

Western Australia

**Associations Incorporation Regulations
1988**

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Associations Incorporation Regulations 1988

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Associations Incorporation Regulations 1988

1. Citation

These regulations may be cited as the *Associations Incorporation Regulations 1988* ¹.

2. Commencement

These regulations shall come into operation on the day on which the *Associations Incorporation Act 1987* comes into operation ¹.

3. Interpretation

In these regulations, unless the contrary intention appears —
“**Corporations Act**” means the *Corporations Act 2001* of the Commonwealth.

[Regulation 3 inserted in Gazette 28 Sep 2001 p. 5353.]

4. Application for approval of purpose

An application to the Commissioner for the approval of a purpose of an association under section 4(1)(f) of the Act shall be accompanied by —

- (a) a copy of the rules of the association conforming to the requirements of the Act; and
- (b) a certificate given by the applicant as to the matters referred to in section 5(2)(b) of the Act.

[5. Repealed in Gazette 30 Dec 2004 p. 6906.]

6. Applied provisions — voluntary winding up

- (1) The voluntary winding up of an incorporated association under section 30 of the Act is declared to be an applied Corporations legislation matter for the purposes of Part 3 of the *Corporations (Ancillary Provisions) Act 2001* in relation to Parts 5.5 and 5.6 of the Corporations Act other than sections 491, 496 to 500, 507, 514 to 529, 580 and 581.
- (2) The following modifications to the text of Parts 5.5 and 5.6 of the Corporations Act apply for the purposes of subregulation (1) —
 - (a) a reference to the constitution of a company is to be read as a reference to the rules of an incorporated association;
 - (b) a reference to a special resolution is to be read as a reference to a special resolution within the meaning of the Act;
 - (c) a reference to an officer, or a past officer, of a company is to be read as a reference to a member, or a past member, of the committee of an association;
 - (d) a reference to a contributory of a company is to be read as a reference to a member of an association;
 - (e) a reference to the registered office of an incorporated association is to be read as a reference to the place where the secretary of an incorporated association resides;
 - (f) a reference to a company carrying on its business or having a place of business is to be read as a reference to an incorporated association pursuing its objects or purposes;
 - (g) a reference to the deregistration of a company is to be read as a reference to the winding up of an incorporated association.

- (3) Section 501 of the Corporations Act, as applied because of this regulation, is not to be read as authorising the distribution of surplus property of an incorporated association to its members.
- (4) In addition to any person qualified to act as the liquidator of a company under Parts 5.5 and 5.6 of the Corporations Act, as applied because of this regulation, a person in respect of whom an approval is in force under regulation 7 may be appointed, and may act as, liquidator of an incorporated association to which the approval relates.
- (5) Subregulation (4) applies despite section 532 of the Corporations Act as applied because of this regulation.

[Regulation 6 inserted in Gazette 3 Jun 2003 p. 1977-8.]

7. Approval of liquidator

Where, having regard to —

- (a) the property, debts and liabilities of an incorporated association; and
- (b) the interests of the creditors and members of an incorporated association,

the Commissioner is satisfied that a person is a fit and proper person to exercise and perform the powers and duties of liquidator of an incorporated association, the Commissioner may by instrument in writing approve of the person acting as liquidator of the incorporated association subject to such conditions as he thinks fit and may in like manner vary or revoke any such approval or conditions.

8. Applied provisions — winding up by Court

For the purposes of section 32 of the Act, a reference in the text of Part 5.7 of the Corporations Act to a company carrying on its business or having a place of business is to be read as a reference to an incorporated association pursuing its objects or purposes.

[Regulation 8 inserted in Gazette 28 Sep 2001 p. 5354.]

9. Forms

The forms set out in Schedule 1 are prescribed in relation to the matters specified in those forms.

[Regulation 9 inserted in Gazette 22 Sep 2006 p. 4072.]

10. Compliance with forms

- (1) Strict compliance with the style of a form set out in Schedule 1 is not necessary, unless the Commissioner so requires.
- (2) Strict compliance with the substance of, and provision of the information required by, a form set out in Schedule 1 is necessary unless the Commissioner otherwise approves.

11. Completion of forms

A form shall be completed in accordance with such directions and instructions as are specified in, or relate to, the form.

