



Western Australia

Associations Incorporation Regulations 2016

Compare between:

[28 Oct 2020, 00-h0-00] and [21 Jun 2021, 00-i0-00]

Associations Incorporation Regulations 2016

1. Citation

These regulations are the *Associations Incorporation Regulations 2016*.

2. Commencement

These regulations come into operation on the day on which section 183 of the Act comes into operation.

3. Restrictions as to names of associations (s. 12(e) and (f))

- (1) For the purposes of section 12 of the Act, the names listed, or of a kind described, in Schedule 1 are prescribed under section 12(e) and (f) of the Act
- (2) Despite subregulation (1), a name listed, or of a kind described, in Schedule 1 is not prescribed for the purposes of section 12 of the Act in relation to an incorporated association if the Commissioner is satisfied that the special circumstances of the association justify its use of that name.

4. Model rules (s. 26(1))

For the purposes of section 26(1) of the Act, the model rules for incorporated associations in Schedule 2 are prescribed.

5. Approval of liquidator

- (1) This section applies if the Commissioner is satisfied that a person is a fit and proper person to exercise the powers and

perform the duties of liquidator of an incorporated association, having regard to —

- (a) the property, debts and liabilities of the incorporated association; and
 - (b) the interests of the creditors and members of the incorporated association.
- (2) The Commissioner may, in writing —
- (a) approve the person referred to in subregulation (1) acting as liquidator of the incorporated association, subject to any conditions the Commissioner considers appropriate; and
 - (b) vary or revoke that approval or those conditions.
- (3) A person may act as liquidator of an incorporated association only in accordance with the Commissioner's approval under subregulation (2).

6. Compliance with, and completion of, approved forms

- (1) Unless the Commissioner otherwise requires, a person does not have to comply strictly with the style of an approved form.
- (2) A person must complete an approved form in accordance with any directions and instructions that are specified in, or relate to, the approved form.

7. General requirements for lodged documents

Unless the Commissioner otherwise approves and without limiting section 166 of the Act, a document lodged with the Commissioner —

- (a) must be of A4 size; and
- (b) must be legibly and clearly printed, written or otherwise produced in a permanent manner; and
- (c) must be capable of being copied in a manner that is satisfactory to the Commissioner.

8. Signature on documents lodged with the Commissioner

- (1) This regulation does not apply to a document that is lodged with the Commissioner by electronic transmission.
- (2) 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 must be signed by a member of the management committee of the association who is authorised by the management committee to do so.
- (3) The name of a person signing a document that is lodged with the Commissioner must be written legibly under or next to the person's signature.

9. Translations

- (1) If a document, or part of a document, that is required to be lodged with the Commissioner is not in the English language, the document or part must be accompanied, unless the Commissioner otherwise approves, by an English translation of the document or part certified as a correct translation by a person approved by the Commissioner.
- (2) Before accepting for lodgment an English translation of a document or part of a document, the Commissioner may require the person lodging the translation to provide the Commissioner with evidence the Commissioner considers satisfactory of the ability of the person who made the translation to do so.

10. Manner of providing copy of rules to members (s. 36(3))

- (1) Subject to subregulation (2), an incorporated association that is required to give a copy of the association's rules or of any particular part of those rules (the *rules*) to a member under section 36(1) of the Act may comply with that requirement by —
 - (a) giving the rules to the member by electronic transmission; or

(b) notifying the member of the details of a website where the rules may be downloaded.

(2) If a member requests the incorporated association to give the rules in hard copy form, the association must give the rules to the member in that manner.

11. Manner of providing copy of register to members (s. 56(5))

An incorporated association that is required to provide a copy of the register of members to a member under section 56(3) of the Act may comply with that requirement by giving a copy of the register to the member by electronic transmission.

12. Designations for reviewers and auditors (s. 88(2)(a))

(1) For the purposes of section 88(2)(a) of the Act and subject to subregulation (2), the following designations are prescribed for a reviewer or auditor —

(a) if the reviewer or auditor is a member of Chartered Accountants Australia and New Zealand — the designation CA or FCA;

(b) if the reviewer or auditor is a member of CPA Australia — the designation CPA or FCPA;

(c) if the reviewer or auditor is a member of the Institute of Public Accountants — the designation MIPA or FIPA.

(2) A designation in respect of an auditor only has effect for the purposes of subregulation (1) if the auditor holds —

(a) for a designation mentioned in subregulation (1)(a), a current Certificate of Public Practice issued by Chartered Accountants Australia and New Zealand; or

(b) for a designation mentioned in subregulation (1)(b), a current Public Practice Certificate issued by CPA Australia; or

- (c) for a designation mentioned in subregulation (1)(c), a current Public Practice Certificate issued by the Institute of Public Accountants.

13. Prescribed body corporate (s. 92)

For the purposes of the definition of *prescribed body corporate* in section 92 of the Act, an entity that is a body corporate under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Commonwealth) is prescribed.

14. Information to be included in application for approval to apply for registration or incorporation under another law (s. 93(3)(c))

- (1) In this regulation —
prescribed body corporate has the meaning given in section 92 of the Act.
- (2) If an incorporated association applies to the Commissioner for approval under section 93(2) of the Act, the following information is required to be included in the application —
 - (a) a statement of the reasons why the association proposes (the *association's proposal*) to apply for registration or incorporation as a prescribed body corporate;
 - (b) a statement as to whether the prescribed body corporate would be subject to rules preventing the distribution of profits to the body corporate's members;
 - (c) a declaration that any creditors of the association would not be materially prejudiced by the association's proposal;
 - (d) if the association receives funds from other entities, evidence that the association has advised those entities of the association's proposal.

15. Annual information statement to be provided to Commissioner (s. 156)

- (1) Within 6 months after the end of each financial year of an incorporated association, the association must provide to the Commissioner a written statement of the following —
 - (a) confirmation —
 - (i) of the association's address; and
 - (ii) if different from that address, of the association's postal address for service of any process, notice or other document on the association, notified under section 174(1) or 175(1) of the Act;
 - (b) confirmation that the association continues to have at least 6 members who have full voting rights under the association's rules;
 - (c) the date on which the association held its most recent annual general meeting;
 - (d) the revenue of the association for the most recent financial year.

- (2) Revenue is to be calculated for the purposes of subregulation (1)(d) in the same way as it is calculated under section 64 of the Act.

Note for this subregulation:

Section 64(4) of the Act refers to calculating revenue in accordance with the accounting standards in force at the relevant time.

- (3) Subregulation (1) does not apply to an incorporated association that —
 - (a) is exempted in writing by the Commissioner from complying with that subregulation; or
 - (b) belongs to a class of associations exempted by the Commissioner, by notice published in the *Gazette*, from complying with that subregulation.

16. Fees

- (1) The fees in Schedule 3 are prescribed in respect of the matters referred to in that Schedule.
- (2) The Commissioner may waive, or refund, the whole or part of any fee in Schedule 3.
- (3) Without limiting subregulation (2), the Commissioner may reduce by 20% a fee prescribed in an item in Schedule 3 if any document that is to be lodged with the Commissioner in connection with the provision of the Act or these regulations to which the item relates is lodged by the use of the website maintained by the Department for that purpose.

16A. Waiver and refund of fees in response to COVID-19 pandemic

- (1) In this regulation —
commencement day means the day on which the *Commerce Regulations Amendment (COVID-19 Response) Regulations (No. 2) 2020* regulation 4 comes into operation;
designated fee means a fee in Schedule 3.
- (2) Despite regulation 16(1), the designated fees are waived during the period beginning on commencement day and ending on 31 March 2021.
- (3) If a person paid a designated fee during the period beginning on 1 April 2020 and ending on the day before commencement day, the Commissioner must refund the fee to the person.
- (4) However, subregulation (3) does not require the Commissioner to refund a fee or part of a fee that has been refunded under regulation 16(2).

[Regulation 16A inserted: SL 2020/196 r. 4.]

