

LICENSING, REGULATION AND ALCOHOL STRATEGY

Investigations under Part 10 of the Associations Act *Associations Act 2003*

Licensing, Regulation and Alcohol Strategy administers the Associations Act which regulates the activities of Incorporated Associations in the Northern Territory.

Background

In 2003, after much public consultation, the Government introduced the *Associations Act*. The legislation has more effective powers for the Commissioner of Consumer Affairs, should it become necessary to investigate an incorporated association in the regulation of its affairs.

Licensing, Regulation and Alcohol Strategy uses lodged audited annual financial statements to actively monitor a range of issues including the solvency of associations, and other evidence to ensure associations observe basic compliance with the *Associations Act*.

When Consumer and Licensing, Regulation and Alcohol Strategy may investigate

Where it is established through:

- either Licensing, Regulation and Alcohol Strategy monitoring; or
- an association member, or another concerned party, drawing a particular issue to the attention of Licensing, Regulation and Alcohol Strategy;

that there is a serious breach of the Act, the matter may be investigated by Licensing, Regulation and Alcohol Strategy.

Commissioner's powers

The Commissioner must give written notice of an investigation, which must specify the grounds for conducting the investigation. The power to investigate extends to any trust operated by the association.

The Commissioner has the power to require production of books and records and may require a person to answer questions relating to the investigation.

Preliminary investigations

These precede any formal investigation and involve an officer examining the books and accounts of an association and other relevant material to determine if there is a need for a formal investigation.

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Facts

Licensing, Regulation and Alcohol Strategy ONLY has jurisdiction to investigate / intervene in certain circumstances where there has been a breach of the *Associations Act 2003* ("the Act"). Incorporated associations are designed to be self regulating entities in relation to internal matters and disputes. Whilst Licensing, Regulation and Alcohol Strategy regulates associations in the Northern Territory, ensuring financial and legal accountability and good governance, it does not have the jurisdiction to intervene in internal matters or mediate disputes. Eg. a breach of the association's constitution that does not result in a breach of the Act. See fact sheet regarding **Internal Disputes**.

- Licensing, Regulation and Alcohol Strategy do NOT investigate fraud issues.
- Licensing, Regulation and Alcohol Strategy do NOT automatically investigate based on a single complaint.

Reports

If the Commissioner proceeds to full investigation of an association, a report is produced at the end of his investigation. That report is then handed to the Minister for Justice and the organisation affected and other related parties, at the discretion of the Commissioner.

Investigation reports are not publicly released because of the confidential commercial material they necessarily contain.

From time-to-time findings or summaries of a report may be publicly released if they are deemed to be in the public's interest.

If the Commissioner deems it necessary, his investigation report may be handed over to the police for further action.

Actions Following Investigation

Depending on the seriousness of breaches under the *Associations Act* identified through investigation, the Commissioner for Consumer Affairs has a number of options available.

These include, but are not restricted to:

- removing or appointing members of an association's committee;
- appointing of a statutory manager;
- dissolution of the incorporated association.

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