

20 November 2020

Our ref: WD:NFP

Mr David Mackie
Director-General
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

By email: [REDACTED]

Copy to: Registration Services Unit, Office of Fair Trading

By email: [REDACTED]

Dear Mr Mackie

Associations Incorporation Act 1981 – extension for holding annual general meeting

I am writing at the request of the Queensland Law Society's Not for Profit Law Committee, regarding concerns raised by some of our members about confusion that appears to exist on the Office of Fair Trading's website (OFT) around the timing for the annual general meeting for incorporated associations.

The QLS Not for Profit Law Committee members represent and advise many incorporated associations. The Committee members' clients are seeking clarification of their obligations with respect to holding annual general meetings in the COVID-19 environment, in light of the information published by the OFT.

Under s.55 of the *Associations Incorporation Act 1981 (AIA)*, an incorporated association must hold its annual general meeting within 6 months of its financial year finishing.

This means that for incorporated associations whose financial year ends 30 June 2020, their AGM must be held before 31 December 2020. This period can be extended under the current provision in section 121 of the AIA.

However, the OFT website section providing information for consumers and businesses affected by COVID-19¹ says as follows:

¹ <https://www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/fair-trading-services-programs-and-resources/fair-trading-latest-news/disaster-assistance/covid-19/incorporatedassociations> – as at 19 Nov 2020

Associations Incorporation Act 1981 – extension for holding annual general meeting

"Normally an individual association seeking an extension must apply to OFT, outlining the special circumstances for why the extension should be granted. However, due to COVID-19 restrictions, a blanket extension of 6 months was granted to all incorporated associations in March 2020. This period has been extended to allow associations with outstanding AGMs until 31 December 2020 to hold those meetings.

In effect, this may result in the management committee's term being longer than that prescribed in the rules. For associations that use this extension, we hope members will be accepting of this decision."

This statement on the website has led to confusion because it refers to an "extension" having been granted to the end of December 2020, which is in fact the due date in any event for holding an AGM for those incorporated associations whose financial year ended on 30 June this year.

Members are querying if the wording on the OFT website means that an extension has been granted until some time in 2021.

Further, we have been informed that the Department is presently not accepting requests for an extension of time under s.121 of the AIA as it considers it is too early for such a request to be made.


Many associations are in a quandary as to what steps to take, given COVID-19 restrictions and the need for social isolation. Many associations have older members who are subject to additional COVID-19 concerns.

We would be grateful if the website could be updated to clarify the extension/grace period being afforded by your Department for the holding of an annual general meeting at the present time.

We ask that consideration be given to allowing a further 6 month period which, in the case of associations whose year-end was 30 June 2020, would take the timeframe through until 30 June 2021.

If you wish to discuss this request with us or the Society can be of assistance in any way, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully



Luke Murphy
President