17. Infringement notices

- (1) The offences specified in Schedule 4 are offences for which an infringement notice may be issued under the *Criminal Procedure Act 2004* Part 2.
- (2) The modified penalty specified opposite an offence in Schedule 4 is the modified penalty for that offence for the purposes of the *Criminal Procedure Act 2004* section 5(3).
- (3) The Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the *Criminal Procedure Act 2004* Part 2.
- (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.
- (5) For the purposes of the *Criminal Procedure Act 2004* Part 2, the forms set out in Schedule 5 are prescribed.

18. Percentage of members who may call general meeting (Sch. 1 Div. 2 cl. 3)

For the purposes of Schedule 1 Division 2 clause 3 to the Act, the prescribed percentage is 20%.

19. Transitional provisions relating to notification of addresses (s. 211)

- (1) In this regulation —
1987 Act notice means a notice of an address for service lodged under *Associations Incorporation Act 1987* section 40;
address for service means an address or postal address for service of any process, notice or other document;
commencement day has the meaning given in section 186 of the Act;
existing incorporated association has the meaning given in section 186 of the Act.

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- (2) An existing incorporated association is not required to comply with section 203(1) of the Act if —
- (a) before the commencement day the association lodged a 1987 Act notice; and
 - (b) the information stated in the 1987 Act notice continues to be correct during the period of 90 days after the commencement day.
- (3) Where an existing incorporated association has not lodged notice of an address for service under the Act —
- (a) the address for service given in the 1987 Act notice most recently lodged by the association before the commencement day is taken for the purposes of section 176 of the Act to have been notified to the Commissioner under section 174; or
 - (b) if the association has not lodged a 1987 Act notice, the address which appears to the Commissioner to be or most recently to have been the address of the association is taken for the purposes of section 176 of the Act to have been notified to the Commissioner under section 174.
- (4) An address for service lodged with the Commissioner under section 203(1)(b) or (2)(b) of the Act is taken for the purposes of section 176 of the Act to have been notified to the Commissioner under section 174.

[Regulation 19 amended: Gazette 10 Mar 2017 p. 1565-6.]

20. Transitional provisions relating to compliance with accounting standards (s. 211)

- (1) In this regulation —
- accounting standards* has the meaning given in section 62 of the Act;
- Australian law* means a written law or a law of the Commonwealth, another State or a Territory;

financial report has the meaning given in section 63 of the Act.

- (2) This regulation applies in relation to an incorporated association if the association —
 - (a) was not required, under an Australian law, to prepare a financial report that complied with the accounting standards in respect of the financial year of the association (the *relevant financial year*) immediately preceding the first financial year of the association that commences on or after 1 July 2016; and
 - (b) did not prepare a financial report for the relevant financial year that complied, or purported to comply, with the accounting standards.
- (3) Part 5 of the Act does not apply to the financial report for the first financial year of an incorporated association that commences on or after 1 July 2016 to the extent that that Part requires the report to comply with the accounting standards.

21. Transitional provisions relating to reinstatement of incorporation (s. 211)

- (1) Subregulation (2) applies if —
 - (a) the incorporation of an association was cancelled under section 35(2) of the repealed Act; and
 - (b) the Commissioner is satisfied that —
 - (i) the incorporation of the association should not have been cancelled; and
 - (ii) the association has not become incorporated under any other Act or law.
- (2) If this subregulation applies —
 - (a) the Commissioner may reinstate the incorporation of the association under section 151(1) of the Act as if that incorporation had been cancelled under Part 10 of the Act; and

(b) section 151(2), (3) and (4) of the Act apply accordingly.
[Regulation 21 inserted: Gazette 8 Dec 2017 p. 5842-3.]

Schedule 1 — Restricted names

[r. 3]

1. A name containing the following words or expressions, any abbreviation of them or any similar words, expressions or abbreviations —
- (a) aboriginal corporation;
 - (b) aboriginal council;
 - (c) building society;
 - (d) certified practising accountant;
 - (e) chamber of commerce;
 - (f) chamber of industry;
 - (g) chamber of manufacturers;
 - (h) chartered;
 - (i) college of advanced education;
 - (j) consumer;
 - (k) credit society;
 - (l) credit union;
 - (m) executor;
 - (n) foreign society;
 - (o) foundation;
 - (p) friendly society;
 - (q) futures exchange;
 - (r) guarantee;
 - (s) institute of advanced education;
 - (t) made in Australia;
 - (u) Oxfam;
 - (v) savings;
 - (w) Starr Bowkett;
 - (x) stock exchange;
 - (y) Torres Strait Islander corporation;
 - (za) trust;

- (zb) trustee;
 - (zc) university.
2. A name that, in the context in which it is proposed to be used, is capable of suggesting either of the following —
 - (a) a connection with a member of the Royal family, if that connection does not exist;
 - (b) that Royal patronage has been received, if that is not the case.
 3. A name that, in the context in which it is proposed to be used, is capable of suggesting a connection with the government of the Commonwealth, the State, another State or a Territory or another country.
 4. A name that includes the word “Commonwealth” or “Federal”, unless its use is in respect of a geographical location.
 5. A name that, in the context in which it is proposed to be used, is capable of suggesting a connection with a department, authority or instrumentality of the government of the Commonwealth, the State, another State or a Territory or with a local government.
 6. A name that, in the context in which it is proposed to be used, is capable of suggesting either of the following —
 - (a) a connection with an ex-service personnel’s organisation, if that connection does not exist;
 - (b) that the members of an incorporated association are totally or partially incapacitated, if that is not the case.
 7. A name that, in the context in which it is proposed to be used, is capable of suggesting a connection with an individual (alive or deceased) or body corporate, if that connection does not exist.
 8. A name to the extent that it is subject to restrictions under a Commonwealth law, including any of the following —
 - (a) the *International Organisations (Privileges and Immunities) Act 1963* (Commonwealth), to the extent it prevents the assumption or use, in connection with a trade, business, profession, calling or occupation, of the name or an abbreviation of the name of the United Nations or any other organisation to which that Act applies;

cl. 9

- (b) the *Banking Act 1959* (Commonwealth), to the extent it prevents the assumption or use, in relation to financial business, of ‘bank’, ‘banker’ or ‘banking’ or any similar word;
 - (c) the *Protection of Word ‘Anzac’ Regulations* (Commonwealth), to the extent they prevent the assumption or use of the word ‘Anzac’ or any word resembling it in connection with any trade, business, calling or profession, any entertainment, lottery or art union or as the name or part of the name of a private residence, boat, vehicle or charitable or other institution, or any building of the institution;
 - (d) the *Defence (Prohibited Words and Letters) Regulations 1957* (Commonwealth), to the extent they prohibit the use in connection with a trade, business, calling or profession or by an organisation or body of persons of the words and letters set out in the regulations (being words and letters indicative of a part of the armed forces of Australia);
 - (e) the *Scout Association Act 1924* (Commonwealth), to the extent it prevents the use of the name ‘Scout Association’ or any name implying that any other society or body is the association or a branch of the association;
 - (f) the *Geneva Conventions Act 1957* (Commonwealth), to the extent it prevents the use of “Red Cross”, “Geneva Cross”, “Red Crescent” or “Red Lion and Sun” or any similar words or expressions.
9. A name to the extent that it is subject to restrictions under a written law, including any of the following —
- (a) the *Architects Act 2004*;
 - (b) the *Co-operatives Act 2009*;
 - (c) the *Health Practitioner Regulation National Law (Western Australia)*;
 - (d) the *Legal Profession Act 2008*;
 - (e) the *Pharmacy Act 2010*;
 - (f) the *Police Act 1892*;
 - (g) the *Veterinary Surgeons Act 1960*.

Schedule 2 — Model rules for incorporated associations

[r. 4]

Note for these rules:

If an association or incorporated association approves the adoption of these model rules as its own rules, section 7(4) or 29(5) of the Act, as appropriate, requires the association or incorporated association to notify the Commissioner of the following information —

- (a) the name of the association;
- (b) the objects or purposes of the association;
- (c) the quorum for a general meeting of members of the association;
- (d) the quorum for a meeting of the management committee of the association;
- (e) if relevant, the period of the first financial year of the association.

