

The Model Constitution for an unincorporated Congregation has been streamlined and simplified. It has been approved by Victorian District Church Council (DCC).

The number of positions that **have to be filled** has been reduced, with other positions **may be elected** (in addition) – this reflects the reality of smaller congregations.

Fields highlighted with **yellow** will/may need to be changed.

A small number of notes in the document clarify some points (eg size of \$ turnover to require an Audit; whether a vote of close to 50% would be a desirable outcome etc).

The sections are auto-numbered, therefore do NOT manually renumber – just add or delete any proposed changes.

Please do NOT turn-off Tracking (Or accept any changes, as this will enable quicker processing at District of your draft Constitution. Please note that an amended draft constitution will take at least 2 months to be approved (members of the Victorian Constitutions Committee need to schedule a meeting, then DCC needs to consider their recommendations)

The changes have been made to the 2015 output from National Convention of Synod, led by both the national Standing Committee for Constitutions plus a national forum of Constitutions folks, then more work by National and finally the Victorian District Constitutions Committee.

Comments from National Committee of Constitutions [partial extract]

In considering these revisions, the national SCoC has sought to take account in the first instance of the requirements of the Australian Charities and Not-for-Profits Commission which has made known certain requirements in respect of the Not-for-Profit status and the winding up or dissolution of an organisation registered under its auspices. In addition, the SCoC has been advised of the requirements of the Western Australian Government which has passed a new Associations Incorporation Act in 2015. The subsequent model provided by them has considerably greater requirements.

In addition, a number of suggestions have come out of the Forum conducted in July 2017 and since then. Some of these suggestions have been covered by the work done with the inclusion of the WA requirements.

1. The cover page of the model has been set up in such a way in order to provide for appropriate signing of the document as well as leaving room (merely space) for the written description of an annexure statement where the document is required to be submitted as an annex to a statutory declaration. This will only apply in cases of incorporated bodies.
2. Article 1 has been revised to include three additional definitions. The clauses 1.2.4 and 1.2.8 and 1.2.12 have been added - the last one specifically to ensure compliance with State requirements. While 1.2.12 may not be legally required for an unincorporated association, the SCoC believes there is value in retaining it. The list is also in alphabetical order.
3. Clause 4.1.6 has been added to ensure that charity for members is a recognised object to enable assistance to be provided to members in need without compromising the requirement of the Not-for-Profit status which in principle does not allow for the distribution of property or income to members. A clause similar to this was added to the Church and District Constitutions many years ago.
4. Clause 4.2 has been added in this position after much consideration. The addition of the clause meets the requirements in the State of WA and complies with ACNC requirements.
5. Clause 5.1.6 has been added as a result of requirements in WA. The SCoC believes it has merit and it is therefore being included in all cases. Clause 5.1.7 (previously 5.1.6) also has a small addition at the end in respect of inspection of the register of members.

6. Clauses 8.1 and 8.2 have been revised for two reasons. In the first instance, the requirement of WA is that elections must take place at the Annual General Meeting. Secondly, a number of comments have been received about the additional meeting, which was named "Budget and Elections General Meeting". As there are many places where such a meeting is not favoured, it has been renamed "Budget and Nominations General Meeting" and it has been provided as "may" take place, instead of "shall" take place. It has also been revised to allow for nominations to be made at this meeting in place of elections. The reference to the budget remains, but it could also be adopted as a draft at this meeting. None of these changes are critical (other than for WA) and there is room for individual decisions to be made by congregations about their applicability. Therefore, clause 8.1.2 now includes reference to elections and the budget adoption.
7. Clause 8.5.4 is also an addition for WA which, because it has merit, is included in all cases. It is expected that much more emphasis will be placed on special resolutions even if some States are not as specific as this at this time.
8. Clause 9.1.3 is added as a requirement in WA, but, because it has merit, it has been included in all cases.
9. Clause 9.4 has undergone considerable expansion. Not only has WA required such changes, but a number of suggestions in this respect have been made by others.
10. The question of an auditor remains under some discussion because of the varying understandings of the term. The SCoC recognises that there are certain auditing requirements when it comes to the level of the turnover of the organisation, but it is not recommending a change to the term, because in the first instance, it is a generic term. There has been some concern that small congregations are getting the opinion that they will be forced to "pay" a professional auditor. This is not the case unless the turnover amount requires it. [***Vic have added a special comment to clarify***]
11. An addition has been made to clause 9.7.1 to ensure appropriate supervision of lay readers who are required to be answerable to the Pastor, for it is he who must have oversight of any address given by them. The Policy of the Church on Lay Preachers is relevant here: <http://www.lca.org.au/departments/commissions/cticr/> / P.3
12. Clause 9.11 has been added. This is also a requirement of WA and the SCoC considers that it should be added in all cases.
13. Article 13 has been revised in the initial clause 13.1 and the addition of clause 13.2. It is the requirement of WA and SA that changes to the Constitution require a special resolution. Clause 13.1 spells this out and the new clause 13.2 details the requirements of a special resolution.

For help, contact the Victorian Constitutions Committee via the District Administrator.

stephen.mildred@lac.org.au
03 9236 1200

27 February 2018