

Cancelling membership

The process for cancelling membership is different depending on the reasons for the cancellation.

Reasons and process 1

Regardless of what a corporation has in its rule book about membership eligibility requirements, a corporation can cancel a person's membership if the member:

- **can't be contacted for two years** at their address on the register of members—the corporation needs to have made at least two attempts to contact the member in the two years before the general meeting
- **is not an Aboriginal and Torres Strait Islander person**, and this is a membership eligibility requirement
- **misbehaves**. There is no definition of misbehaviour in the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) and each corporation has to determine what this means. Cancellation of membership is a serious step so the 'misbehaviour' should not be minor. Cancellation should only occur where the misbehaviour significantly interferes with a corporation's business or meetings.

The **only** way to cancel membership for the reasons above is for members to pass a **special resolution** at a general meeting. The directors must send a copy of the resolution to the 'former' member as soon as possible after the meeting.

Special resolution means a resolution that has been passed by at least 75 per cent of the votes cast by members entitled to vote on the resolution.

When membership ceases

A person's membership stops when the name of the person, their address and the date that they stopped being a member is entered in the corporation's register of former members.

Reasons and process 2

Check the corporation's rule book for how to cancel membership for eligibility or other cancellation rules in the corporation's rule book.

The directors of a corporation may also cancel membership because a member:

- does not, or no longer, meets the corporation's eligibility requirements, other than an Aboriginal and Torres Strait Islander person membership eligibility requirement—for example, where a member moves away from the community if living in the community is a membership requirement
- has not paid their membership fees—if the corporation's rule book requires a membership fee
- meets other corporation rules about how a person stops being a member—for example, the member misses a certain number of consecutive general meetings.

If the directors decide to cancel a member's membership for these reasons they must first give the member 14 days to object. If the member doesn't object the directors can cancel their membership. If they do object their membership can only be cancelled by a resolution at a general meeting of members. Just an ordinary resolution of the members (the majority) is required, not a special resolution.

After membership is cancelled the directors must send the former member a copy of the resolution (either the resolution by directors or the resolution of the general meeting of members), as soon as possible after it has been passed.

Amend the register of former members

Within 14 days of cancelling a person's membership the corporation must remove the person's name from the current register of members and add the date they stopped being a member in the register of former members.

Suspending a person's membership

A person's membership can only be suspended in very limited circumstances. More information about this can be found in the Registrar's policy statement, *PS-27: Suspension of members and directors*, available at oric.gov.au.



Australian Government

Office of the Registrar of Indigenous Corporations

Becoming a corporation member

There are many advantages to becoming a member of a corporation. For example, it entitles you to have a say in how your corporation is run, how it spends its money and how it manages the services it provides. Members are also entitled to receive notices of general meetings and other communications from the corporation.

This fact sheet explains how a person becomes a member and stops being a member of an Aboriginal and Torres Strait Islander corporation.

Who is a member?

A member of an Aboriginal and Torres Strait Islander corporation is someone who:

- is a member of the corporation on its registration

or

- after registration, agrees to become a member and their name is entered on the register of members. They are not a member until this is done.

Key rules about membership

A corporation must have at least five members, unless the Registrar grants an exemption to allow a lesser number.

A corporation must also:

- meet the Indigeneity requirement—at least 51 per cent of the members must be Aboriginal or Torres Strait Islander people (higher percentages apply for corporations with less than five members)
- make sure members are at least 15 years old.

BUT...a corporation can change their own rule book to increase the membership eligibility requirements. They can:

- set a higher Indigeneity requirement
- set a higher minimum age
- add other eligibility requirements
- provide for different classes of membership
- provide for corporate membership if needed.

Who can become a member?

Each corporation's rule book will say who is eligible to apply for membership.

Some examples of membership eligibility rules:

A member must be:

- at least 15 years old
- an Aboriginal or Torres Strait Islander person.

A member must be:

- an Aboriginal person who resides in *insert name* community, or an Aboriginal person recognised by traditional law as having a connection to *insert name* community
- at least 15 years old.

A member must be:

- at least 18 years old
- from the *insert name* family group or a descendant of *insert name*.

A member must be:

- at least 18 years old
- an Aboriginal person from *insert name* clan or a person of non-Indigenous descent who has been living in *insert name* community for at least 12 months.

A member must:

- be at least 18 years of age
- be an Aboriginal or Torres Strait Islander person
- have been living in the area of the corporation for 12 months or more
- be an Indigenous artist.



CONTACT ORIC

freecall 1800 622 431

(not free from mobiles)

email info@oric.gov.au

website oric.gov.au

NOTE: This fact sheet is not a substitute for legal advice. It is intended as a quick overview of the topic. For more detail see the CATSI Act or consult a lawyer.

Applying to become a member

After registration a person can only be accepted by the corporation's directors as a member if they agree to be a member and apply.