Part 1 — Preliminary

1. Terms used

In these rules, unless the contrary intention appears —

Act means the *Associations Incorporation Act 2015*;

associate member means a member with the rights referred to in rule 8(6);

Association means the incorporated association to which these rules apply;

books, of the Association, includes the following —

- (a) a register;
- (b) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (c) a document;
- (d) any other record of information;

by-laws means by-laws made by the Association under rule 64;

chairperson means the committee member holding office as the chairperson of the Association;

cl. 1

Commissioner means the person for the time being designated as the Commissioner under section 153 of the Act;

committee means the management committee of the Association;

committee meeting means a meeting of the committee;

committee member means a member of the committee;

financial records includes —

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; and
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain —
 - (i) the methods by which financial statements are prepared; and
 - (ii) adjustments to be made in preparing financial statements;

financial report, of a tier 2 association or a tier 3 association, has the meaning given in section 63 of the Act;

financial statements means the financial statements in relation to the Association required under Part 5 Division 3 of the Act;

financial year, of the Association, has the meaning given in rule 2;

general meeting, of the Association, means a meeting of the Association that all members are entitled to receive notice of and to attend;

member means a person (including a body corporate) who is an ordinary member or an associate member of the Association;

ordinary committee member means a committee member who is not an office holder of the Association under rule 27(3);

ordinary member means a member with the rights referred to in rule 8(5);

register of members means the register of members referred to in section 53 of the Act;

rules means these rules of the Association, as in force for the time being;

secretary means the committee member holding office as the secretary of the Association;

special general meeting means a general meeting of the Association other than the annual general meeting;

special resolution means a resolution passed by the members at a general meeting in accordance with section 51 of the Act;

subcommittee means a subcommittee appointed by the committee under rule 48(1)(a);

tier 1 association means an incorporated association to which section 64(1) of the Act applies;

tier 2 association means an incorporated association to which section 64(2) of the Act applies;

tier 3 association means an incorporated association to which section 64(3) of the Act applies;

treasurer means the committee member holding office as the treasurer of the Association.

2. Financial year

- (1) The first financial year of the Association is to be the period notified to the Commissioner under section 7(4)(e) or, if relevant, section 29(5)(e) of the Act.
- (2) Each subsequent financial year of the Association is the period of 12 months commencing at the termination of the first financial year or the anniversary of that termination.

Part 2 — Association to be not-for-profit body

3. Not-for-profit body

- (1) The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.
- (2) A payment may be made to a member out of the funds of the Association only if it is authorised under subrule (3).

cl. 4

- (3) A payment to a member out of the funds of the Association is authorised if it is —
- (a) the payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
 - (b) the payment of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
 - (c) the payment of reasonable rent to the member for premises leased by the member to the Association; or
 - (d) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association.

Note for this rule:

Section 5(1) of the Act provides that an association is not eligible to be incorporated under the Act if it is formed or carried on for the purpose of securing pecuniary profit for its members from its transactions, and section 5(3) of the Act provides details about when an association is not ineligible under section 5(1) of the Act.

Part 3 — Members

Division 1 — Membership

4. Eligibility for membership

- (1) Any person who supports the objects or purposes of the Association is eligible to apply to become a member.
- (2) An individual who has not reached the age of 15 years is not eligible to apply for a class of membership that confers full voting rights.

5. Applying for membership

- (1) A person who wants to become a member must apply in writing to the Association.
- (2) The application must include a member's nomination of the applicant for membership.

- (3) The application must be signed by the applicant and the member nominating the applicant.
- (4) The applicant must specify in the application the class of membership, if there is more than one, to which the application relates.

6. Dealing with membership applications

- (1) The committee must consider each application for membership of the Association and decide whether to accept or reject the application.
- (2) Subject to subrule (3), the committee must consider applications in the order in which they are received by the Association.
- (3) The committee may delay its consideration of an application if the committee considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- (4) The committee must not accept an application unless the applicant —
 - (a) is eligible under rule 4; and
 - (b) has applied under rule 5.
- (5) The committee may reject an application even if the applicant —
 - (a) is eligible under rule 4; and
 - (b) has applied under rule 5.
- (6) The committee must notify the applicant of the committee's decision to accept or reject the application as soon as practicable after making the decision.
- (7) If the committee rejects the application, the committee is not required to give the applicant its reasons for doing so.

7. Becoming a member

An applicant for membership of the Association becomes a member when —

- (a) the committee accepts the application; and
- (b) the applicant pays any membership fees payable to the Association under rule 12.

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8. Classes of membership

- (1) The Association consists of ordinary members and any associate members provided for under subrule (2).
- (2) The Association may have any class of associate membership approved by resolution at a general meeting, including junior membership, senior membership, honorary membership and life membership.
- (3) An individual who has not reached the age of 15 years is only eligible to be an associate member.
- (4) A person can only be an ordinary member or belong to one class of associate membership.
- (5) An ordinary member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the committee.
- (6) An associate member has the rights referred to in subrule (5) other than full voting rights.
- (7) The number of members of any class is not limited unless otherwise approved by resolution at a general meeting.

9. When membership ceases

- (1) A person ceases to be a member when any of the following takes place —
 - (a) for a member who is an individual, the individual dies;
 - (b) for a member that is a body corporate, the body corporate is wound up;
 - (c) the person resigns from the Association under rule 10;
 - (d) the person is expelled from the Association under rule 15;
 - (e) the person ceases to be a member under rule 12(4).
- (2) The secretary must keep a record, for at least one year after a person ceases to be a member, of —
 - (a) the date on which the person ceased to be a member; and
 - (b) the reason why the person ceased to be a member.

10. Resignation

- (1) A member may resign from membership of the Association by giving written notice of the resignation to the secretary.
- (2) The resignation takes effect —
 - (a) when the secretary receives the notice; or
 - (b) if a later time is stated in the notice, at that later time.
- (3) A person who has resigned from membership of the Association remains liable for any fees that are owed to the Association (the *owed amount*) at the time of resignation.
- (4) The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association.

11. Rights not transferable

The rights of a member are not transferable and end when membership ceases.

Division 2 — Membership fees

12. Membership fees

- (1) The committee must determine the entrance fee (if any) and the annual membership fee (if any) to be paid for membership of the Association.
- (2) The fees determined under subrule (1) may be different for different classes of membership.
- (3) A member must pay the annual membership fee to the treasurer, or another person authorised by the committee to accept payments, by the date (the *due date*) determined by the committee.
- (4) If a member has not paid the annual membership fee within the period of 3 months after the due date, the member ceases to be a member on the expiry of that period.

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- (5) If a person who has ceased to be a member under subrule (4) offers to pay the annual membership fee after the period referred to in that subrule has expired —
- (a) the committee may, at its discretion, accept that payment; and
 - (b) if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.

Division 3 — Register of members

13. Register of members

- (1) The secretary, or another person authorised by the committee, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
- (2) In addition to the matters referred to in section 53(2) of the Act, the register of members must include the class of membership (if applicable) to which each member belongs and the date on which each member becomes a member.
- (3) The register of members must be kept at the secretary's place of residence, or at another place determined by the committee.
- (4) A member who wishes to inspect the register of members must contact the secretary to make the necessary arrangements.
- (5) If —
- (a) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
 - (b) a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members,

the committee may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

Part 4 — Disciplinary action, disputes and mediation

Division 1 — Term used

14. Term used: member

In this Part —

member, in relation to a member who is expelled from the Association, includes former member.

