

AUSTRALIA ASSOCIATIONS INCORPORATION ACT 1985 (SA)

§43 Distribution of assets upon winding up

(1) Subject to subsection (1a), it is not lawful to distribute among members, former members or associates of members or former members of an incorporated association any surplus assets available for distribution at the completion of the winding up of the association under this Part.

(1a) The surplus assets of an incorporated association may, with the consent of the Commission, be distributed among the members of the association if each of the members of the association is also an incorporated association that has identical or similar aims and objects.

(2) Subject to this section and any order of the Supreme Court, the surplus assets of an incorporated association are, on a winding up of the association, to be distributed in accordance with—

(a) the rules of the association; or

(b) where there are no valid rules of the association governing distribution of the surplus assets—a special resolution of the association.

(3) The Supreme Court may, on the application of the Commission, a liquidator or a member of an incorporated association, determine how surplus assets of the association are to be distributed on a winding up.

(4) The Court must, in determining how the surplus assets of an association are to be distributed, have regard to the objects of the association and any relevant provisions of the rules of the association.

(5) In this section—

"surplus assets", in relation to the winding up of an incorporated association, means those assets that remain after the liabilities of the association have been discharged and the costs and expenses of the winding up have been paid.