

# *Associations Act 2003 Review*

Discussion Paper

Acronyms	Full form
NT	Northern Territory
DTBAR	Departments of Trade, Business and Asian Relations
NTCAT	Northern Territory Civil and Administrative Tribunal
AGM	Annual General Meeting
ASIC	Australian Securities and Investments Commission

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# 1. Background

The Northern Territory Government is undertaking a review of *Associations Act 2003* (the Act), to ensure that the legislative framework governing incorporated associations remains effective, contemporary and proportionate to the risks and responsibilities of the sector.

Incorporated associations play a critical role in the social and cultural and economic life of the Northern Territory. They support community services, manage sporting and recreational activities, deliver government funded programs, hold and manage significant assets, and in some cases operate substantial trading enterprises. Many Territorians engage with associations as members, volunteers, employees, service users or beneficiaries.

The current legislative framework was designed to provide a simple low-cost incorporation option for small, community-based organisations. However, the operating environment for associations has changed significantly since the Act commenced over 20 years ago. The sector has grown in scale and complexity, with some associations now:

- Managing substantial revenue streams and assets.
- Employing staff and delivering Government funded services.
- Operating across multiple jurisdictions; and
- Undertaking commercial or trading activities.

At the same time the departments regulatory experience indicates increasing governance, financial management and internal dispute issues within parts of the sector. Common challenges include:

- Failure to lodge required financial reports and returns.
- Internal governance disputes and committee dysfunction.
- Concerns about the management of significant assets or property.
- Limited understanding of governance obligations by office holders.

These issues can expose members, employees, funding bodies and the broader community to financial, operational and reputational risk. They also create regulatory inefficiencies where the current Act does not provide sufficient graduated or timely intervention tools.

This discussion paper seeks feedback from the Northern Territory's incorporated associations and stakeholders on potential reforms to strengthen governance, compliance and dispute resolution, while maintaining a simple and accessible incorporation model for community organisations.

Key areas for review include:

- Establishing criteria to guide or require transition to ASIC-regulated company structure for large or complex associations.
- Introducing additional regulator powers to enable earlier and proportionate intervention.
- Reviewing fee settings to support sustainable and risk-based regulation.
- Considering governance thresholds, including increased minimum membership requirements.
- Clarifying property and land vesting arrangements.

Your responses to questions under each section will directly inform the development of options for the legislative reform.

## 2. Key issues for consideration

### 2.1. Criteria to direct transition to ASIC structures

To ensure regulatory requirements are proportionate to the size, complexity and risk profile of an organisation, it may be appropriate for very large or complex associations to operate under a corporate regulatory framework designed for higher risk entities. This approach supports a simple, low-cost model for small community organisations while ensuring stronger governance oversight where significant financial, operational or public interest risks exist.

The Act covers varying types of associations, from small groups earning less than \$25,000 to large organisations with over \$500,000 in gross receipts. It applies to both non-trading and trading associations. As these associations have very different risk levels, larger and more complex bodies may need a different form of incorporation.

Associations can voluntarily change their structure under section 56 of the Act, and the Director may, in some cases, require a change under section 63 of the Act. To strengthen these provisions, statutory criteria could be introduced so that associations with remarkably high revenue or assets, operations across multiple jurisdictions, or significant public-funding risk are considered for, or directed to, transition to a company limited by guarantee under the *Corporations Act 2001* (Cth), overseen by ASIC.

#### Questions

- Which triggers would be appropriate to require or strongly encourage transition?
  - Financial caps: Gross receipts & assets, staffing numbers.
  - Other caps: Geographical and operational spread, gaming machine venue.
- What transitional support (i.e. templates, timelines) would assist?

### 2.2. Regulator Powers

Incorporated associations are an important part of the social fabric of the Northern Territory, with many people participating or interacting with an association in the course of everyday life. It is important that the regulatory framework supports good governance and accountability, protects community interests and maintains public confidence in the sector.

The current Act provides limited tools for early and proportionate regulatory intervention. Enhancing graduated powers would enable the regulator to address governance or compliance risks at an earlier stage, reducing the likelihood of organisational failure, financial loss or escalation to more serious enforcement action.

The following are regulatory powers to consider adding to the Act:

#### Power 1

Empower the regulator to direct special audits of all or part of an association's financial records, triggered by particular events.

### Questions

- Should the regulator be allowed to require an association's financials to be audited outside of the standard audits required?
- When should a special audit be triggered (complaints, risk indicators, repeated late filings)?
- Should there be limitations on the timeframe of financials to be audited?
- Should there be specific audit standards that apply?
- Who should be responsible for the costs of an audit directed by the regulator?

### Power 2

Provide explicit power to instruct an association to hold a general meeting, appoint a mediator, or adopt a dispute-resolution process.

### Questions

- What triggers warrant a directed meeting (i.e. committee paralysis, failure to hold AGM, governance disputes)?
- Should directions include agenda setting, independent chair/mediator, and minute lodgement?
- Should review rights be available to members and the regulator (e.g. NTCAT)?

### Power 3

Introduce an infringement notice regime (with modified penalties via regulations) for specified offences, for example, failure to lodge accounts, failure to hold AGM, non-compliance with audit, meeting, mediator appointment, and adoption of dispute resolution process directions.

