



What should corporations be doing now?

Corporations should now be getting their annual returns ready.

If your corporation is incorporated under the Aboriginal Councils and Associations Act (the ACA Act) then you should send your annual returns to ORAC (the Office of the Registrar of Aboriginal Corporations) for the last financial year. They consist of a compliance statement, an up-to-date members list and your audited financial statements which are:

- a. an income and expenditure statement for the corporation, for the financial year ended 30 June 2006—this must give a true and fair view of your financial position, and is prepared by your auditor
- b. a balance sheet setting out the assets and liabilities of the corporation as at 30 June 2006, also prepared by your auditor
- c. an auditor's report on whether:
 - the governing committee or board and the corporation have complied with the ACA Act, the regulations under the ACA Act and the corporation's rules (constitution) during the financial year
 - the balance sheet, and income and expenditure statements are based on proper accounts and records, and the auditor agrees with them.This report is usually in the form of a letter from the auditor.

While you are getting your auditor's report ready, it would be a good time for your board to look at the rules and make sure they are still appropriate for your corporation. If you think they need updating, ring us at ORAC and we can help you.

Currently all corporations must send their annual returns to ORAC unless they obtain an exemption due to their size or other good reasons. However, under the new Corporations (Aboriginal and Torres Strait Islander) Bill, likely to become law in 2007, smaller corporations will not have to.

If you are finding it difficult to get the statements for your corporation prepared, or if you want to apply for an exemption, call ORAC staff on 1800 622 431 which is free except for mobiles.

Take the opportunity

While you are getting your annual returns ready, now would be a good time to check the other documents you send in to ORAC. For example:

Is your **members list** up to date? Members lists are important because it is members who are the owners of the corporation and who vote at meetings. To avoid disputes at meetings, members lists should be up to date.

Do we have the latest information about your **public officer**—i.e. name and address? Otherwise ORAC and others might not be able to communicate with you about important issues.

Have you sent ORAC your **annual returns** for the previous year? Your history of compliance with the ACA Act can affect your funding.

Don't forget your **compliance statement** showing that the governing committee has complied with the rules of the corporation and the ACA Act.

FURTHER INFORMATION:

www.orac.gov.au

1800 622 431

info@orac.gov.au

Subscribe to
The ORACLE
by emailing
info@orac.gov.au

Recognising risk

The best way for corporations to succeed is to identify their own risks and handle them. If risks are caught early, then disaster can be prevented. Common risks in Indigenous corporations are:

- not paying tax liabilities, especially GST (goods and services tax)
- using government funds for unapproved purposes
- high turnover of staff and loss of corporate knowledge
- setting up corporations in a hurry without thinking it through properly and designing them well
- register of members not kept properly resulting in disputes about voting rights
- membership applications not handled correctly resulting in disputes about membership
- annual general meetings
 - not called correctly
 - proper business for the meeting not conducted, as set out in the meeting notes or agenda
 - people who aren't members participating so disputes arise and decisions may not be valid
- minutes of meetings are not kept or are inadequate so that there is confusion about decisions
- financial records
 - not enough documents to support payments so that it is not clear if the correct amount is being paid for goods or services
 - accounts not presented to the governing committee so that the whole committee is not agreeing how money should be spent
 - basic account keeping tasks not completed so that proper income and expenditure statements, and balance sheets cannot be created. This means the corporation cannot provide proper annual returns, and it means the auditor cannot audit the financial statements.

ORAC can help corporations with all of these issues—disputes and complaints, ORAC services and good governance audits and support in meetings—through our hotline: 1800 622 431.

Get in on the act

The CATSI Bill (Corporations (Aboriginal and Torres Strait Islander) Bill) and a transitional Bill (Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Bill), which will allow CATSI to start, will be considered by the Australian Parliament later this year and are likely to become law from 1 July 2007.

Here are some of the differences between the ACA Act and the new CATSI Bill.

The ACA Act

Constitution (rules) of a corporation

The constitution includes such things as:

- the name of the corporation
- its objects (that is, what the purpose of the corporation is)
- membership—who can be members, and how people become and cease to be members
- how governing committees are elected and who is eligible
- how employees and public officers are appointed
- rules about how meetings are run
- rules about managing funds
- how to settle disputes.

The CATSI Bill

Internal governance rules of a corporation

The CATSI Bill has a new concept: the internal governance rules. These rules roughly cover all the same matters as constitutions under the ACA Act and include:

- 'statutory' rules in the Bill that the corporation must adopt, for example, a quorum (i.e. a minimum number of people) must be present at all times during a general meeting—for a corporation with 10 members or less, a quorum is 2 members
- 'replaceable' rules in the Bill which a corporation can adopt or replace with other rules, for example, a replaceable rule says that directors appoint the chair of a general meeting. A corporation could replace this with a rule that members appoint the chair.
- Additional rules which are developed by the corporation for it alone, included in the constitution.

The constitution can be very small, setting out at a minimum:

- the name of the corporation
- its objectives
- a dispute resolution clause
- a clause adopting all of the replaceable rules.

ORAC will be providing information and tools to help corporations adapt their current constitutions to the new internal governance rules in 2007.