

Government of **Western Australia**
Department of **Commerce**
Consumer Protection

MAKING THE CHANGE

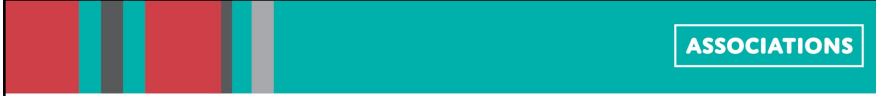
ASSOCIATIONS INCORPORATION ACT 2015

PRESENTER: ROB SPINKS
Associations and Charities Branch

ASSOCIATIONS

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TODAYS TOPICS

- Effect of new laws on existing incorporated associations
- Overview of changes
- Prescribed Model Rules
- Transitional requirements

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THE NEW LAW

- Anticipated that the Associations Incorporation Act 2015 and regulations will come into effect on 1 July 2016.
- Applies to over 18,000 not for profit groups
- Replaces existing Associations Incorporation Act 1987.

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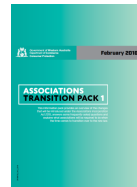
KEY FACTS

- No need to reapply for incorporation.
- Committee membership unchanged
- Membership unchanged
- Applications in process accepted

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OVERVIEW OF CHANGES

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RULES OF ASSOCIATION – SCHEDULE 1

- All associations will need to have all of the Schedule 1 requirements in the rules.
- Schedule 1 will be updated to include requirements to have provisions regarding:
 - dispute resolution processes;
 - financial year; and
 - distribution of surplus property.

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ANNUAL GENERAL MEETING

- Still required to be held once in every calendar year.
- Associations will have 6 months after the end of the financial year to hold the AGM (subject to any other requirements in the rules).
- An application for an extension will still be required to hold the meeting outside this timeframe.

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RECORD KEEPING

- Association must give each new member a copy of the rules when they join.
- Still required to keep up to date Register of Members, Record of Office Holders and Rules.
- Register of members may include email address in place of residential or postal address (subject to any other requirements in the rules).


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FINANCIAL RECORDS AND REPORTING

- Still required to keep records that explain the financial transactions and present annual accounts at each AGM.
- Different requirements depending on revenue Tier.
- Tier 1 - \$0 - \$250,000 – no audit required.
- Tier 2 - \$250,000 - \$1M – accounts to be reviewed.
- Tier 3 – over \$1M – accounts to be audited.

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COMMITTEE DISCLOSURES OF INTEREST


- Still required to disclose any interests in contracts being considered by the Committee.
- Requirements will apply to all Material Personal Interests.
- In addition to committee meeting, interest must also be disclosed at next general meeting.
- Committee member with interest will be required to leave the room during discussion and voting.

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WHAT'S NEW?

Committee duties
Dispute resolution
Commissioner's powers
Amalgamations
Notification requirements

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COMMITTEE AND OFFICER DUTIES

- Existing common law duties will be codified in the Act.
- Committee members must exercise their duty:
 - with care and diligence;
 - in good faith and for proper purpose;
 - not misuse their position; not misuse information obtained;
 - not to allow the association to trade when insolvent.

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DISPUTE RESOLUTION

- Internal member disputes that cannot be resolved using the processes in the rules can be heard by the State Administrative Tribunal (SAT) who can:
 - Refer the dispute for mediation; or
 - Give orders:
 - directing that rules to be followed;
 - enforcing the rights and obligations of association and members.

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OTHER NEW PROVISIONS


- Commissioner's powers
- Amalgamations
- Notification requirements

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PRESCRIBED MODEL RULES

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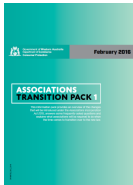
MODEL RULES

- Included in the Regulations
- Not compulsory to adopt. Associations can still develop their own rules if they wish.
- At the end of the 3 year transition period, if association rules do not comply (ie Schedule 1 item missing) relevant clause of the Model Rules will apply.

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TRANSITIONAL REQUIREMENTS

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ADDRESS NOTIFICATION

- All incorporated associations must provide the Department of Commerce with details of their current address by 29 September 2016.
- Associations will be able to submit this information online.

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UPDATING THE RULES

- Rules must be amended to comply with new law by 1 July 2019.
- All association rules must include provisions for all Schedule 1 matters.
- During the 3 year transition period the committee may pass necessary changes at a meeting (without convening general meeting of members)

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UPDATING THE RULES

- Use model rules or re-write
- Lodge with Consumer Protection
- Include notice of the alterations with the notice for the next AGM sent to all members.
- Future changes passed in usual way

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FINDING MORE INFORMATION?


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RESOURCES AND PUBLICATIONS

- Transition pack
- Associations newsletter
- Online resources
- Information sessions



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NEW LAW REFERENCES

The new law: www.slp.wa.gov.au
🔗 Online Legislation Databases → Acts in force

Draft prescribed model rules:
www.commerce.wa.gov.au/modelrules

Regulations: not currently available

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THANK YOU

Department of COMMERCE
Consumer Protection Division

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