Amateur Beekeepers Australia

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COMMITTEE HANDBOOK – LEGAL OBLIGATIONS NSW[1]

As of 10 Jan 2026

BACKGROUND AND AIM OF DOCUMENT

An incorporated association has its own legal identity[2] separate from its members, providing protection to members in legal transactions.[3] However, there are requirements outlined in the Associations Incorporation Act 2009 (NSW), the Associations Incorporation Regulations 2022 (NSW) and the club constitution that need to be followed.

The aim of the handbook is to provide a reference guide for club executives with a summary of the more frequently applicable points that need to be considered. It does not claim to be complete or comprehensive and for more specific cases you might want to consult the relevant source documents or seek advice.

All club executives, not just the secretary, should familiarise themselves with their clubs constitution and the guidance available at the Fair Trading NSW Associations website.

The value of the maximum penalty units outlined in the Act are currently (FY25/26) set at $123.31, however, Schedule 5 of the Regulations provides a list of penalties and their current value.

Reference to relevant Act, Regulation and Constitution

- References to specific sections of the Act are referenced "**s**" in brackets
- References to specific regulations of the Regulations are referenced "**reg**" in brackets
- References to specific schedules of the Regulations are referenced "**Sch**" in brackets
- References to the 2016 Model Constitution[4] and 2022 Model Constitution[5] are referenced "**Cl**" for 2016 and where different "Cl" for 2022 version in brackets

Further helpful information can be found on the Justice Connect Not for profit Law website.

Please provide any feedback, questions to feedback@beekeepers.asn.au so I can consider them for inclusion in a future updated version.

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[1] This document is based on NSW Legislation, however, most of the points are similarly applicable in other States/Territories

[2] Associations Incorporation Act 2009 (NSW) s19

[3] Associations Incorporation Act 2009 (NSW) s26(2), s30B and Fair Trading website

[4] Most NSW clubs are still on a Constitution based on the 2016 Model

[5] For clubs that already adopted the 2022 Model Constitutions

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THE COMMITTEE

POWER OF THE COMMITTEE

"Subject to the Act, the Regulation, this constitution and any resolution passed by the association in general meeting, the committee -

(a) is to control and manage the affairs of the association, and
(b) may exercise all the functions that may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
(c) has power to perform all acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association. (Cl13)

Specific tasks:

- The committee must meet at least 3 times in each period of 12 months (Cl20(1) / (Cl21(1))
- Approve or reject applications for membership (Cl3(2)) / (Cl3(4)) (unless delegated to the membership officer)
- Set the joining fees (if any) (Cl8(1) / (Cl5(1)) and annual membership fee (Cl8(2)) / (Cl5(2))
- Fill casual vacancies of the committee (Cl18) / (Cl17(5))
- Fill any vacancy in the office of public officer within 28 days (s34(10), s35(3)) *penalty $50 (Sch 5)*
- Delegate (or revoke delegation) tasks to sub-committees (Cl23) / (Cl20)
- Appoint authorised signatories (s36(2))
- Ensure that annual general meetings are held within 6 months after close of association's financial year (s37(2) 1 penalty unit or $50 (Sch 5)
- Set date and time of AGM (Cl26(1)) / (Cl28(3))
- Convene a special general meeting (Cl27(1)) / (Cl29(1))
- Approve the use of technology for general meetings (Cl37) / (Cl36)
- Approve the use of technology for committee meetings (Cl22) / (Cl27)
- Maintain Register of Committee Members (s29(1)) (usually delegated to Secretary)
- Maintain a Conflict of Interest Register (s31(3)) (usually delegated to Secretary)
- Cause financial statements for that year to be prepared (s47(1)) *5 penalty units $200 (Sch 5)* (delegated to Treasurer)
- Cause the association's financial statements for the previous financial year to be submitted to the annual general meeting (s48) *5 penalty units or $200 (Sch 5)* (usually delegated to Treasurer)
- Lodge financial affair for the previous year (From A12-T2) with Fair Trading NSW (s49(1) *5 penalty units $200 (Sch 5)* (usually delegated to Treasurer)
- Association must keep records that correctly record and explain its financial transactions and financial position (delegated to Treasurer under Cl17 / Cl19) and minutes of the proceedings of its committee meetings and general meetings (delegated to Secretary under Cl16 / Cl18) (s50(1) *5 penalty units $200 (Sch 5)*

The Fair Trading NSW provides a Management committee obligations page and a Management committee - self-evaluation checklist as a helpful tool for the management committee to understand and fulfill the incorporated association's ongoing obligations under the Act.