Division 2 — Disciplinary action

15. Suspension or expulsion

- (1) The committee may decide to suspend a member's membership or to expel a member from the Association if —
 - (a) the member contravenes any of these rules; or
 - (b) the member acts detrimentally to the interests of the Association.
- (2) The secretary must give the member written notice of the proposed suspension or expulsion at least 28 days before the committee meeting at which the proposal is to be considered by the committee.
- (3) The notice given to the member must state —
 - (a) when and where the committee meeting is to be held; and
 - (b) the grounds on which the proposed suspension or expulsion is based; and
 - (c) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion.
- (4) At the committee meeting, the committee must —
 - (a) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion; and
 - (b) give due consideration to any submissions so made; and

cl. 16

- (c) decide —
 - (i) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or
 - (ii) whether or not to expel the member from the Association.
- (5) A decision of the committee to suspend the member's membership or to expel the member from the Association takes immediate effect.
- (6) The committee must give the member written notice of the committee's decision, and the reasons for the decision, within 7 days after the committee meeting at which the decision is made.
- (7) A member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the committee's decision under subrule (6), give written notice to the secretary requesting the appointment of a mediator under rule 23.
- (8) If notice is given under subrule (7), the member who gives the notice and the committee are the parties to the mediation.

16. Consequences of suspension

- (1) During the period a member's membership is suspended, the member —
 - (a) loses any rights (including voting rights) arising as a result of membership; and
 - (b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
- (2) When a member's membership is suspended, the secretary must record in the register of members —
 - (a) that the member's membership is suspended; and
 - (b) the date on which the suspension takes effect; and
 - (c) the period of the suspension.
- (3) When the period of the suspension ends, the secretary must record in the register of members that the member's membership is no longer suspended.

Division 3 — Resolving disputes

17. Terms used

In this Division —

grievance procedure means the procedures set out in this Division;

party to a dispute includes a person —

- (a) who is a party to the dispute; and
- (b) who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.

18. Application of Division

The grievance procedure applies to disputes —

- (a) between members; or
- (b) between one or more members and the Association.

19. Parties to attempt to resolve dispute

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.

20. How grievance procedure is started

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 19, any party to the dispute may start the grievance procedure by giving written notice to the secretary of —
 - (a) the parties to the dispute; and
 - (b) the matters that are the subject of the dispute.
- (2) Within 28 days after the secretary is given the notice, a committee meeting must be convened to consider and determine the dispute.
- (3) The secretary must give each party to the dispute written notice of the committee meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.

cl. 21

- (4) The notice given to each party to the dispute must state —
 - (a) when and where the committee meeting is to be held; and
 - (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute.
 - (5) If —
 - (a) the dispute is between one or more members and the Association; and
 - (b) any party to the dispute gives written notice to the secretary stating that the party —
 - (i) does not agree to the dispute being determined by the committee; and
 - (ii) requests the appointment of a mediator under rule 23,
- the committee must not determine the dispute.

21. Determination of dispute by committee

- (1) At the committee meeting at which a dispute is to be considered and determined, the committee must —
 - (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute; and
 - (b) give due consideration to any submissions so made; and
 - (c) determine the dispute.
- (2) The committee must give each party to the dispute written notice of the committee's determination, and the reasons for the determination, within 7 days after the committee meeting at which the determination is made.
- (3) A party to the dispute may, within 14 days after receiving notice of the committee's determination under subrule (1)(c), give written notice to the secretary requesting the appointment of a mediator under rule 23.

- (4) If notice is given under subrule (3), each party to the dispute is a party to the mediation.

Division 4 — Mediation

22. Application of Division

- (1) This Division applies if written notice has been given to the secretary requesting the appointment of a mediator —
- (a) by a member under rule 15(7); or
 - (b) by a party to a dispute under rule 20(5)(b)(ii) or 21(3).
- (2) If this Division applies, a mediator must be chosen or appointed under rule 23.

23. Appointment of mediator

- (1) The mediator must be a person chosen —
- (a) if the appointment of a mediator was requested by a member under rule 15(7) — by agreement between the member and the committee; or
 - (b) if the appointment of a mediator was requested by a party to a dispute under rule 20(5)(b)(ii) or 21(3) — by agreement between the parties to the dispute.
- (2) If there is no agreement for the purposes of subrule (1)(a) or (b), then, subject to subrules (3) and (4), the committee must appoint the mediator.
- (3) The person appointed as mediator by the committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —
- (a) a member under rule 15(7); or
 - (b) a party to a dispute under rule 20(5)(b)(ii); or
 - (c) a party to a dispute under rule 21(3) and the dispute is between one or more members and the Association.

cl. 24

- (4) The person appointed as mediator by the committee may be a member or former member of the Association but must not —
 - (a) have a personal interest in the matter that is the subject of the mediation; or
 - (b) be biased in favour of or against any party to the mediation.

24. Mediation process

- (1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (3) In conducting the mediation, the mediator must —
 - (a) give each party to the mediation every opportunity to be heard; and
 - (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
 - (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (4) The mediator cannot determine the matter that is the subject of the mediation.
- (5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

Note for this rule:

Section 182(1) of the Act provides that an application may be made to the State Administrative Tribunal to have a dispute determined if the dispute has not been resolved under the procedure provided for in the incorporated association's rules.

cl. 28

- (3) The following are the office holders of the Association —
 - (a) the chairperson;
 - (b) the deputy chairperson;
 - (c) the secretary;
 - (d) the treasurer.
- (4) A person may be a committee member if the person is —
 - (a) an individual who has reached 18 years of age; and
 - (b) an ordinary member.
- (5) A person must not hold 2 or more of the offices mentioned in subrule (3) at the same time.

28. Chairperson

- (1) It is the duty of the chairperson to consult with the secretary regarding the business to be conducted at each committee meeting and general meeting.
- (2) The chairperson has the powers and duties relating to convening and presiding at committee meetings and presiding at general meetings provided for in these rules.

29. Secretary

The secretary has the following duties —

- (a) dealing with the Association's correspondence;
- (b) consulting with the chairperson regarding the business to be conducted at each committee meeting and general meeting;
- (c) preparing the notices required for meetings and for the business to be conducted at meetings;
- (d) unless another member is authorised by the committee to do so, maintaining on behalf of the Association the register of members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;
- (e) maintaining on behalf of the Association an up-to-date copy of these rules, as required under section 35(1) of the Act;

cl. 31

- (h) providing any assistance required by an auditor or reviewer conducting an audit or review of the Association's financial statements or financial report under Part 5 Division 5 of the Act;
- (i) carrying out any other duty given to the treasurer under these rules or by the committee.

Division 3 — Election of committee members and tenure of office

31. How members become committee members

A member becomes a committee member if the member —

- (a) is elected to the committee at a general meeting; or
- (b) is appointed to the committee by the committee to fill a casual vacancy under rule 38.

32. Nomination of committee members

- (1) At least 42 days before an annual general meeting, the secretary must send written notice to all the members —
 - (a) calling for nominations for election to the committee; and
 - (b) stating the date by which nominations must be received by the secretary to comply with subrule (2).
- (2) A member who wishes to be considered for election to the committee at the annual general meeting must nominate for election by sending written notice of the nomination to the secretary at least 28 days before the annual general meeting.
- (3) The written notice must include a statement by another member in support of the nomination.
- (4) A member may nominate for one specified position of office holder of the Association or to be an ordinary committee member.
- (5) A member whose nomination does not comply with this rule is not eligible for election to the committee unless the member is nominated under rule 33(2) or 34(2)(b).

cl. 35

- (3) If —
- (a) the number of members nominating for the position of ordinary committee member is greater than the number to be elected; or
 - (b) the number of members nominating under subrule (2)(b) is greater than the number of positions remaining unfilled,
- the ordinary members at the meeting must vote in accordance with procedures that have been determined by the committee to decide the members who are to be elected to the position of ordinary committee member.
- (4) A member who has nominated for the position of ordinary committee member may vote in accordance with that nomination.

35. Term of office

- (1) The term of office of a committee member begins when the member —
- (a) is elected at an annual general meeting or under rule 36(3)(b); or
 - (b) is appointed to fill a casual vacancy under rule 38.
- (2) Subject to rule 37, a committee member holds office until the positions on the committee are declared vacant at the next annual general meeting.
- (3) A committee member may be re-elected.

