).

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019* (HRA). I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

The *Associations Incorporation Regulation 1999* (AI Regulation) supports the operation of the AI Act. It contains details about unsuitable names for incorporated associations, record keeping standards, and accounting requirements, as well as prescribing fees payable under the Act. Importantly, it also contains a list of matters that must be addressed in an association’s rules (Schedule 3) and a best practice set of Model Rules (Schedule 4) that associations may choose to adopt.

The *Collections Regulation 2008* (Collections Regulation) prescribes matters relating to the registration or sanction of fundraising entities and the conduct of fundraising under the Collections Act.

The *Associations Incorporation and Other Legislation Amendment Act 2020* (AIOLAA), received assent on 22 June 2020. Broadly, it amended the AI Act and Collections Act to improve the internal governance of incorporated associations and reduce the regulatory burden for incorporated associations and charitable organisations.

The Amendment Regulation seeks to finalise the implementation of AIOLAA and address other matters to reduce regulatory burden for incorporated associations, by amending the AI Regulation to –

- prescribe the default grievance procedure that incorporated associations must observe pursuant to section 47A of the AI Act, unless the association’s rules provide for an alternative procedure that is compliant with section 47A;
- prescribe the details that incorporated associations must disclose to their annual general meeting regarding remuneration paid to management committee members, senior staff and their relatives (and how those details are to be disclosed);

- remove the existing prescriptive lists of financial records that must be retained by incorporated associations, to allow these matters to be determined by associations in accordance with the requirement of section 59 of the AI Act (with the assistance of regulator guidance);
- change the financial (revenue and audit) thresholds that define the size of incorporated associations, and consequently define the financial reporting burden for associations; and
- amend the model rules to provide compatibility with requirements for deductible gift recipient status and registration as a charitable institution (the amendments will have no effect on associations that adopt the model rules but are not eligible for or do not intend to seek tax concessions).

The Amendment Regulation also amends the Collections Regulation to:

- insert a similarly tiered reporting framework (based on annual revenue only) to that of incorporated associations into the Collections Regulation, in place of the existing mandatory audit requirement under the Collections legislative framework.

## Human Rights Issues

### **Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)**

Section 11(2) of the HRA states only individuals have human rights. Consequently, clauses of the Amendment Regulation that affect only the operation of incorporated associations and fundraising entities, including those relating to financial reporting requirements, the business to be conducted at annual general meetings, the removal of existing prescriptive lists of financial records that must be retained by incorporated associations and changes to the model rules to assist incorporated associations in obtaining various taxation concessions, cannot engage human rights.

Amendments relating to a default grievance procedure that can be adopted by incorporated associations that deals with disputes under its rule between a member and another member or a member and the management committee or association; and the requirement for incorporated associations to disclose the remuneration paid and/or other benefits given to certain persons, while relevant to humans, are consequential to policies that already exist in primary legislation or are advisory in nature. Therefore, no human right is newly engaged by these amendments.

## Conclusion

I consider that the *Associations Incorporation and Other Legislation Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

**YVETTE D'ATH**  
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