COMPOSITION OF AND MEMBERSHIP OF COMMITTEE

- The Constitution outlines the composition and membership of the committee (Cl14).
- The committee must have at least 3 members who are at least 18 years of age. (s28(2))
- Nominations of candidates for election must be received by the Secretary at least 7 days prior to the AGM (Cl 15(1)(b)) / (Cl15(2)(d))
- Casual vacancies can be filled by the committee throughout the year (Cl18) / (Cl17(5))

CHANGE OF COMMITTEE MEMBERS

- **Within 14 days after vacating office**, a former committee member of an association must ensure that all documents in his or her possession that belong to the association are delivered to the public officer for delivery to his or her successor. (s28(5))

REGISTER OF COMMITTEE MEMBERS

- The association must keep a register of committee members in NSW containing:
    - the committee member's name, date of birth and residential address
    - the date on which the committee member takes office (was elected or appointed)
    - the date on which the committee member vacates office (ceased to hold position),
    - the name of each member of the committee of the incorporated association who holds the position (if any) of president, vice-president, secretary or treasurer of the incorporated association
- Any change in the committee's membership must be recorded in the register within one month after the change occurs
- The register must, at all reasonable hours, be kept available for inspection, free of charge, by any person. (s29) (Reg 10) *1 penalty unit or $50 (Sch 5)*

DUTY OF CARE OF COMMITTEE MEMBER

- It is the duty of each committee member to carry out his or her functions for the benefit, so far as practicable, of the association and with due care and diligence. (s30A)

DISCLOSURE OF INTEREST (CONFLICT OF INTEREST)

- If—
    a) a committee member has a direct or indirect interest in a matter being considered or about to be considered at a committee meeting, and
    b) the interest appears to raise a conflict with the proper performance of the committee member's duties in relation to the consideration of the matter,

  the committee member must, as soon as possible after the relevant facts have come to the committee member's knowledge, disclose the nature of the interest at a committee meeting.
  (s31(1)) *Maximum penalty—60 penalty units*

- After a committee member has disclosed the nature of an interest in any matter, the committee member must not, unless the committee otherwise determines—
    a) be present during any deliberation of the committee with respect to the matter, or
    b) take part in any decision of the committee with respect to the matter. (s31(5))

- For the purposes of the making of a determination by the committee under subsection (5), a committee member who has a direct or indirect interest in a matter to which the disclosure relates must not—
    a) (a) be present during any deliberation of the committee for the purpose of making the determination, or
    b) (b) take part in the making by the committee of the determination. (s31(6))

DISCLOSURE OF INTEREST REGISTER

- Particulars of any disclosure made under this section must be recorded by the committee in a book kept for that purpose and that book must be open at all reasonable hours to inspection by any member of the association. (s31(3))

- The book must be kept at the same address as the register of committee members. (s31(4))

DISHONEST USE OF INFORMATION

- A committee member or former committee member of an association who uses information obtained as a committee member dishonestly with the intention directly or indirectly of -

a) gaining an advantage for himself or herself or for any other person, or

b) causing detriment to the association,

is guilty of an offence. (s32)

Maximum penalty—240 penalty units or imprisonment for 2 years, or both

DISHONEST USE OF POSITION

- A committee member of an association who uses his or her position as a committee member dishonestly with the intention of directly or indirectly—
  a) gaining an advantage for himself or herself or for any other person, or
  b) causing detriment to the association,
  is guilty of an offence. (s33)
  Maximum penalty—240 penalty units or imprisonment for 2 years, or both

Refer to Fair Trading NSW Management Committee webpage for more information.