An infringement framework would support a graduated compliance approach, allowing minor breaches to be addressed efficiently while reserving prosecution for more serious or repeated non-compliance.

### Questions

- Which offences should be eligible for infringement notices versus prosecution?
- What penalty levels are proportionate across Tier 1/2/3?
- What escalation pathway (warning → infringement → enforcement) is preferred?

## 2.3. Regulation changes to increase fees (particularly for Tier 2 and Tier 3)

Current fee settings do not fully reflect the cost of administering a modern, risk based regulatory framework. Reviewing fees provides an opportunity to ensure the regulatory system is sustainable while maintaining affordability for smaller, low risk associations. Consideration will be given to scaling fees by organisational size and risk to ensure fairness and proportionality.

### Questions

- What late fees would drive timely compliance without undue burden?
- Should late fees scale by the time overdue (30/60/90+ days) and by tier?
- Should fee discounts apply for hardship with an improvement plan?

## 2.4. Increase the minimum number of members

Currently, the Act provides that incorporated associations should have a minimum of 5 members. Raising the minimum number of members required for incorporation may support governance resilience through an increased accountability with a wider membership base. Very small memberships can increase governance risk, including concentration of decision-making, committee instability and limited oversight, increasing the minimum membership may strengthen accountability and organisational resilience.

### Questions

- What minimum membership balances accessibility and governance robustness?
- Should exemptions apply for remote, culturally specific or small community groups?
- Would raising the minimum help reduce committee instability?

## 2.5. Property and land – vesting arrangements

Many associations hold significant community assets, including land and property for important community purposes, such as community living arrangements, education and employment and culturally significant sites. In the Northern Territory, land tenure arrangements are often complex and may involve Crown land, special purpose leases or historical vesting arrangements.

Under the Act, the property and assets of some associations may vest with the CEO of the department responsible for administering the Act. These arrangements interact with broader Crown land administration and can create uncertainty regarding ownership, decision making authority and oversight, particularly where land is of significant value or held for long term community benefit.

Recent regulatory experience has identified a number of challenges, including:

- Unclear governance or decision-making authority over land transactions.
- Legacy vesting arrangements that do not reflect organisational structures.
- Risks associated with the disposal, transfer or encumbrance of community land.
- Uncertainty regarding the appropriate treatment of land when an association becomes inactive, is wound up or experiences governance failure.

Given the significance of these assets, there is a strong public interest in ensuring appropriate oversight and clarity. Strengthening and clarifying the legislative framework will help:

- Protect community land and assets.
- Ensure land continues to be used for its intended community purpose.
- Align vesting arrangements with contemporary governance and Crown land administrative practices.
- Reduce need for complex or costly court processes to resolve property and land issues.
- Clarify property vesting provisions (including land) and provide CEO oversight/review powers on high-value transactions to protect members and beneficiaries.

### Questions

- What property/land scenarios have caused ambiguity (trusts, transfers on name change, mergers)?
- Should certain high-value land transactions require notification or special resolutions?
- How should legacy vesting arrangements be reviewed or regulated? Would a statutory “vesting review” process resolve legacy title issues without court action?
- Should funds from dissolved associations be used for strengthening the governance and compliance of other associations and administering the Act?
- Should community land be returned to the Territory not the CEO?

## 2.6. Removing annual audit for tier 1 associations

To reduce administrative burden for low risk, small associations, the review is considering whether the current audit requirement for Tier 1 associations remains necessary and proportionate. Transparency would continue to be supported through financial reporting to members and regulatory oversight where risks are identified.

Tier 1 associations will still be required to present a financial statement to the members for review and lodge it with the regulator. Tier 1 associations will still need to have their financial statements audited if required by a funding agreement. Additionally, tier 1 associations that are not required to undertake an audit, can opt to do so.

### Questions

- Should tier 1 associations have their annual financial statements audited, noting the auditor can be an unqualified person?
- Would removing the audit requirement for tier 1 associations reduce administrative burden?
- Could tier 1 associations transparency and accountability be improved through updated and easy to use financial statement and annual report templates?

## 2.7. Updated and easy to use model constitution

Currently Schedule 4 includes a model constitution. Many associations rely on the model constitution.

Updating this document will support better governance by providing a contemporary, easy to use framework that reflects modern operating practices and reduces the need for individual drafting.

Proposed updates include provision for electronic advancements for funds transfer, communication, and attendance methods – payments, emails, meetings – teleconference / video conference (incl, physical attendance at more than one location).

### Question

- Are there other matters that should be contemporised or added?

### 3. How to Provide Feedback

The Department of Trade, Business and Asian Relations (DTBAR) is seeking feedback from incorporated associations and other key stakeholders to inform negotiations for the Act's reform.

To provide feedback, visit [haveyoursay.nt.gov.au](https://haveyoursay.nt.gov.au) to:

- Complete the survey or
- lodge a written submission.

Consultation is open until 20 March 2026.

### 4. Next Steps

Following consultation, feedback will be analysed and used to develop options for legislative reform.

A summary of submissions will be published, and stakeholders will be informed of proposed changes.

### 5. Contact

Any questions can be sent via email to [regulatory.reform@nt.gov.au](mailto:regulatory.reform@nt.gov.au).