A person can't become a member merely because they satisfy a certain criteria. For example, all people in a community are not automatically made members of the local corporation. They must apply. Also traditional owners are not automatically members of a prescribed

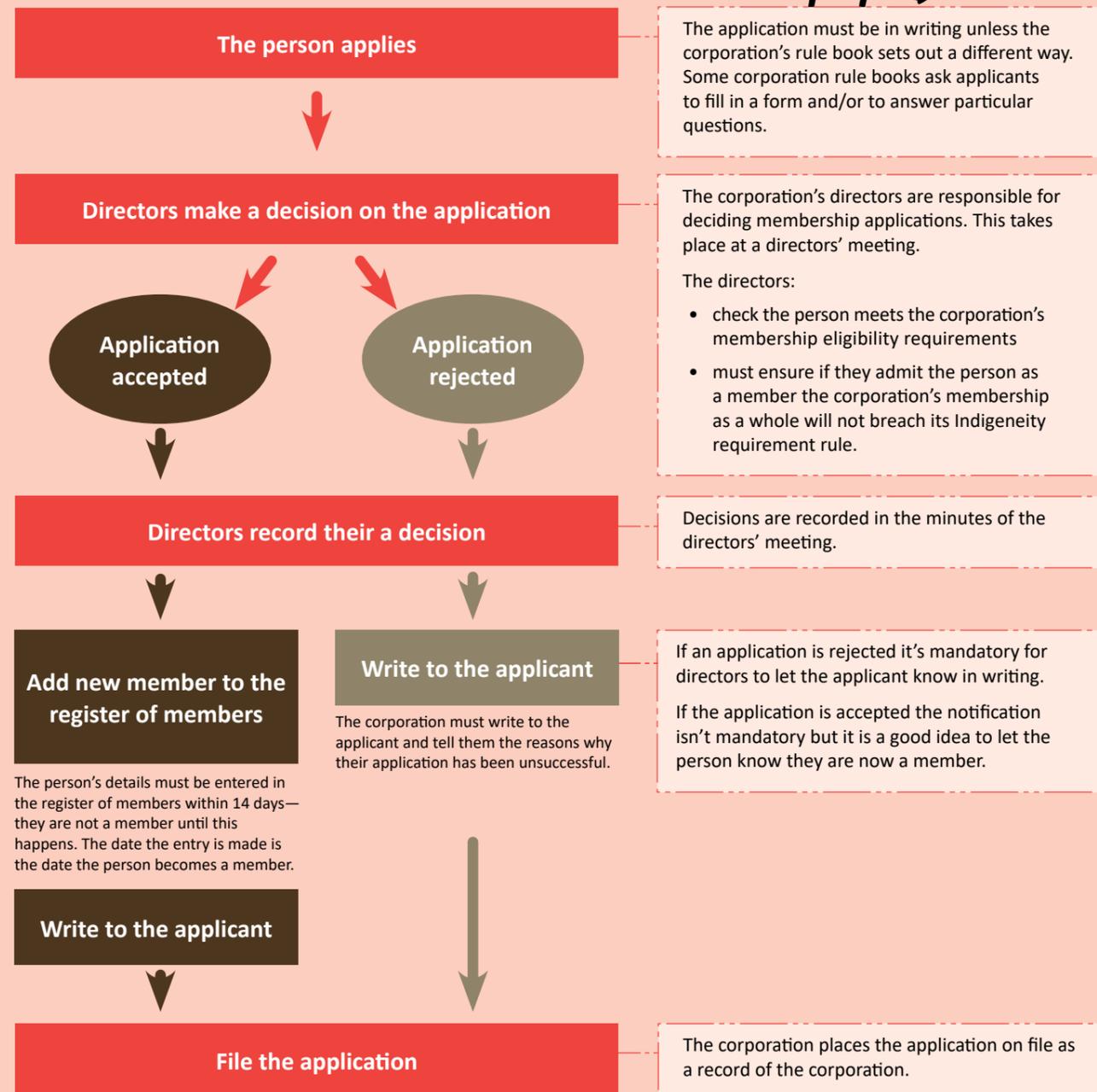
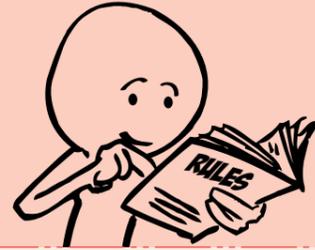
body corporate (PBC) or registered native title body corporate (RNTBC). A person must make a conscious decision and apply to become a member.

Importantly, the directors can decide not to admit a person as a member even if the person applies in the right way and meets the eligibility requirement. The directors have the final say.

The application process

Corporations must make sure that they follow the proper process for considering applications for membership as set out in the corporation's rule book.

The flow chart below shows one way that a corporation could consider membership applications.



Application form

Most corporations provide an application form in their rule books.

You can download a sample application form from oric.gov.au. If you use a sample form you should adjust it to make sure it suits your corporation's rules about membership.

Insert logo (if any) of the corporation

Name of corporation: _____

ICN: _____

Application for membership

I, _____ (Full name of person applying for membership)

of _____ (Address)

apply for membership of the corporation.

I declare that I am eligible for membership.

Signature of applicant: _____ Date: _____

Office use only

Application was tabled at directors' meeting held on _____ Date: _____

Directors confirmed applicants is eligible for membership Yes/No _____

Entered on register of members _____ Date: _____

RESOURCE: APPLICATION FOR MEMBERSHIP

oric.gov.au

Fees for membership

A corporation can only charge membership fees if it has a rule about charging fees in its rule book. If a corporation wants this rule, members need to pass a resolution at a general meeting that sets out the fees—this includes the amount of the fees and what happens if they are not paid.



Timing—applications before a general meeting

If a corporation has called a general meeting, such as an annual general meeting (AGM), new members can't be added to the register of members until after the meeting has been held. This means that new members can't be admitted as members on the day of a general meeting, even if all of the existing members at the meeting agree.

How to stop being a member

A person stops being a member if:

- the person resigns in writing (this is usually by letter or email sent to the directors)
- the person dies
- the corporation cancels the person's membership.