COMMITTEE MEMBERS ROLES AND RESPONSIBILITIES

PRESIDENT / VICE-PRESIDENT

- Preside as chairperson at each general meeting of the association (Cl30(1)) / (Cl33(1)(a))
- Chair the committee meeting (Cl20(8)(a) / (Cl24(1)(a))
- Sign the minutes of the committee or general meeting and/or previous committee meeting (Cl16(3)) / (Cl18(3)(b))

PUBLIC OFFICER

- A public officer is both the official point of contact for an incorporated association and one of the authorised signatories.
- A committee member, an ordinary member, or a person outside the association may hold the position of public officer.
- The public officer must be over 18 years of age and reside in New South Wales. (s34(2))
- An association's committee must fill any vacancy in the office of public officer within 28 days after the vacancy arises. (s34(10), s35(3)) *penalty $50 (Sch 5)*
- Authorised Signatory: The public officer is automatically one of the authorised signatories for the association. However, the public officer is not automatically a signatory to the association's bank account; this is up for the committee to determine.

PUBLIC OFFICER DUTIES

- Within 28 days, notifying Fair Trading NSW of **appointment of Public Officer** From A9 (s34(6) *1 penalty unit)or $50 (Sch 5)*
- Within 28 days, notifying Fair Trading NSW of **change in the association address** From A9 *(s13(1) 5 penalty units) or $200 (Sch 5)*
- Collecting all association documents from former committee members and delivering the documents to the new committee member (s28(5))
- Acting as the official contact for the association, including taking delivery of documents served on the association and bringing them to the attention of the committee as soon as practicable
- Custody of any documents as required by the constitution. (Cl44(b)) / (Cl42(b))
- Returning all association documents to a committee member within 14 days, upon vacating office. (s35(2)) *1 penalty unit*

The role of the public officer is really to act as the contact person between the club and Fair Trading NSW. Thus it should be considered to combine the role with the secretary role to streamline record keeping and governance.

Refer to Fair Trading NSW Public Officer webpage for more information.

SECRETARY

- Give oral or written notice of committee meeting to each committee member at least 48 hours in advance (Cl20(3)) / (Cl22(1) outlining the nature of the business (Cl20(4) / (Cl22(2)+(3)) (e.g. provide the agenda to committee members at least 2 days in advance of the meeting).
- Give notice of general meeting to each member specifying the place, date and time of the meeting and the nature of the business proposed ob e transacted at the meeting at least 14 days prior (Cl28(1)) / (Cl30(1)(b)) or 21 days if special resolution is required. (Cl28(2)) / (Cl30(1)(a))
- Collate nominations of candidates for election as office-bearers of the association or as ordinary committee members (Cl15(1)) / (Cl15(2)(d))
- Must keep minutes of the proceedings of its committee meetings and general meetings (s50(1)(b)) *5 penalty units or $200 (Sch 5)*
- The minutes must contain:
    - all appointments of office-bearers and members of the committee
    - the names of members of the committee present at a committee meeting or a general meeting
    - all proceedings at committee meetings and general meetings (Cl16(2) / (Cl18(2))
- The meeting minutes must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting (Cl16(3) / Cl18(3)). The signature may be transmitted by electronic means (Cl16(4) / Cl18(3))
- Minutes are required to be kept in written or electronic form and for a period of **not less than 5 years** after they were made (reg 15(1))
- If records and minutes are kept in electronic form, they must be convertible into hard copy. Hard copy must be made available within a reasonable time to a person who is entitled to inspect the records. (reg 15(2))
- Maintain Register of Committee Members (s29(1)) *(1 penalty unit or $50 (Sch 5)*
- Maintain a Conflict of Interest Register (s31(3))

Tasks of the Membership Officer have been excluded here.

Refer to Fair Trading NSW Record Keeping webpage for more information.

