

*New incorporation
requirements from 1 July 2014*

October 2014

What are the new requirements?

If your organisation gets grant funding from 1 July 2014 of **\$500,000 (GST exclusive) or more** in any single financial year from the Indigenous Affairs part of the Department of the Prime Minister and Cabinet, your organisation must:

- be incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 – the CATSI Act* (for Aboriginal organisations); or
- be incorporated under the *Corporations Act 2001* (for other organisations)

And your organisation must stay incorporated in this way to continue to get the funding – unless you get an exemption (see next page)

***Your funding may be stopped
if your organisation is not incorporated in this way***

This means most Aboriginal organisations getting this level of funding from PM&C must move from incorporation under the NT Associations Act 2003 or the Corporations Act 2001 to the CATSI Act

Are any organisations exempt from the new requirements?

- Even with \$500,000 (excl GST) or more each year from PM&C, your organisation may not need to change your incorporation status if:
 - the funding you get from the Indigenous Affairs part of the Department of the Prime Minister and Cabinet is a small portion of your organisation's total income and changing may unfairly impose additional requirements; **or**
 - your organisation's licensing or funding arrangements require compliance with specific non-Commonwealth legislation; **or**
 - you are an Aboriginal organisation incorporated under the *Corporations Act 2001* at 1 July 2014 and can demonstrate you are well-governed and high-performing
 - TIP** If you think your organisation falls within one of these exemptions, you should call us on 8959 1700
- You are a statutory authority, government body or an organisation set up under its own Commonwealth or State/Territory legislation

Aboriginal organisations getting less than \$500,000 (excl GST) each year from PM&C may **choose** to transfer to incorporation under a different law

My organisation is already incorporated. How do we transfer?

- *If your organisation is registered under the NT Associations Act or the Corporations Act and you must or want to transfer to the CATSI Act, the main things you need to do are:*
 - Complete an application form - to the Registrar of Indigenous Corporations (ORIC)
 - Provide written consent (in some circumstances) from the NT Commissioner of Consumer Affairs to transfer from the NT Associations Act
 - Call a general meeting for members to agree (by special resolution) to become a corporation under the *CATSI Act*
 - Write a rule book (similar to a constitution) for your corporation that complies with the *CATSI Act*

- *If your organisation is registered under the NT Associations Act or the CATSI Act and you want to transfer to the Corporations Act, the main things you need to do are:*
 - Complete an application for transfer - to the Australian Securities and Investments Commission (ASIC)
 - Call a general meeting for members to agree (by special resolution) to become a corporation under the *Corporations Act*
 - Write a constitution for your corporation that complies with the Corporations Act

My organisation is already incorporated. How do we transfer?

- *If your organisation is registered under the CATSI Act or the Corporations Act and you want to transfer to the NT Associations Act, the main things you need to do are:*
 - If you are incorporated under the CATSI Act:
 - Complete an application to ORIC for transfer of registration (including a statement signed by directors that transfer does not 'materially prejudice' the corporation's creditors, ie. it will make little or no difference to creditors)
 - Call a general meeting for members to agree (by special resolution) to transfer registration
 - Complete an application to lodge with NT Commissioner of Consumer Affairs to register under *NT Associations Act*
 - If you are incorporated under the Corporations Act:
 - Complete an application to ASIC for transfer of registration (including a statement signed by directors that transfer does not 'materially prejudice' the corporation's creditors)
 - Call a general meeting for members to agree (by special resolution) to transfer registration
 - Complete an application to lodge with NT Commissioner of Consumer Affairs to register under *NT Associations Act*
- *It is possible that in the future registration under the CATSI Act may be required for all Aboriginal organisations getting or seeking Commonwealth Government funding no matter how small that funding. But that is not the case now.*

How much will this cost my organisation?

- There is no registration fee to transfer to the *CATSI Act*
- There is a \$450 ASIC registration fee to transfer to the *Corporations Act*
- There is a \$72 registration fee to transfer to the *NT Associations Act*
- You may need independent legal advice and accountancy services to transfer your organisation which could cost money
- There may be other matters your organisation must attend to that take time and need advice

TIP If you need advice, call us on 8959 1700. We may be able to help you find a lawyer to advise you for free or at a reduced rate.

Is financial assistance available?

- The Department of Prime Minister and Cabinet will provide a one-off payment of **\$10,000** to help organisations to comply with the new compulsory incorporation requirements
- The payment is made **after** your organisation is correctly incorporated, and evidence of incorporation is given to the Department
- **http://www.dpmc.gov.au/indigenous_affairs/incorporation_requirements.cfm**

Where can I go for further information?

- The Aboriginal Governance and Management Program (AGMP):
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08 8959 1701
wes.miller@agmp.org.au
08 8944 6626
sarah.lacy@agmp.org.au
08 8944 6639

- Department of Prime Minister and Cabinet
http://www.dpmc.gov.au/indigenous_affairs/incorporation_requirements.cfm

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