**Constitutions**

The constitution is a basic set of rules for the daily running of your club. It is a legal document that establishes the organisation, sets out the purposes for which it has come together, includes the rules under which it proposes to operate and sets out members’ rights and liabilities.

Sport Australia’s ‘Sport Governance Principles’ provides a co-designed framework which Sport Australia and the State and Territory Agencies for Sport and Recreation believe a sporting organisation’s board/committee members should operate and enact their role.

Principle 5 – ‘The Rulebook’ states that an organisation should clearly define and document its structure and the duties, responsibilities and powers of members, directors, committees and management. Every constitution should outline: an organisation’s objects and powers, members and membership conditions, board structure, director appointments, meeting procedures, management of company documents, auditors, accounts, indemnity and insurance of directors, and the process of winding up.

The incorporating act may also impose requirements concerning the duties of directors, powers of members, meetings and meeting procedures, and other critical information which binds the organisation and should therefore be considered. Organisations may also have a set of regulations, which are usually created under a power located in the constitution. These provide more detail or specifics on areas outside the fundamental governance matters found in a constitution.

Generally, a combination of the constitution and the incorporating act will divide duties, responsibilities and powers between members and the board. However, the board may wish to delegate some of its powers to management or committees. These delegations should be explicitly outlined in writing in a delegated authority document for management and a terms of reference for each committee.

The constitution should be written in a clear, unambiguous and succinct manner. It should not be overburdened with items that would be better served to be detailed in the organisation’s by-laws or policies ie. Member Protection, complaint handling, codes of behaviour, job descriptions etc. These are usually items that can be expected to be changed and updated from time to time. In these circumstances the board/committee should, through by law and policy development, be empowered to oversee and manage the issues.

Incorporated associations have a few options available to them with regard to constitutions. They can adopt the model rules provided by the relevant department in each state/territory, or make changes to these model rules that better suits the need of the club, or finally draft their own rules. It is recommended that if you wish to draft your own rules, you obtain some legal advice to ensure you meet the regulations required under the incorporations act.

**Checklist for developing the constitution**

* The Associations Incorporation Act requires an incorporated association to have its own set of rules which govern the day-to-day management of the club. These rules are referred to as the constitution and a copy must be lodged with the relevant department in each state/territory that you applied to when incorporating your club. This constitution is held as the “official” version of rules, together with any amendments which the club later lodges with the department. This constitution is available to the public.
* You may use your own rules or obtain professional legal advice. If developing your own constitution, you must ensure you take note of the specific requirements and sections that must be addressed. The constitution should also NOT be inconsistent with any other requirements of the Act.
* Alternatively, you may use and/or modify the set of model rules developed by the relevant department in each state/territory. Once again, if you choose to modify these rules, ensure you read through the document carefully, or obtain legal advice, to ensure you meet the specific requirements of the Act.
* If you decide to use the model rules in your state/territory, ensure you read them carefully to complete them where required to suit the needs of your particular club.
* Once complete, the agreed version of your constitution must be submitted with your application for incorporation. Ensure you keep a copy of these rules for your clubs records.
* It is best practice to review your constitution every 2 -3 years and if any changes are made, they must be lodged with the relevant department in your state/territory. It is also important to remember that changes to the constitution are required to be debated and voted upon at an annual general meeting or a special general meeting.

Further information on your state/territory’s requirement for constitutions can be found using the below hyperlinks:

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| **State/Territory** | **Department** |
| **ACT** | [Access Canberra](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1504/~/incorporated-associations) |
| **NSW** | [NSW Fair Trading](https://www.fairtrading.nsw.gov.au/associations-and-co-operatives/associations) |
| **NT** | [Licensing NT](https://nt.gov.au/law/rights/incorporated-associations) |
| **QLD** | [Office of Fair Trading](https://www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/associations-charities-and-non-for-profits/incorporated-associations) |
| **SA** | [Consumer and Business Services](https://www.cbs.sa.gov.au/associations-cooperatives) |
| **TAS** | [Consumer, Building and Occupational Services](https://www.cbos.tas.gov.au/topics/clubs-fundraising) |
| **VIC** | [Consumer Affairs Victoria](https://www.consumer.vic.gov.au/clubs-and-fundraising) |
| **WA** | [Commerce WA](https://www.commerce.wa.gov.au/consumer-protection/associations-and-clubs) |