



AGM & CONSTITUTION ADVICE



TO HOLD AN AGM OR POSTPONE

Clubs will need to refer to their constitutions in reference to holding AGM's and/or Committee meetings and alternatives in the current climate

Consider if it is imperative that the club hold their AGM at this time, or whether it can hold off until after the current crisis has subsided or a more clear future is established.

Club Constitutions should provide guidance as to the latest a club can postpone their AGM, in line with the end of their financial year.

If necessary, clubs can apply to Consumer Protection for an extension to avoid breaching the incorporated associations' legislation.

Link to apply for permission to postpone :

<https://www.commerce.wa.gov.au/publications/application-requesting-further-time-hold-annual-general-meeting-agm>

CONSTITUTION STATEMENTS RE USE OF TECHNOLOGY TO ATTEND COMMITTEE MEETINGS & AGM'S

Both TW Template Rules & DMIRS Model Rules have provisions around "Use of Technology to be present at general meetings" – PROVIDED clubs have not made any changes to these sections!

This would allow a club, if they wished to do so, to still hold their AGM/Committee Meetings in the current circumstances, through the use of technology. It is recommended that;

- Should Committee meetings proceed via technology the first action of the meeting should be for the committee to resolve that the meeting can occur in this manner, before any other business is carried out
- Should AGMs proceed via technology the notice of general meeting should explain that the meeting will be held via technology (specifying the technology, e.g. zoom, skype or a conference call), and explain that this is necessary to comply with government restrictions

If a club has not used the above templates, has changed these sections, or has no reference to 'use of technology' (or similar wording), it is recommended that;

- For committee meetings to be held by technology, the first action of the meeting should be for the committee to resolve that the meeting can occur in this manner, before any other business is carried out
- For general meetings;
 - The club should in the first instance investigate whether it is possible to hold the meeting at a venue large enough to ensure compliance with social distancing measures and relevant government restrictions in place at the time
 - If the meeting is to be held via technology, this may not be in compliance with the club's constitution. In this respect, the notice of general meeting should explain that the meeting will be held via technology (specifying the technology, e.g. zoom, skype or a conference call), and explain that this is necessary to comply with government restrictions.
- Once this crisis is over, strict compliance with the club's constitution is required

CONSUMER PROTECTION ADVICE TO CLUBS

The Department has provided some guidance on this issue, which clubs should refer to:

<https://www.commerce.wa.gov.au/consumer-protection/covid-19-coronavirus-advice-incorporated-associations-and-clubs>

TENNIS WEST TEMPLATE CONSTITUTION RE COMMITTEE MEETINGS & AGM'S

**Please ensure you refer to your club's specific constitution and related Committee Meeting and AGM clauses to determine your clubs compliance*

41. Committee meetings

1. The committee must meet at least 4 times in each year on the dates and at the times and places determined by the committee.
2. The date, time and place of the first committee meeting must be determined by the committee members as soon as practicable after the annual general meeting at which the committee members are elected.
3. Special committee meetings may be convened by the president or at least 50% of committee members.

42. 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 subclause (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.

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.
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;
 - 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 ordinary committee members;
 - d) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act.
4. Any other business of which notice has been given in accordance with this Constitution may be conducted at the annual general meeting.

54. Use of technology to be present at general meetings

1. The presence of a member at a general meeting may be arranged at the discretion of the Association by being simultaneously in contact by a means of instantaneous communication (both audio and visual).
2. A member who participates in a general meeting as allowed under sub-clause (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.

DMIRS MODEL RULES RE COMMITTEE MEETINGS & AGM'S

**Please ensure you refer to your club's specific constitution and related Committee Meeting and AGM clauses to determine your clubs compliance*

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.
2. The date, time and place of the first committee meeting must be determined by the committee members as soon as practicable after the annual general meeting at which the committee members are elected.
3. Special committee meetings may be convened by the chairperson or any 2 committee members.

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.

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 six 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 four months after the end of the financial year.
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;
 - 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.

DMIRS MODEL RULES RE COMMITTEE MEETINGS & AGM'S (cont.)

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.



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