



AssociationsInfo

Member newsletter published by Consumer Protection, a division of the Department of Consumer and Employment Protection



Associations Incorporation Act Review

Your views in summary

Western Australian associations and their members have broadly welcomed the proposed overhaul of the law governing associations.

More than 300 submissions were received following the release of the Associations Incorporation Bill 2006 (the Green Bill). Submissions came from a wide cross section of associations – from small voluntary groups to associations with a multi-million dollar annual turnover. About 70 submissions were received from people living in rural, regional and remote areas of Western Australia.

More than 3000 pages of submissions have now been analysed and will help form the development of a new Bill to be introduced into Parliament in 2008.

Overall, most people (61 percent) welcomed the suggested amendments in the Green Bill. But there were also suggestions on how to improve the new law.

One of the big discussion points was about how, when and why incorporated associations will need to stay in touch with the Consumer Protection Commissioner. This change has been proposed because incorporated associations receive a State mandated legal identity and their members attract limited liability for the lawful activities of the group. There is an expectation that the Commissioner knows which incorporated associations are active at any one time.

Some great questions were raised about the proposed audit and accountability requirements. What sized group really needs to get their books audited by a professional accountant? Is it useful for the financial statements of an association to be public or is it just the members who need to know the financial situation? Must a public officer be a member of the committee or could it be an employee or an accountant? Is it necessary to report to the Commissioner every year or just when there is a change in contact details?

Another important discussion surrounded penalties and fines for a breach of the Act. Many felt it was not an issue because they made it their business to comply with the Act. Some wanted higher penalties for particular offences. Others said that all volunteers should be exempt from penalties. Overall most people did not believe that penalties would increase compliance with the Act.

It is fair to note that prosecutions are not common under this Act. However if a person's actions warrant prosecution then there is a view that the consequences of this behaviour should be appropriate for today's standards.

The most common additional comment was that many associations wanted to see more information, education and training for volunteers on managing their associations and complying with the Act. This is recognised by Consumer Protection and is consistent with the direction taken in recent years.

To read more about the submissions, you can download a copy of Your Views in Summary from www.docep.wa.gov.au/agb (44 pages) or call **1300 30 40 54**.

Each person who made a submission will receive a hard copy in the mail. Copies will also be lodged with your local library from December 2007.

Welcome

Consumer Protection would like to thank you for the positive feedback we received about our inaugural Associations Info newsletter. We hope you will find this newsletter just as informative. This issue includes a summary of the written submissions to the Associations Incorporation Act Review, information on the Privacy Act, and an update on our Info Sessions.

If you would like more information on a particular topic or to make a suggestion for the newsletter, please contact the Associations Branch on **1300 30 40 74** or email consumer@docep.wa.gov.au

Simple rules that work

A set of Model Rules has been proposed as part of the new law for incorporated associations.

The aim is to make it easier for associations to incorporate or to review their existing constitution and you are being invited to contribute to its development.

"Rules of Association" are often called "constitutions" by members.

The new rules will address common problems experienced by incorporated associations. It will cover issues such as a simple way to resolve disputes between members; who has access to the register of member's and how to inspect records; declaring honorariums for committee members at annual general meetings; and a useful set of definitions.

It will also make a distinction between what is required in the Rules of Association to comply with the new Act, and the daily management activities of incorporated associations.

Jackson McDonald Lawyers have been commissioned to draft the new Draft Model Rules for the Department of Consumer and Employment Protection.

You can be involved in the development of these draft rules by completing an online feedback form by Friday 29 February 2008 or participating in the information sessions.

You can also nominate to be selected to take part in a special Delegate's Forum to be conducted by Joel Levin from Aha! Consulting during March 2008.

To obtain a copy of the Draft Model Rules, Reader's Guide, or Nomination Form, go to www.docep.wa.gov.au/agb or call **1300 30 40 54**.

Copies of these documents will be available at your local library from January 2008.

Focus on Education

The Associations Branch regularly takes to the road to provide people with information about their rights and obligations as association members and office holders, and to answer common concerns that members have.

In the past 12 months, more than 600 people have attended our Info Sessions in Perth and several regional towns including Albany and Kununurra.

In October, the road show visited Esperance and Kalgoorlie where nearly 70 people attended the Info Sessions.

In the lead-up to the visit, the Associations Branch sent a short questionnaire to more than 400 incorporated associations in the region.

The voluntary questionnaire asked basic questions about the date of their annual general meeting, whether they had an up-to-date register of members and office bearers, and whether any changes had been made to their Constitution. Associations were also asked to nominate any issues they would like raised at the information sessions.

We would like to thank those who completed the questionnaire. The information allowed us to better tailor the sessions to meet your specific needs.

The questionnaire did highlight one area of concern. A number associations who responded to the questionnaire did not hold their annual general meeting within four months after the end of the associations' financial year. If an association cannot hold their annual general meeting within that time frame, they must seek approval from the Consumer Protection Commissioner.

More information about holding an AGM can be obtained by visiting our website www.docep.wa.gov/associations or ring **1300 30 40 74**.

Hot issues

The Privacy Act

One of the most common queries received is how the Privacy Act impacts on the membership register. So let's set the record straight.

The Privacy Act 1988 provides for the collection and storage of a person's information and sets guidelines for how the information can be collected, used and to whom it can be released.

In summary, the Act requires that:

- Information can only be collected for a lawful purpose;
- The body holding the information shall not use the information except for the lawful purpose for which it was collected; and
- The body holding the information shall not disclose it to any other person or body unless a law requires it.

The Associations Incorporation Act (1987) requires the committee of an association to maintain an up-to-date register of members and to make the register available to its members upon request. This is a lawful requirement that allows members to contact each other to discuss affairs of the association. Associations should make their members aware that any other member of the association can access the register and contact them in relation to association matters.

So where does this leave a committee when dealing with a request from a member to inspect the register? Simple, you must provide the member access to the register. The Privacy Act does not affect a member's right to access the register under the Associations Incorporation Act.

The current review of the Associations Incorporation Act is considering allowing email addresses to be recorded in the register as an alternative to a residential or postal address. Members may also be required to make a declaration about their reason for wanting to inspect the register to ensure it relates to the operations of the association. Updates on the review are available from our website at www.docep.wa.gov.au/agb

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