12. General requirements for documents

Unless the Commissioner otherwise approves, a document lodged with the Commissioner shall —

- (a) be on paper of medium weight of good quality and of a size not less than international sheet size A5 and not more than foolscap folio size or international sheet size A4;
- (b) be legibly and clearly printed, written or otherwise produced in a manner that is permanent and will make possible a reproduction by photographic means that is satisfactory to the Commissioner;
- (c) not be a carbon copy, or a copy reproduced by any spirit duplication method;

- (d) have margins of not less than 25 millimetres on the left-hand side and not less than 13 millimetres on the right-hand side;
- (e) where it comprises 2 or more sheets, be fastened together securely in the top left-hand corner;
- (f) have written on the first sheet —
 - (i) the registered number (if any) of the incorporated association to which the document relates;
 - (ii) the name of that association;
 - (iii) the title of the document;
 - (iv) the name, address and telephone number of the person by whom or on whose behalf the document is lodged; and
 - (v) the words “lodged with the Commissioner on

13. Annexures accompanying forms

(1) Where the space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, that information shall be set out in an annexure.

(2) An annexure to a form shall have an identifying mark and be endorsed with the words —

“This is the annexure of pages marked referred to in the (insert description of form)..... signed by me and dated.....

.....
Signature(s) ”

and signed by each person signing the form to which the document is annexed.

(3) The pages to an annexure shall be numbered consecutively.

r. 14

- (4) Where a document, copy of a document, or other matter is annexed to a form, reference made in the form to the annexure shall be by its identifying mark, the number of pages in it, and a brief description of the nature of the document and its contents.
- (5) A reference to an annexure includes a reference to a document, copy of a document or any other matter accompanying, attached to or annexed to a form.

14. Signature of documents lodged with Commissioner

- (1) Subject to the Act and these regulations, a document relating to an incorporated association that is required to be lodged with the Commissioner by or on behalf of the association shall be signed by a member of the committee of the association authorised by the committee for that purpose.
- (2) The name of a person signing a document that is lodged with the Commissioner shall be legibly written under or alongside the signature of that person.

15. Translations

- (1) Where any document or part of a document required to be lodged with the Commissioner is not written in the English language that document or part, unless the Commissioner otherwise directs, shall be accompanied by a translation of the document or part certified by a person approved by the Commissioner.
- (2) The Commissioner may, before accepting a translation for lodgment, require the person lodging the translation to furnish to the Commissioner such evidence as the Commissioner thinks sufficient of the ability of the person by whom the translation is made to make the translation.

16. Fees

The fees set out in Schedule 2 are prescribed in respect of the matters referred to.

17. Infringement notices

- (1) The offences specified in Schedule 3 are offences for which an infringement notice may be issued under Part 2 of the *Criminal Procedure Act 2004*.
- (2) The modified penalty specified opposite an offence in Schedule 3 is the modified penalty for that offence for the purposes of section 5(3) of the *Criminal Procedure Act 2004*.
- (3) The Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of Part 2 of the *Criminal Procedure Act 2004*.
- (4) The Commissioner is to issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

[Regulation 17 inserted in Gazette 22 Sep 2006 p. 4072.]

Schedule 1

[Regulation 9]

Forms

Application for Incorporation of an Association	<i>Associations Incorporation Act 1987</i> Form 1 (includes certificate required by s. 5(2)(b))
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Association	Name
	Brief description of main purpose(s) _____ _____ _____
	Category <input type="checkbox"/> Religion, education, charity or other benevolent purpose <input type="checkbox"/> Promotion or encouragement of literature, science or the arts <input type="checkbox"/> Sport, recreation or amusement <input type="checkbox"/> Community, social or cultural centre <input type="checkbox"/> Promotion of the interests of a local community <input type="checkbox"/> Politics <input type="checkbox"/> Other — to be approved by the Commissioner [Extra fee applies]
Is the Association formed for the purpose of trading or securing a pecuniary profit to its members <input type="checkbox"/> Yes <input type="checkbox"/> No	

Applicant	Name
	Address street suburb/town postcode
	Daytime Phone no. _____ fax no. _____ contact e-mail
	I have been authorised by the Association to apply for incorporation <input type="checkbox"/> Yes <input type="checkbox"/> No

Contact person (if not the Applicant)	Name
	Address street suburb/town postcode
	Daytime phone no. _____ fax no. _____ contact e-mail

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Advertising	An advertisement (in the form of Form 2) giving notice of my intention to apply for incorporation of the Association has been published in a newspaper as required by section 6 of the Act <input type="checkbox"/> Yes <input type="checkbox"/> No
	Name of newspaper
	Date of publication

Members	The Association has at least 6 members <input type="checkbox"/> Yes <input type="checkbox"/> No
Give names and addresses of 6 members (Postal address is acceptable)	Name Address
	1 _____
	2 _____
	3 _____
	4 _____
	5 _____
	6 _____

Rules	The rules of the Association —
	<ul style="list-style-type: none"> • include provisions dealing with all the matters listed in Schedule 1 to the Act <input type="checkbox"/> Yes <input type="checkbox"/> No • comply with all other requirements of the Act <input type="checkbox"/> Yes <input type="checkbox"/> No
	The copy of the Association's rules attached to this application and marked as annexure "A" is a true copy of the Association's rules <input type="checkbox"/> Yes <input type="checkbox"/> No

Declaration	I certify that all the details set out in this Application are true and correct	
	Signature of Applicant	Date

It is an offence, with a penalty of \$500, to make a false statement in an application.