36. Resignation and removal from office

- (1) A committee member may resign from the committee by written notice given to the secretary or, if the resigning member is the secretary, given to the chairperson.
- (2) The resignation takes effect —
- (a) when the notice is received by the secretary or chairperson; or
 - (b) if a later time is stated in the notice, at the later time.
- (3) At a general meeting, the Association may by resolution —
- (a) remove a committee member from office; and

cl. 39

- (2) If the position of secretary becomes vacant, the committee must appoint a member who is eligible under rule 27(4) to fill the position within 14 days after the vacancy arises.
- (3) Subject to the requirement for a quorum under rule 45, the committee may continue to act despite any vacancy in its membership.
- (4) If there are fewer committee members than required for a quorum under rule 45, the committee may act only for the purpose of —
 - (a) appointing committee members under this rule; or
 - (b) convening a general meeting.

39. Validity of acts

The acts of a committee or subcommittee, or of a committee member or member of a subcommittee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a committee member or member of a subcommittee.

40. Payments to committee members

- (1) In this rule —
committee member includes a member of a subcommittee;
committee meeting includes a meeting of a subcommittee.
- (2) A committee member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred —
 - (a) in attending a committee meeting; or
 - (b) in attending a general meeting; or
 - (c) otherwise in connection with the Association's business.

Division 4 — Committee meetings

41. Committee meetings

- (1) The committee must meet at least 3 times in each year on the dates, and at the times and places, determined by the committee.

cl. 44

- (b) must not comment about any matter discussed at the meeting unless invited by the committee to do so; and
- (c) cannot vote on any matter that is to be decided at the meeting.

44. Use of technology to be present at committee meetings

- (1) The presence of a committee member at a committee meeting need not be by attendance in person but may be by that committee member and each other committee member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (2) A member who participates in a committee meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

45. Quorum for committee meetings

- (1) Subject to rule 38(4), no business is to be conducted at a committee meeting unless a quorum is present.
- (2) If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting —
 - (a) in the case of a special meeting — the meeting lapses; or
 - (b) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (3) If —
 - (a) a quorum is not present within 30 minutes after the commencement time of a committee meeting held under subrule (2)(b); and
 - (b) at least 2 committee members are present at the meeting,

those members present are taken to constitute a quorum.

Note for this rule:

If these model rules are adopted, the quorum for a committee meeting is as notified to the Commissioner under section 7(4)(d) or 29(5)(d) of the Act.

46. Voting at committee meetings

- (1) Each committee member present at a committee meeting has one vote on any question arising at the meeting.
- (2) A motion is carried if a majority of the committee members present at the committee meeting vote in favour of the motion.
- (3) If the votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (4) A vote may take place by the committee members present indicating their agreement or disagreement or by a show of hands, unless the committee decides that a secret ballot is needed to determine a particular question.
- (5) If a secret ballot is needed, the chairperson of the meeting must decide how the ballot is to be conducted.

47. Minutes of committee meetings

- (1) The committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following —
 - (a) the names of the committee members present at the meeting;
 - (b) the name of any person attending the meeting under rule 43(5);
 - (c) the business considered at the meeting;
 - (d) any motion on which a vote is taken at the meeting and the result of the vote.
- (3) The minutes of a committee meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (4) The chairperson must ensure that the minutes of a committee meeting are reviewed and signed as correct by —
 - (a) the chairperson of the meeting; or
 - (b) the chairperson of the next committee meeting.

cl. 48

- (5) When the minutes of a committee meeting have been signed as correct they are, until the contrary is proved, evidence that —
- (a) the meeting to which the minutes relate was duly convened and held; and
 - (b) the matters recorded as having taken place at the meeting took place as recorded; and
 - (c) any appointment purportedly made at the meeting was validly made.

Note for this rule:

Section 42(6) of the Act requires details relating to the disclosure of a committee member's material personal interest in a matter being considered at a committee meeting to be recorded in the minutes of the meeting.

Division 5 — Subcommittees and subsidiary offices

48. Subcommittees and subsidiary offices

- (1) To help the committee in the conduct of the Association's business, the committee may, in writing, do either or both of the following —
- (a) appoint one or more subcommittees;
 - (b) create one or more subsidiary offices and appoint people to those offices.
- (2) A subcommittee may consist of the number of people, whether or not members, that the committee considers appropriate.
- (3) A person may be appointed to a subsidiary office whether or not the person is a member.
- (4) Subject to any directions given by the committee —
- (a) a subcommittee may meet and conduct business as it considers appropriate; and
 - (b) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

49. Delegation to subcommittees and holders of subsidiary offices

- (1) In this rule —
non-delegable duty means a duty imposed on the committee by the Act or another written law.
- (2) The committee may, in writing, delegate to a subcommittee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the committee other than —
 - (a) the power to delegate; and
 - (b) a non-delegable duty.
- (3) A power or duty, the exercise or performance of which has been delegated to a subcommittee or the holder of a subsidiary office under this rule, may be exercised or performed by the subcommittee or holder in accordance with the terms of the delegation.
- (4) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the committee specifies in the document by which the delegation is made.
- (5) The delegation does not prevent the committee from exercising or performing at any time the power or duty delegated.
- (6) Any act or thing done by a subcommittee, or by the holder of a subsidiary office, under the delegation has the same force and effect as if it had been done by the committee.
- (7) The committee may, in writing, amend or revoke the delegation.

Part 6 — General meetings of Association

50. Annual general meeting

- (1) The committee must determine the date, time and place of the annual general meeting.
- (2) If it is proposed to hold the annual general meeting more than 6 months after the end of the Association's financial year, the secretary must apply to the Commissioner for permission under section 50(3)(b) of the Act within 4 months after the end of the financial year.

cl. 51

- (3) The ordinary business of the annual general meeting is as follows —
- (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then if the minutes of that meeting have not yet been confirmed;
 - (b) to receive and consider —
 - (i) the committee’s annual report on the Association’s activities during the preceding financial year; and
 - (ii) if the Association is a tier 1 association, the financial statements of the Association for the preceding financial year presented under Part 5 of the Act; and
 - (iii) if the Association is a tier 2 association or a tier 3 association, the financial report of the Association for the preceding financial year presented under Part 5 of the Act; and
 - (iv) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor’s report on the financial statements or financial report;
 - (c) to elect the office holders of the Association and other committee members;
 - (d) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act;
 - (e) to confirm or vary the entrance fees, subscriptions and other amounts (if any) to be paid by members.
- (4) Any other business of which notice has been given in accordance with these rules may be conducted at the annual general meeting.

Note for this rule:

Unless the Commissioner allows otherwise, under section 50(3) of the Act the annual general meeting must be held within 6 months after the end of the Association’s financial year. If it is the first annual general meeting, section 50(2) of the Act provides that it may be held at any time within 18 months after incorporation.

51. Special general meetings

- (1) The committee may convene a special general meeting.

- (2) The committee must convene a special general meeting if at least 20% of the members require a special general meeting to be convened.
- (3) The members requiring a special general meeting to be convened must —
 - (a) make the requirement by written notice given to the secretary; and
 - (b) state in the notice the business to be considered at the meeting; and
 - (c) each sign the notice.
- (4) The special general meeting must be convened within 28 days after notice is given under subrule (3)(a).
- (5) If the committee does not convene a special general meeting within that 28 day period, the members making the requirement (or any of them) may convene the special general meeting.
- (6) A special general meeting convened by members under subrule (5) —
 - (a) must be held within 3 months after the date the original requirement was made; and
 - (b) may only consider the business stated in the notice by which the requirement was made.
- (7) The Association must reimburse any reasonable expenses incurred by the members convening a special general meeting under subrule (5).