TREASURER

- It is the duty of the treasurer of the association to ensure—
    a) that all money due to the association is collected and received and that all payments authorized by the association are made, and
    b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association. (Cl17) / (Cl19)
- Must keep records that correctly record and explain its financial transactions and financial position (s50(1)(a)) *5 penalty units or $200 (Sch 5)*
- As soon as practicable after the end of each financial year prepare the financial statements in relation to the association's financial affairs. (s47(1)) *5 penalty units or $200 (Sch 5)*
- The financial statements prepared by a Tier 2 association[6] must include the following—
    a) the details of mortgages, charges and other securities affecting property owned by the association,
    b) an income and expenditure statement and a balance sheet that sets out
        (i) the individual sources of income and expenses incurred in the operation of the association, and
        (ii) the assets and liabilities of the association,
    c)

    (reg 14(a), 14(b))
- Submission of financial statements to AGM. (s48) *5 penalty units or $200 (Sch 5)*

[6] Gross receipts up to $250,000 and/or assets up to $500,000 (reg 12)

- Within 1 month after the AGM, lodge From A12-T2 with Fair Trading NSW. (s49) *5 penalty units or $200 (Sch 4)* Note: Late lodgement attracts higher fees.

Refer to Fair Trading NSW Financial Reporting Requirements and Record Keeping webpage for more information.

Membership Officer (or Secretary)

- Establish and maintain a register of members of the association (whether in written or electronic form) specifying the name and postal, residential or email address of each person who is a member of the association together with the date on which the person became a member (Cl7(1) / Cl3(5))
- As soon as practicable refer application for membership to the committee to determine whether to approve or to reject the application (Cl3(2) / Cl3(3))
  Note: It is recommended that committees delegate the task of approving or rejecting applications to the membership officer to get timely responses to new members.
- As soon as practicable after the committee makes that determination, notify the applicant in writing that the committee approved or rejected the application (whichever is applicable) (Cl3(3) / Cl(3)(5))
- Enter the applicant's name in the register of members (Cl3(4) / Cl3(6)) (automated process by clicking "approve member" in Member Jungle)
- Record the date on which the member ceased to be a member in the register of members. (Cl6(2) / Cl11(1))

Refer to Membership Officer Handbook for further details.

Committee Meetings

- The committee must meet at least 3 times in each period of 12 months (Cl20(1) / Cl21(1))
- Committee meeting may be held at 2 or more venues using any technology that gives each of the committee members a reasonable opportunity to participate. (s30(2))

Refer to Fair Trading NSW Management Committee Meetings webpage for more information.

General Meetings

Annual General Meeting

- AGM must be held **within 6 months** of the association's financial year. (s37(2)) *1 penalty unit or $50 (Sch 5)* (Cl24(2) / (Cl28(2))
- A general meeting may be held at 2 or more venues using any technology that gives each of the association's members a reasonable opportunity to participate. (s37(3)) (Cl37(1) / Cl36(3))
- A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid or is under the 18 years of age (Cl34(3)&(4) / Cl34(1))
  (**Note**: this only applies in the period 1 Jul to 30 Sep where individuals who have not yet renewed are still members (Cl4(d) / Cl12(d)) but are in arears with membership fee payment. From 1 Oct they are no longer members thus consider holding the AGM in Oct or Nov.)
- Ordinary resolution is passed if it is supported by more than half of the votes cast by members of the association who, under the association's constitution, are entitled to vote on the proposed resolution. (s38(1))
- In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote. (Cl34(2) / Cl33(2)(b))
- In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
  (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
  (b) to receive from the committee reports on the activities of the association during the last preceding financial year,
  (c) to elect office-bearers of the association and ordinary committee members,

(d) to receive and consider any financial statement or report required to be submitted to members under the Act. (Cl26(2) / Cl28(4))

- An annual general meeting must be specified as that type of meeting in the notice convening it. (Cl26(3) / Cl30(2)(d))
- Notice of General Meeting needs to be issued to members at **least 21 days before** if the meeting requires **Special Resolution** (Cl28(2) / Cl31(1)(a)) otherwise at l**east 14 days before** (Cl28(1) / Cl30(1)(b))
- No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 26 (2) / clause 28(4) (Cl28(3) / Cl30(3))

Note: You should not have "Any other business" or similar in your Notice as members would not be notified in advance about topics that could be raised, discussed and decided. If members want to raise a topic at a general meeting they need to notify the Secretary **BEFORE** the notice is issued (Cl28(4) / Cl30(4)).

