



AssociationsInfo

Member newsletter published by The Consumer Protection Division of Department of Commerce



Annual Accounts

Does your Association prepare accounts at the end of every financial year? Financial accounts must be submitted to the members at the AGM every year. These accounts must show the financial position of the Association at the end of the immediately preceding financial year.

What needs to be presented?

The accounts presented generally should include a statement of:

- the overall financial position as of the end of the financial year;
- the Association's assets and liabilities; and
- the Association's income and expenditure for the financial year.

Do the accounts need to be audited?

The *Associations Incorporation Act (1987)* does not require accounts to be audited. An audit may be required by your Association's rules or funding bodies. It is up to your Association to find out whether an audit is required.

For more information about **Accounts and Auditing** check out the **INC Guide** available at www.commerce.wa.gov.au/associationsguide

Reducing Roadblocks

"Coming together is a beginning. Keeping together is progress. Working together is success" - Henry Ford

Did you know that there are almost 16,000 groups registered as incorporated Associations in Western Australia? Associations and Clubs provide opportunities for people to come together to pursue a variety of recreational, social, political, economic, cultural, spiritual and professional interests.

The Associations Branch of Consumer Protection is responsible for the registration of all new incorporated Associations in Western Australia, processing alterations to an Association's rules (also known as the constitution), providing replacement copies of documents and assisting with your enquiries.

This issue of **AssociationsInfo** aims to answer some of the most commonly received enquiries and highlights some of the major issues raised by Association members during 2010.

The Members' Register

It is always important to remember that an Association exists for the enjoyment and benefit of its members and should not be run as a secret society. The Members' Register is fundamental to ensuring that members are able to contact each other to discuss matters related to their Association.

Why do we have it?

The *Associations Incorporation Act (1987)* requires that all Associations maintain an up-to-date register of members and make the register available to members for inspection upon request. Consumer Protection is aware that some people may have concerns about their information being made available to other members and accessing the register can be problematic for many Associations. However, there are practical ways to address these issues.

What information must be included in the register?

It is a requirement that the register includes the **name** and **residential or postal address** for every member. Members may have a post office box address as their address if they wish but their address cannot be listed as c/o (care of) the Association. Use of a post office box can help a member avoid disclosing a residential address.

What rights do I have as a member?

All members of an Association have the right to inspect and make a copy of the Association's register of members. The Association is not required to provide a requesting member with a copy of the register and the member has no right to remove the register from an Association's possession.

Associations Incorporation Act v. Privacy Act

The Commonwealth's privacy legislation does not override the legal requirement to make the members' register available to a member to inspect. However, if the Association keeps any other information about members (e.g. telephone numbers, or email addresses) this should be maintained in a separate place that remains secure and confidential. It is also a good idea to advise people that their names and addresses can be made available to other members when they apply to become a member of an Association.

For more information about **Record Keeping** check out the **INC Guide** available at www.commerce.wa.gov.au/associationsguide

Annual General Meeting (AGM)

Would you be surprised to know that it is a legislated requirement for you to hold your AGM on time? Holding the AGM in accordance with the *Associations Incorporation Act (1987)* seems to be an area of concern for many Associations. Therefore, it is timely to remind all Associations about their obligations.

What is the legislated requirement?

Except for its first AGM (which can be held up to 18 months after incorporation) all Associations must hold an AGM once in each calendar year **within four months after the end of the Association's financial year**. For example if your Association's financial year is from 1 July – 30 June, the Association must hold its AGM before the end of October.

What happens if the Association is not able to hold its AGM in time?

If your Association requires additional time to hold the AGM, you must make a written application for an extension. Please remember that the application and the appropriate fee must be received by Consumer Protection prior to the end of the four months. An **Application for Extension of Time to Hold the AGM** form is available from the Forms and Publications area of the Associations website at www.commerce.wa.gov.au/associations.

Amending Motions

Recent enquiries to the Associations Branch suggest that there is some confusion about the process for amending special resolutions when Associations change their rules. It is important to remember that a motion proposing a special resolution to alter the rules is subject to specific notice requirements and must be sent to all members in accordance with the time and manner stated in the Association's rules. It is also recommended that the notice to members includes the details of the proposed special resolutions.

Can a motion be amended at the meeting?

Generally it is not advisable to amend the content of a proposed special resolution at the meeting, unless the amendment is so minor that it would not change the nature of the original proposal. A major change would potentially disadvantage those members not present at the meeting who may have made their decision not to attend on the basis of the advertised motion.

If your Association decides to amend the wording of a proposed special resolution at the meeting, it is better to call another meeting and send notice of this amended motion to all members. Doing so will ensure that all members have an opportunity to consider the amendment.

For more information about sending notice and moving motions check out the **Meetings** section of the **INC Guide** available at www.commerce.wa.gov.au/associationsguide

Changing the Rules

Changing the rules of an Association can be a tricky process but it is important to ensure that every step is followed correctly.

What is required to change your Association's rules?

The Act requires that any alteration to the rules, name or objects of an Association is passed by Special Resolution. This requires the passing of a resolution by 75 per cent of members voting at a general meeting.

Remember

- The meeting must be a general meeting convened in accordance with the existing rules of the Association.
- Notice of the meeting must be sent to **all** members in the time and manner required by the rules.
- The notice must clearly state that the resolutions will be passed by special resolution.
- Only eligible voting members can cast a vote.
- The changes have no effect until lodged with Consumer Protection.

For more information about **Altering the Rules** check out the **INC Guide** available at

www.commerce.wa.gov.au/associationsguide

7 Easy Steps to Lodge Documents

About 20 per cent of documents submitted to Consumer Protection each month are incomplete or for some other reason cannot be lodged straight away. To make sure your Association's documents are processed in a timely manner, please remember to do the following:

1. Submit your documents on time.
2. Pay the correct lodgement fee. A full schedule of fees is available at www.commerce.wa.gov.au/associations.
3. Attach a complete copy of the amended rules.
4. Write the annexure statement on any extra pages attached to a form and don't forget to sign the statement.

This is the annexure of [insert the number of pages] pages marked "A" referred to in Form [insert Form number] signed by me and dated [insert the date] [insert signature].

5. Check that all the information on the form has been completed before submitting it to Consumer Protection.
6. Make sure the name of your Association is used correctly on all forms and rules. The name of the Association should be the same as the name on the Certificate of Incorporation.
7. Do not amend the declaration on any forms. (If a mistake is made you will need to complete another form.) Also make sure that the person signing the declaration is an elected member of the Committee of Management.

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