52. Notice of general meetings

- (1) The secretary or, in the case of a special general meeting convened under rule 51(5), the members convening the meeting, must give to each member —
 - (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
 - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must —
 - (a) specify the date, time and place of the meeting; and
 - (b) indicate the general nature of each item of business to be considered at the meeting; and

cl. 53

- (c) if the meeting is the annual general meeting, include the names of the members who have nominated for election to the committee under rule 32(2); and
- (d) if a special resolution is proposed —
 - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
 - (ii) state that the resolution is intended to be proposed as a special resolution; and
 - (iii) comply with rule 53(7).

Note for this paragraph:

Section 51(1) of the Act states that a resolution is a special resolution if it is passed —

- (a) at a general meeting of an incorporated association; and
- (b) by the votes of not less than three-fourths of the members of the association who cast a vote at the meeting.

53. Proxies

- (1) Subject to subrule (2), an ordinary member may appoint an individual who is an ordinary member as the member's proxy to vote and speak on the member's behalf at a general meeting.
- (2) An ordinary member may be appointed the proxy for not more than 5 other members.
- (3) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (4) The member appointing the proxy may give specific directions as to how the proxy is to vote on the member's behalf.
- (5) If no instructions are given to the proxy, the proxy may vote on behalf of the member in any matter as the proxy sees fit.
- (6) If the committee has approved a form for the appointment of a proxy, the member may use that form or any other form —
 - (a) that clearly identifies the person appointed as the member's proxy; and
 - (b) that has been signed by the member.

- (7) Notice of a general meeting given to an ordinary member under rule 52 must —
 - (a) state that the member may appoint an individual who is an ordinary member as a proxy for the meeting; and
 - (b) include a copy of any form that the committee has approved for the appointment of a proxy.
- (8) A form appointing a proxy must be given to the secretary before the commencement of the general meeting for which the proxy is appointed.
- (9) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than 24 hours before the commencement of the meeting.

54. Use of technology to be present at general meetings

- (1) The presence of a member at a general meeting need not be by attendance in person but may be by that member and each other member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (2) A member who participates in a general meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

55. Presiding member and quorum for general meetings

- (1) The chairperson or, in the chairperson's absence, the deputy chairperson must preside as chairperson of each general meeting.
- (2) If the chairperson and deputy chairperson are absent or are unwilling to act as chairperson of a general meeting, the committee members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) No business is to be conducted at a general meeting unless a quorum is present.
- (4) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting —
 - (a) in the case of a special general meeting — the meeting lapses;
or

cl. 56

- (b) in the case of the annual general meeting — the meeting is adjourned to —
 - (i) the same time and day in the following week; and
 - (ii) the same place, unless the chairperson specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.
- (5) If —
 - (a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under subrule (4)(b); and
 - (b) at least 2 ordinary members are present at the meeting,

those members present are taken to constitute a quorum.

Note for this rule:

If these model rules are adopted, the quorum for a general meeting is as notified to the Commissioner under section 7(4)(c) or 29(5)(c) of the Act.

56. Adjournment of general meeting

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of a majority of the ordinary members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned —
 - (a) if there is insufficient time to deal with the business at hand; or
 - (b) to give the members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 52.

57. Voting at general meeting

- (1) On any question arising at a general meeting —
 - (a) subject to subrule (6), each ordinary member has one vote unless the member may also vote on behalf of a body corporate under subrule (2); and
 - (b) ordinary members may vote personally or by proxy.
- (2) An ordinary member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a member, to vote on behalf of the body corporate on any question at a particular general meeting or at any general meeting, as specified in the document by which the appointment is made.
- (3) A copy of the document by which the appointment is made must be given to the secretary before any general meeting to which the appointment applies.
- (4) The appointment has effect until —
 - (a) the end of any general meeting to which the appointment applies; or
 - (b) the appointment is revoked by the body corporate and written notice of the revocation is given to the secretary.
- (5) Except in the case of a special resolution, a motion is carried if a majority of the ordinary members present at a general meeting vote in favour of the motion.
- (6) If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (7) If the question is whether or not to confirm the minutes of a previous general meeting, only members who were present at that meeting may vote.
- (8) For a person to be eligible to vote at a general meeting as an ordinary member, or on behalf of an ordinary member that is a body corporate under subrule (2), the ordinary member —
 - (a) must have been an ordinary member at the time notice of the meeting was given under rule 52; and

cl. 58

- (b) must have paid any fee or other money payable to the Association by the member.

58. When special resolutions are required

- (1) A special resolution is required if it is proposed at a general meeting —
 - (a) to affiliate the Association with another body; or
 - (b) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager.
- (2) Subrule (1) does not limit the matters in relation to which a special resolution may be proposed.

Note for this rule:

Under the Act, a special resolution is required if an incorporated association proposes to do any of the following —

- (a) to adopt these model rules (section 29(1));
- (b) to alter its rules, including changing the name of the association (section 30(1));
- (c) to decide to apply for registration or incorporation as a prescribed body corporate (section 93(1));
- (d) to approve the terms of an amalgamation with one or more other incorporated associations (section 102(4));
- (e) to be wound up voluntarily (section 121(2)) or by the Supreme Court (section 124(a) and Schedule 4 item 9);
- (f) to cancel its incorporation (section 129).

59. Determining whether resolution carried

- (1) In this rule —
poll means the process of voting in relation to a matter that is conducted in writing.
- (2) Subject to subrule (4), the chairperson of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been —
 - (a) carried; or
 - (b) carried unanimously; or

- (c) carried by a particular majority; or
 - (d) lost.
- (3) If the resolution is a special resolution, the declaration under subrule (2) must identify the resolution as a special resolution.
- (4) If a poll is demanded on any question by the chairperson of the meeting or by at least 3 other ordinary members present in person or by proxy —
- (a) the poll must be taken at the meeting in the manner determined by the chairperson; and
 - (b) the chairperson must declare the determination of the resolution on the basis of the poll.
- (5) If a poll is demanded on the election of the chairperson or on a question of an adjournment, the poll must be taken immediately.
- (6) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chairperson.
- (7) A declaration under subrule (2) or (4) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

60. Minutes of general meeting

- (1) The secretary, or a person authorised by the committee from time to time, must take and keep minutes of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must record —
- (a) the names of the ordinary members attending the meeting; and
 - (b) any proxy forms given to the chairperson of the meeting under rule 53(8); and
 - (c) the financial statements or financial report presented at the meeting, as referred to in rule 50(3)(b)(ii) or (iii); and

cl. 61

- (d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 50(3)(b)(iv).
- (4) The minutes of a general meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (5) The chairperson must ensure that the minutes of a general meeting are reviewed and signed as correct by —
 - (a) the chairperson of the meeting; or
 - (b) the chairperson of the next general meeting.
- (6) When the minutes of a general meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that —
 - (a) the meeting to which the minutes relate was duly convened and held; and
 - (b) the matters recorded as having taken place at the meeting took place as recorded; and
 - (c) any election or appointment purportedly made at the meeting was validly made.

Part 7 — Financial matters

61. Source of funds

The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the committee.

62. Control of funds

- (1) The Association must open an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (2) Subject to any restrictions imposed at a general meeting, the committee may approve expenditure on behalf of the Association.

- (3) The committee may authorise the treasurer to expend funds on behalf of the Association up to a specified limit without requiring approval from the committee for each item on which the funds are expended.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by —
 - (a) 2 committee members; or
 - (b) one committee member and a person authorised by the committee.
- (5) All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.

63. Financial statements and financial report

- (1) For each financial year, the committee must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the financial statements or financial report of the Association are met.
- (2) Without limiting subrule (1), those requirements include —
 - (a) if the Association is a tier 1 association, the preparation of the financial statements; and
 - (b) if the Association is a tier 2 association or tier 3 association, the preparation of the financial report; and
 - (c) if required, the review or auditing of the financial statements or financial report, as applicable; and
 - (d) the presentation to the annual general meeting of the financial statements or financial report, as applicable; and
 - (e) if required, the presentation to the annual general meeting of the copy of the report of the review or auditor's report, as applicable, on the financial statements or financial report.