Special Resolution to Change of Name, Constitution or Objects

- Change of name, constitution or objects requires a **special resolution** (s10(2))
- Notice of meeting has been given to its members **no later than 21 days before** the date on which the meeting(s39(1)(2))
- Must be supported by at least **three-quarters of the votes cast by members** of the association who, under the association's constitution, are entitled to vote on the proposed resolution. (s39(1))
- A change in an association's name, objects or constitution **does not take effect until it is registered** with Fair Trading NSW (s14)

Refer to Fair Trading NSW Meetings and Resolutions webpage for more information.

General Provisions

Change of Address of the Association

- The official address must be a **physical address in NSW (no PO Box)** where the public officer can generally be found. It must be the premises where documents can be received by post.
- **Within 28 days** after an association's official address becomes obsolete or unusable, the association's public officer must notify Fair Trading NSW, in the approved form (From A9), of the association's new address. (s13) *5 penalty units or $200 (Sch 5)*

Where name must appear (s41)

- 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 website, order for goods or services, or receipt in connection with its activities. (s41(1)) *1 penalty unit or $50 (Sch 5)*

Refer to Fair Trading NSW General Obligation section on Running an Association webpage for more information.

Association not to provide pecuniary gain for its members (s40)

- An association must not conduct its affairs (including its affairs as trustee of any trust) so as to provide pecuniary gain for its members. (s40) 60 penalty units. Definition of "pecuniary gain" outlined in (s5)
- The association must apply its funds and assets solely in pursuance of the objects of the association and must not conduct its affairs so as to provide a pecuniary gain for any of its members. (Cl41)

Offences by committee members (s91)

(1) If an association contravenes, whether by act or omission, any provision of this Act or the regulations, each committee member of the association is taken to have contravened the same provision if he or she knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the association has been proceeded against or convicted under that provision.

(3) In the case of a contravention of section 40, each person who, pursuant to subsection (1), is taken to have contravened that section is, together with the association, jointly and severally liable for all debts incurred by the association as a consequence of that contravention.

(4) Nothing in this section affects any liability imposed on an association for an offence committed by the association under this Act.

(5) For the purposes of this section, an association's public officer (not otherwise being a committee member) is taken to be a committee member.

CHECKLISTS

PRESIDENT / VICE-PRESIDENT CHECKLIST

When	What	Why
General Meetings (AGM)	○ Preside as chairperson at each general meeting of the association	Clause 30(1) / 33(1)
Committee Meetings	○ Preside the meeting	Clause 20(8) / 24(1)