Form 2

Associations Incorporation Act 1987 (Section 6(1))

ADVERTISEMENT OF INTENDED APPLICATION
FOR INCORPORATION OF

.....
(Set out name of association)

NOTICE is hereby given that

.....
(full name, address and occupation of applicant)

being duly authorised by the abovenamed association intends to apply to the
Commissioner for Fair Trading on or after

.....
(insert date being at least one month but not more than 3 months after
publication of this notice)

for incorporation of.....
(insert name of association)

The association is formed for the purpose of

.....
(insert main purpose)

Signed

Print full name in block letters.....

Form 3

Associations Incorporation Act 1987 (Section 9(1))

CERTIFICATE OF INCORPORATION

No.

THIS IS TO CERTIFY THAT.....
has this day been incorporated under the *Associations Incorporation Act 1987*.

Dated this..... day of 20

.....
Commissioner for Fair Trading.

Form 4

Associations Incorporation Act 1987 (Section 18(6))

CERTIFICATE OF INCORPORATION ON CHANGE OF NAME

THIS IS TO CERTIFY THAT.....
which was on the day of 20
incorporated under the *Associations Incorporation Act 1987* changed its name
to on this day of 20

.....
Commissioner for Fair Trading.

Form 5

<i>Associations Incorporation Act 1987</i>		Infringement notice no.
Infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Company name _____	
	ACN _____	
Address _____		Postcode _____
Alleged offence	Description of offence _____	
	<i>Associations Incorporation Act 1987 s.</i>	
	Date _____ / _____ /20	Time _____ a.m./p.m.
	Modified penalty \$ _____	
Officer issuing notice	Name _____	
	Signature _____	
	Office _____	
Date	Date of notice _____ / _____ /20	
Notice to alleged offender	<p>It is alleged that you have committed the above offence. If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice.</p> <p>How to pay</p> <p>By post: Send a cheque or money order (payable to 'Approved Officer — <i>Associations Incorporation Act 1987</i>') to: Approved Officer — <i>Associations Incorporation Act 1987</i> Department of Consumer and Employment Protection Locked Bag 14 Cloisters Square Perth WA 6850</p> <p>In person: Pay the cashier at: Department of Consumer and Employment Protection 219 St George's Terrace, Perth WA</p> <p>If you do not pay the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act your driver's licence and/or vehicle licence may be suspended.</p> <p>If you need more time to pay the modified penalty, you can apply for an extension of time by writing to the Approved Officer at the above postal address.</p>	

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	<p>If you want this matter to be dealt with by prosecution in court, sign here _____ and post this notice to the Approved Officer at the above postal address within 28 days after the date of this notice.</p>
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[Form 5 inserted in Gazette 22 Sep 2006 p. 4073.]

Form 6

<i>Associations Incorporation Act 1987</i>		Withdrawal no.
Withdrawal of infringement notice		
Alleged offender	Name: Family name	
	Given names	
	or Company name	
	ACN	
Address		Postcode
Infringement notice	Infringement notice no.	
	Date of issue / /20	
Alleged offence	Description of offence _____	
	<i>Associations Incorporation Act 1987 s.</i>	
	Date / /20	Time a.m./p.m.
Officer withdrawing notice	Name	
	Signature	
	Office	
Date	Date of withdrawal / /20	
Withdrawal of infringement notice	The above infringement notice issued against you has been withdrawn.	
[*delete whichever is not applicable]	If you have already paid the modified penalty for the alleged offence you are entitled to a refund.	
	* Your refund is enclosed.	
	or	
	* If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to:	
	Approved Officer — <i>Associations Incorporation Act 1987</i>	
	Department of Consumer and Employment Protection	
	Locked Bag 14 Cloisters Square	
	Perth WA 6850	
	Signature	/ /20

[Form 6 inserted in Gazette 22 Sep 2006 p. 4074.]

[Schedule 1 amended in Gazette 9 Oct 2001 p. 5527; 16 Aug 2002 p. 4205-6; 22 Sep 2006 p. 4073-4.]