Notes for this rule:

- 1. Under section 66 of the Act, an incorporated association must keep financial records that —
 - (a) correctly record and explain its transactions and financial position and performance; and
 - (b) enable true and fair financial statements to be prepared in accordance with Part 5 Division 3 of the Act.

cl. 64

2. Under section 67 of the Act, an incorporated association must retain its financial records for at least 7 years after the transactions covered by the records are completed.

Part 8 — General matters

64. By-laws

- (1) The Association may, by resolution at a general meeting, make, amend or revoke by-laws.
- (2) By-laws may —
 - (a) provide for the rights and obligations that apply to any classes of associate membership approved under rule 8(2); and
 - (b) impose restrictions on the committee's powers, including the power to dispose of the Association's assets; and
 - (c) impose requirements relating to the financial reporting and financial accountability of the Association and the auditing of the Association's accounts; and
 - (d) provide for any other matter the Association considers necessary or convenient to be dealt with in the by-laws.
- (3) A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or these rules.
- (4) Without limiting subrule (3), a by-law made for the purposes of subrule (2)(c) may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.
- (5) At the request of a member, the Association must make a copy of the by-laws available for inspection by the member.

65. Executing documents and common seal

- (1) The Association may execute a document without using a common seal if the document is signed by —
 - (a) 2 committee members; or
 - (b) one committee member and a person authorised by the committee.

- (2) If the Association has a common seal —
 - (a) the name of the Association must appear in legible characters on the common seal; and
 - (b) a document may only be sealed with the common seal by the authority of the committee and in the presence of —
 - (i) 2 committee members; or
 - (ii) one committee member and a person authorised by the committee,and each of them is to sign the document to attest that the document was sealed in their presence.
- (3) The secretary must make a written record of each use of the common seal.
- (4) The common seal must be kept in the custody of the secretary or another committee member authorised by the committee.

66. Giving notices to members

- (1) In this rule —
recorded means recorded in the register of members.
- (2) A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and —
 - (a) delivered by hand to the recorded address of the member; or
 - (b) sent by prepaid post to the recorded postal address of the member; or
 - (c) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.

67. Custody of books and securities

- (1) Subject to subrule (2), the books and any securities of the Association must be kept in the secretary's custody or under the secretary's control.

cl. 68

- (2) The financial records and, as applicable, the financial statements or financial reports of the Association must be kept in the treasurer's custody or under the treasurer's control.
- (3) Subrules (1) and (2) have effect except as otherwise decided by the committee.
- (4) The books of the Association must be retained for at least 7 years.

68. Record of office holders

The record of committee members and other persons authorised to act on behalf of the Association that is required to be maintained under section 58(2) of the Act must be kept in the secretary's custody or under the secretary's control.

Note for this rule:

Section 58 of the Act —

- (a) sets out the details of the record that an incorporated association must maintain of the committee members and certain others; and
- (b) provides for members to inspect, make a copy of or take an extract from the record; and
- (c) prohibits a person from disclosing information in the record except for authorised purposes.

69. Inspection of records and documents

- (1) Subrule (2) applies to a member who wants to inspect —
 - (a) the register of members under section 54(1) of the Act; or
 - (b) the record of the names and addresses of committee members, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
 - (c) any other record or document of the Association.
- (2) The member must contact the secretary to make the necessary arrangements for the inspection.
- (3) The inspection must be free of charge.
- (4) If the member wants to inspect a document that records the minutes of a committee meeting, the right to inspect that document is subject to any decision the committee has made about minutes of committee

meetings generally, or the minutes of a specific committee meeting, being available for inspection by members.

- (5) The member may make a copy of or take an extract from a record or document referred to in subrule (1)(c) but does not have a right to remove the record or document for that purpose.

Note for this subrule:

Sections 54(2) and 58(4) of the Act provide for the making of copies of, or the taking of extracts from, the register referred to in subrule (1)(a) and the record referred to in subrule (1)(b).

- (6) The member must not use or disclose information in a record or document referred to in subrule (1)(c) except for a purpose —
- (a) that is directly connected with the affairs of the Association; or
 - (b) that is related to complying with a requirement of the Act.

Note for this subrule:

Sections 57(1) and 58(5) of the Act impose restrictions on the use or disclosure of information in the register referred to in subrule (1)(a) and the record referred to in subrule (1)(b).

70. Publication by committee members of statements about Association business prohibited

A committee member must not publish, or cause to be published, any statement about the business conducted by the Association at a general meeting or committee meeting unless —

- (a) the committee member has been authorised to do so at a committee meeting; and
- (b) the authority given to the committee member has been recorded in the minutes of the committee meeting at which it was given.

71. Distribution of surplus property on cancellation of incorporation or winding up

- (1) In this rule —
- surplus property*, in relation to the Association, means property remaining after satisfaction of —
- (a) the debts and liabilities of the Association; and

cl. 72

- (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,
but does not include books relating to the management of the Association.
- (2) On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.

Note for this rule:

Section 24(1) of the Act sets out a provision that is implied in these rules describing the entities to which the surplus property of an incorporated association may be distributed on the cancellation of the incorporation or the winding up of the association. Part 9 of the Act deals with the winding up of incorporated associations, and Part 10 of the Act deals with the cancellation of the incorporation of incorporated associations.

72. Alteration of rules

If the Association wants to alter or rescind any of these rules, or to make additional rules, the Association may do so only by special resolution and by otherwise complying with Part 3 Division 2 of the Act.

Note for this rule:

Section 31 of the Act requires an incorporated association to obtain the Commissioner's approval if the alteration of its rules has effect to change the name of the association. Section 33 of the Act requires an incorporated association to obtain the Commissioner's approval if the alteration of its rules has effect to alter the objects or purposes of the association or the manner in which surplus property of the association must be distributed or dealt with if the association is wound up or its incorporation is cancelled.

Schedule 3 — Fees

[r. 16]

[Heading inserted: Gazette 18 Jun 2019 p. 2079.]

Division 1 — Fees under the Act

[Heading inserted: Gazette 18 Jun 2019 p. 2079.]

	Matter giving rise to fee	Provision of Act	Fee \$
1.	Application for Commissioner’s approval of association’s purpose	s. 4(a)(x)	70.50
2.	Application to Commissioner for incorporation of association adopting model rules	s. 7	160.00
3.	Application to Commissioner for incorporation of association with its own rules	s. 7	198.00
4.	Issuing by Commissioner of replacement certificate of incorporation	s. 20	27.50
5.	Lodging with Commissioner required documents for alteration of incorporated association’s rules if no approval under s. 31 or 33 is needed	s. 30(3)	41.50
6.	Lodging with Commissioner required documents for alteration of incorporated association’s rules if approval under either s. 31 or 33 is needed	s. 30(3)	55.00
7.	Lodging with Commissioner required documents for alteration of incorporated association’s rules if approval under s. 31 and 33 is needed	s. 30(3)	69.00
8.	Application for Commissioner’s leave to be member of management committee	s. 39(2)	44.00

Associations Incorporation Regulations 2016**Schedule 3 Fees****Division 1 Fees under the Act**

	Matter giving rise to fee	Provision of Act	Fee \$
9.	Application for Commissioner's declaration that incorporated association is tier 1 or tier 2 association	s. 65(1)	47.50
10.	Lodging with Commissioner notice of resignation of reviewer or auditor	s. 87(6)	No fee
11.	Application for Commissioner's approval of person as reviewer or auditor	s. 88(2)(c)	42.00
12.	Lodging with Commissioner copy of notice of intention to remove reviewer or auditor from office	s. 89(4)(b)	No fee
13.	Application to Commissioner for order exempting incorporated association from requirements of s. 90(2)	s. 91(1)	52.50
14.	Application to Commissioner for approval for incorporated association to apply for registration or incorporation under other law	s. 93(2)	165.00
15.	Application to Commissioner for amalgamation of 2 or more incorporated associations	s. 102(1)	198.00
16.	Notifying Commissioner of voluntary administration under Corporations Act of incorporated association	s. 120	No fee
17.	Application to Commissioner for approval of distribution plan and cancellation of incorporation	s. 130(1)	82.50
18.	Application to Commissioner for cancellation of incorporation of incorporated association	s. 141(1)	No fee
19.	Application to Commissioner for reinstatement of incorporation	s. 151(1)	No fee