SECRETARY CHECKLIST

ANNUAL GENERAL MEETING / GENERAL MEETING RELATED TASKS		
When	**What**	**Why**
At least one month prior to the AGM	○ Seek input from committee to prepare Agenda for AGM to prepare the Notice and Agenda for the AGM	Clause 28 / 30
At least 14 days (or 21 if special resolution is tabled) prior to the AGM	○ Send out Notice of AGM to members ○ Attach the Agenda for the meeting ○ Include link to download nomination form ○ Consider including hyperlinks to the Minutes from the previous meeting and Financial Report so they don't need to be read out at the meeting. ○ Consider including any committee report in the notice	Clause 28 / 30 Clause 28 / 30 Clause 15(1) / 15(1) Clause 26(2)(a)&(d) / Clause 28(4)(a)&(d) Clause 26(2) / 28(4)
Up to 7 days prior to AGM	○ Collect Committee Nomination forms and check that nominators are current members ○ Check that nominee is a current member ○ If more nominations are received than open positions, prepare material for a ballot (e.g. ballot papers and box, pens)	Clause 15(1) / 15(2) Clause 15(7) / 15(1) Clause 15(5) / 15(7)
Just prior to AGM	○ Get a current extract from the membership system to ascertain membership status (e.g. outstanding fees) ○ Prepare attendance list template for members to sign-in ○ Have minutes of previous meeting, committee reports and ready for presentation if not sent out with Notice	Clause 34 / 34 Clause 16(2) / 18(2) Clause 26(2)(a) and (b) / 28(4)(a) and (b)
AGM	○ Take notes to allow preparing the minutes ○ Seek sign-off of pervious minutes from chair	Clause 16(2) / 18(2) Clause 16(4) / 18(3)
After the AGM	○ Prepare the minutes and share with committee for review and feedback ○ The minutes will need to be tabled at the next AGM ○ Update the Register of Committee Members as required	Clause 16(2) / 18(2) Clause 26(2) / 28(2) Section 29(1)
COMMITTEE MEETING RELATED TASKS		
When	**What**	**Why**
At least two weeks prior to the committee meeting	○ Seek input from committee to prepare Agenda	Clause 20(3) and (4) Clause 22(2) and (3)
At least 48 hours prior to the committee meeting	○ Send out notice of committee meeting and agenda (including any relevant supporting documents) to all committee members ○ Send out minutes of previous meeting	Clause 20(3) and (4) Clause 22
Committee meeting	○ Take notes to allow preparing the minutes ○ If new committee members join, ask for disclosure of any potential conflict of interest	Clause 16(2) / 18(2) Section 31(3)

After the committee meeting	○ Prepare the minutes and share with committee for review and feedback ○ Update Register of Committee Members and Conflict of Interest Register as required ○ Seek sign-off of Minutes from chair	Section 50(1)(b) Clause 16(2) / 18(2) Section 29(1) Section s31(3) Clause 16(4) / 18(3)

MEMBERSHIP OFFICER CHECKLIST

When	What	Why
Ongoing	○ Maintain membership register	Clause 7 / 4
Membership applications	○ Refer application for membership to the committee to determine whether to approve or to reject the application (if not delegated to approve independently)	Clause 3(2) / 3(3)
Application approval/rejection	○ Notify the applicant in writing that the committee approved or rejected the application (whichever is applicable) (automated in Member Jungle) ○ Update membership register (automated)	Clause 3(3)(a) Clause 3(5)(a) Clause 7 / 4
Cessation of members	○ Update the membership register (Enter note on member with details and remove from membership level)	Clause 6(2) Clause 11

TREASURER CHECKLIST

When	What	Why
Ongoing	○ Ensure that all money due to the association is collected and received and that all payments authorised by the association are made	Clause 17(a) Clause 19(a) & (b)
Ongoing	○ Keep records that correctly record and explain the financial transactions and financial position	Section 50(1)(a) Clause 17(b) / 19(c)
Prior to AGM	○ Prepare the Financial Statements for the AGM ○ Submit the Financial Statements to AGM	Section 47 Section 48
AGM	○ Present Financial Statements at AGM	Clause 26(d) / 28(4)(d)
Committee meetings	○ Prepare and present Financial Statements at committee meetings	No legal requirement but good practice
Within 1 month after the AGM	○ Lodge From A12-T2 with Fair Trading NSW This could also be done by the Secretary or Public Officer. Just ensure that it's done.	Section 49

PUBLIC OFFICER CHECKLIST

When	What	Why
Ad hoc	○ Within 28 days, notifying Fair Trading NSW of **appointment of Public Officer** Form A9 ○ Within 28 days, notifying Fair Trading NSW of **change in the Public Officer's address** Form A9	Section 34(6) Section 34(7)
Ad hoc	○ Within 28 days, notifying Fair Trading NSW of **change in the association address** Form A9	Section 13(1)
Change of committee members (as required)	○ Collect all association documents from former committee members and delivering the documents to the new committee member	Section 28(5)

Ongoing (as required)	○ Custodian of any documents as required by the constitution (books and records).	Regulation 42(b)
Vacating office	○ Returning all association documents to a committee member within 14 days, upon vacating office.	Section 35(2)