Schedule 2

		[r. 16]
Item	Matter	Fee
1.	Application for approval of purpose of an association under section 4(1)(f)	\$32.50
2.	Application for incorporation of an association under section 5(1)	\$108.00
4.	(a) Lodgment of notice of special resolution setting out particulars of alteration of rules of an association under section 17 ...	\$18.00
	(b) Where alteration of rules has effect to change name of an association, on approval of change of name and issue of certificate of incorporation on change of name under section 18(6)	\$18.00
	(c) Where alteration of rules has effect to change objects or purposes of an association, on approval of the alteration under section 19	\$18.00
5.	Lodgment of application for extension of period for holding an annual general meeting under section 23(1)	\$32.50
6.	Lodgment of application for approval of variation of provisions of rules of an association relating to distribution of surplus property upon winding up under section 33(4)	\$32.50
7.	Lodgment of distribution plan under section 33(6) ...	\$32.50
8.	Inspection of document lodged with Commissioner under section 37(2)(a)	\$6.75
9.	Issue of uncertified copy of, or extract from document, other than current rules of an incorporated association, lodged with Commissioner —	
	(a) where fee payable under item 8 for inspection of the document has been paid, for each page	\$1.40

Item	Matter	Fee
	(b) where fee payable under item 8 for inspection of the document has not been paid —	
	(i) for the first page	\$6.75
	(ii) for each additional page	\$1.40
10.	Issue of uncertified copy of current rules of an incorporated association lodged with Commissioner	\$25.50
11.	Issue of certified copy of, or extract from document lodged with Commissioner —	
	(a) for the first page	\$10.00
	(b) for each additional page	\$1.40
12.	Application for certificate of Commissioner under section 38	\$10.00

[Schedule 2 inserted in Gazette 28 Jun 2005 p. 2909-10.]

Schedule 3 — Prescribed offences and modified penalties

[r. 17]

{Heading inserted in Gazette 22 Sep 2006 p. 4074.}

Offences under <i>Associations Incorporation Act 1987</i>		Modified penalty
s. 22	Member of committee with pecuniary interest taking part in deliberations or decision	\$100
s. 39(5)(a)	Failing to produce records	\$100
s. 44	Unincorporated person using name including “incorporated”	\$40

[Schedule 3 inserted in Gazette 22 Sep 2006 p. 4074.]

Notes

- ¹ This is a compilation of the *Associations Incorporation Regulations 1988* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Associations Incorporation Regulations 1988</i>	24 Jun 1988 p. 1998-2001	25 Jul 1988 (see r. 2 and <i>Gazette</i> 24 Jun 1988 p. 1995)
<i>Associations Incorporation Amendment Regulations 1988</i>	22 Jul 1988 p. 2483	25 Jul 1988 (see r. 2 and <i>Gazette</i> 24 Jun 1988 p. 1995)
<i>Associations Incorporation Amendment Regulations 1990</i>	12 Oct 1990 p. 5176	12 Oct 1990
<i>Associations Incorporation Amendment Regulations 1991</i>	8 Nov 1991 p. 5716	8 Nov 1991
<i>Associations Incorporation Amendment Regulations 1993</i>	31 Aug 1993 p. 4686	1 Sep 1993 (see r. 2)
<i>Associations Incorporation Amendment Regulations 1995</i>	27 Jun 1995 p. 2543-4	1 Jul 1995 (see r. 2)
Reprint of the <i>Associations Incorporation Regulations 1988</i> as at 28 Nov 1997 (includes amendments listed above)		
<i>Corporations (Consequential Amendments) Regulations 2001 Pt. 2</i>	28 Sep 2001 p. 5353-8	15 Jul 2001 (see r. 2 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>Associations Incorporation Amendment Regulations 2001</i>	9 Oct 2001 p. 5527	9 Oct 2001
<i>Associations Incorporation Amendment Regulations (No. 2) 2002</i>	28 Jun 2002 p. 3050-2	1 Jul 2002 (see r. 2)
<i>Associations Incorporation Amendment Regulations 2002</i>	16 Aug 2002 p. 4205-6	16 Aug 2002
Reprint of the <i>Associations Incorporation Regulations 1988</i> as at 11 Oct 2002 (includes amendments listed above)		
<i>Associations Incorporation Amendment Regulations 2003</i>	3 Jun 2003 p. 1977-8	3 Jun 2003
<i>Associations Incorporation Amendment Regulations (No. 2) 2003</i>	27 Jun 2003 p. 2541-2	1 Jul 2003 (see r. 2)
<i>Associations Incorporation Amendment Regulations 2004</i>	30 Dec 2004 p. 6906	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Associations Incorporation Amendment Regulations 2005</i>	28 Jun 2005 p. 2909-10	1 Jul 2005 (see r. 2)

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Citation	Gazettal	Commencement
<i>Associations Incorporation Amendment Regulations 2006</i>	22 Sep 2006 p. 4071-4	22 Sep 2006 (see r. 2(a))