Associations Incorporation Regulations 2016

Fees
Fees under the Act

**Schedule 3
Division 1**

	Matter giving rise to fee	Provision of Act	Fee \$
20.	Inspection of register of incorporated associations	s. 162(1)(a)	21.00
21.	Inspection of document lodged with Commissioner	s. 162(1)(b)	31.50
22.	Obtaining from Commissioner certified copy of, or extract from, register of incorporated associations	s. 162(1)(c)	21.00
23.	Obtaining from Commissioner certified copy of incorporated association's rules	s. 162(1)(c)	44.00
24.	Obtaining from Commissioner certified copy of incorporated association's annual information statement	s. 162(1)(c)	15.80
25.	Obtaining from Commissioner certified copy of any other lodged document to which s. 162(1)(c) applies and not referred to in item 23 or 24	s. 162(1)(c)	11.00
26.	Obtaining from Commissioner copy, or certified copy, of duplicate certificate of incorporation	s. 162(3)	22.00
27.	Lodging with Commissioner notification of incorporated association's address for service	s. 174 s. 203	No fee
28.	Giving notice to Commissioner of incorporated association's change of address	s. 175	No fee
29.	Application to Commissioner for extension of period	s. 30(3) s. 50(3)(b) s. 95(5)(a) s. 96(2) s. 137	49.50

Associations Incorporation Regulations 2016

Schedule 3 Fees

Division 2 Fees under the regulations

	Matter giving rise to fee	Provision of Act	Fee \$
30.	Making application to Commissioner under the Act or lodging other document with Commissioner under the Act if not otherwise referred to in this Schedule		42.00

[Division 1 inserted: Gazette 18 Jun 2019 p. 2079-82.]

Division 2 — Fees under the regulations

[Heading inserted: Gazette 18 Jun 2019 p. 2082.]

	Matter giving rise to fee	Provision of regulations	Fee \$
31.	Lodging with Commissioner annual information statement	r. 15	No fee

[Division 2 inserted: Gazette 18 Jun 2019 p. 2082.]

Schedule 4 — Infringement notice offences and modified penalties

[r. 17(1) and (2)]

Offence under the Act	Modified penalty \$
s. 35(1) Incorporated association failing to keep and maintain an up-to-date copy of the rules	300
s. 35(2) Incorporated association failing to make the copy of the rules available for inspection	300
s. 41(3) Former management committee member failing to deliver documents and records	500
s. 50(1) Incorporated association failing to hold annual general meeting in each calendar year	400
s. 50(3) Incorporated association failing to hold annual general meeting within 6 months after end of financial year or other allowed period	300
s. 53(1) Incorporated association failing to maintain register, or record change in membership, in accordance with requirements	300
s. 54(1) Incorporated association failing to make register available for inspection	300
s. 58(2) Incorporated association failing to maintain record relating to management committee members or others	300
s. 58(3) Incorporated association failing to make record available for inspection	400
s. 60(6) Relevant office holder failing to comply with Commissioner's direction to convene a general meeting	400
s. 66 Incorporated association failing to keep financial records in accordance with requirements	300
s. 67 Incorporated association failing to retain financial records for 7 years	300
s. 79 Reviewer or auditor failing to retain working papers for 7 years	400

Associations Incorporation Regulations 2016

Schedule 4 Infringement notice offences and modified penalties

Offence under the Act		Modified penalty \$
s. 85(1)	Officer of incorporated association failing to allow reviewer or auditor reasonable access to association's books	300
s. 157(2)	Incorporated association failing to produce document as required by Commissioner's written notice	300
s. 174(1)	Incorporated association failing to lodge with Commissioner notice of address for service	100
s. 175(1)	Incorporated association failing to give notice to Commissioner of change of address	100
s. 179	Person that is not incorporated making use of name or title ending with "Incorporated"	200

Schedule 5 — Prescribed forms

[r. 17(5)]

Form 1 — Infringement notice

<i>Associations Incorporation Act 2015</i>		Infringement notice no.
Infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Incorporated association name _____	
	Address _____	
		Postcode _____
Alleged offence	Description of offence _____	
	<i>Associations Incorporation Act 2015 s.</i>	
	Date _____ / _____ /20	Time _____ am/pm
	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 2015</i>’) to: Approved Officer — <i>Associations Incorporation Act 2015</i> Department of Commerce Locked Bag 14 Cloisters Square Perth WA 6850</p> <p>In person: Pay the cashier at: Department of Commerce 140 William Street Perth WA 6000</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, some or all of the following action may be taken — your driver’s licence may be suspended, your vehicle licence may be</p>	

	<p>suspended or cancelled, you may be disqualified from holding or obtaining a driver's licence or vehicle licence, your vehicle may be immobilised or have its number plates removed, your details may be published on a website, your earnings or bank accounts may be garnished, and your property may be seized and sold.</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>
	<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>

[Form 1 amended: SL 2020/163 r. 4.]

Form 2 — Withdrawal of infringement notice

<i>Associations Incorporation Act 2015</i>		Withdrawal no.
Withdrawal of infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Incorporated association name _____	
	Address _____	
		Postcode _____
Infringement notice	Infringement notice no. _____	
	Date of issue / /20	
Alleged offence	Description of offence _____	
	<i>Associations Incorporation Act 2015 s.</i> _____	
	Date / /20	Time am/pm
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.	
	If you have already paid the modified penalty for the alleged offence you are entitled to a refund. * Your refund is enclosed.	
<i>[*delete whichever is not applicable]</i>	<i>or</i> * 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 2015</i> Department of Commerce Locked Bag 14 Cloisters Square Perth WA 6850	
	Signature _____	/ /20



Notes

This is a compilation of the *Associations Incorporation Regulations 2016* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. [For provisions that have not yet come into operation see the uncommenced provisions table.](#)

Compilation table

Citation	Published	Commencement
<i>Associations Incorporation Regulations 2016</i>	24 Jun 2016 p. 2407-77	1 July 2016 (see r. 2 and <i>Gazette</i> 24 Jun 2016 p. 2291-2)
<i>Associations Incorporation Amendment Regulations 2017</i>	10 Mar 2017 p. 1565-6	r. 1 and 2: 10 Mar 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Mar 2017 (see r. 2(b))
<i>Associations Incorporation Amendment Regulations (No. 2) 2017</i>	8 Dec 2017 p. 5842-3	r. 1 and 2: 8 Dec 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Dec 2017 (see r. 2(b))
<i>Commerce and Industrial Relations Regulations Amendment (Fees and Charges) Regulations 2018 Pt. 2</i>	25 Jun 2018 p. 2325-53	1 Jul 2018 (see r. 2(b))
<i>Commerce Regulations Amendment (Fees and Charges) Regulations 2019 Pt. 2</i>	18 Jun 2019 p. 2077-115	1 Jul 2019 (see r. 2(b))
<i>Commerce Regulations Amendment (Infringement Notices) Regulations 2020 Pt. 2</i>	SL 2020/163 25 Sep 2020	29 Sep 2020 (see r. 2(b) and SL 2020/159 cl. 2(a))
<i>Commerce Regulations Amendment (COVID-19 Response) Regulations (No. 2) 2020 Pt. 2</i>	SL 2020/196 27 Oct 2020	28 Oct 2020 (see r. 2(b))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Subsidiary legislation as made on the WA Legislation website.*

<u>Citation</u>	<u>Published</u>	<u>Commencement</u>
Commerce Regulations Amendment (Fees and Charges) Regulations 2021 Pt. 3	SL 2021/86 21 Jun 2021	1 Jul 2021 (see r. 2(b))

