

South Coast Natural Resource Management Inc

Ongoing compliance checklist – Associations Incorporation Act 2015 (WA)

Notes:

- This checklist provides an overview of the regulatory requirements applicable to the day-to-day operation of incorporated associations under the *Associations Incorporation Act 2015 (WA)* (**Act**).
- This checklist does **not** cover:
 - » requirements for the association's rules or constitution to comply with the Act – refer to the separate guidance note regarding constitutions. All constitutions must be amended to comply with the Act by 1 July 2019;
 - » applications for incorporation, transfers of incorporation, amalgamations, administration and winding up, cancellation of incorporation, investigations, etc;
 - » the scope of the duties of officers of the Association; or
 - » requirements arising under any other applicable legislation, such as requirements arising under the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)* and requirements in relation to deductible gift recipient status arising under tax legislation.
- We can advise separately as required on any other matters falling outside this checklist.

References:

- Sections refer to the *Associations Incorporation Act 2015 (WA)*.
- Regulations refer to the *Associations Incorporation Regulations 2016 (WA)*.
- References to the committee refers to the managing committee, or board, of the Association.

No	Item	Reference	Status
1.	<p>The association should register online through AssociationsOnline (https://www.commerce.wa.gov.au/consumer-protection/associations-online), as this is the preferred method for communicating with the Commissioner.</p> <p>All notifications of changes of constitution, change of name, information statements can be submitted</p>		

No	Item	Reference	Status
	through AssociationsOnline.		
2.	The Association must be carried on for one or more of the eligibility criteria for incorporation.	Section 17(1)(a) Section 4(a)	
3.	The Association must at all times have at least 6 members with full voting rights under its constitution.	Section 17(1)(b)	
4.	The Association must not make a financial profit for its members.	Section 17(1)(c)	
5.	No requirement for a common seal.	Section 13(1)(a)	
6.	The Association must maintain an up-to-date copy of the constitution and on request by a member, give a copy of the rules to a member.	Sections 35(1) and (2) and 36(1)	
7.	Each person who becomes a member of the Association must be given a copy of the constitution – this may be done by email or by notifying the member of a website from which the constitution may be downloaded. A member who requests a hard copy of the constitution must be given a hard copy.	Section 36(1)(b) and regulations 10(1) and 10(2)	
8.	In addition to the requirements for the amendment of a constitution the following changes require the approval of the Commissioner: <ul style="list-style-type: none"> • change of name; • change of objects; • change of the manner in which surplus property is to be distributed. 	Section 31(1) Section 33(1)(a) Section 33(1)(b)	
9.	A committee member with a material personal interest in a matter being considered at a committee meeting must: <ul style="list-style-type: none"> • as soon as the committee member becomes aware of the interest, disclose the nature and extent of the interest to the committee, and that disclosure must be recorded in the minutes; and • disclose the nature and extent of the interest at the next general meeting of the Association. 	Sections 42(1), 42(2) and 42(6) (See exceptions under section 42(3))	
10.	A committee member with a material personal interest in a matter being considered at a committee meeting must not:	Section 43(1) (See exceptions under section 43(2))	

No	Item	Reference	Status
	<ul style="list-style-type: none"> be present while the matter is being considered at the meeting; or vote on the matter. 	and impact if this results in no quorum under section 43(3))	
11.	Duties of committee members (note the wide definition of "officer", may result in duties also applying to people who are not committee members):	Section 3	
	<ul style="list-style-type: none"> Duty of care and diligence; Duty of good faith and purpose; Duty not to improperly use the position; Duty not to improperly use information; Duty to prevent insolvent trading. 	Section 44 Section 45 Section 46 Section 47 Section 127	
12.	<p>A constitution can only be amended by special resolution (being 3/4 of the members who cast a vote at the meeting).</p> <p>Written notice of the resolution and the time and place of the meeting must be given to all members.</p>	Section 30(1) Section 51	
13.	Notice of the new constitution must be lodged with the Commissioner within one month of the passing of the special resolution. This can be done through AssociationsOnline.	Section 30(3)	
14.	The new constitution only takes effect once lodged with the Commissioner.	Section 30(6)	
15.	AGM must be held within 6 months of the end of financial year (or a longer period allowed by the Commissioner).	Section 50(3)	
16.	<p>The Association must maintain a register of members.</p> <p>The register of members must include each member's name and a residential, postal or email address.</p>	Section 53(1)(a) Section 53(2)	
17.	Any changes to a member's details must be made to the register of members within 28 days.	Section 53(1)(b)	
18.	<p>The Association must at the request of a member, make the register of members available for inspection by the member.</p> <p>The member may make a copy of, or take an</p>	Section 54(1), (2)	

No	Item	Reference	Status
	<p>extract of the register, but is not entitled to remove the register.</p> <p>Note restrictions on usage (section 57).</p>		
19.	<p>A member may request in writing a copy of the register of members.</p> <p>The Association may levy a charge for this copy. Subject to payment of this charge by the member, the Association must provide the copy to the member. The copy may be given by email.</p>	Section 56(1), (3) and (4) and regulation 11	
20.	<p>The Association must maintain a register of office holders.</p> <p>The register of office holders must include:</p> <ul style="list-style-type: none"> • each office holder's name and address; • the name and address of each person authorised to use the common seal; • the name and address of any trustee. 	<p>Section 58(2)</p> <p>Note "office holder" refers to members of the committee and any other person holding office under the Association's constitution.</p>	
21.	<p>The Association must at the request of a member, make the register of members available for inspection by the member.</p> <p>The member may make a copy of, or take an extract of the register, but is not entitled to remove the register.</p> <p>Note restrictions on usage (section 58(5)).</p>	Section 58(3), (4)	
22.	<p>Tier 1 Association – revenue (based on accounting standards) of less than \$250,000.</p> <p>Tier 2 Association – revenue (based on accounting standards) of between \$250,000 and \$999,000.</p> <p>Tier 3 Association – revenue (based on accounting standards) of between \$1,000,000 or more.</p> <p>This is based on the relevant Tier for the last financial year (sections 70(1), 73(1), 76).</p> <p>Applicable for financial years from 1 July 2016 (section 205(2)).</p>	Section 64	
23.	<p>The Association must keep financial records that:</p> <ul style="list-style-type: none"> • correctly record and explain its transactions and financial position and performance; and • enable true and fair financial statements to 	Section 66	

No	Item	Reference	Status
	be prepared.		
24.	Financial records must be maintained for 7 years after the relevant transactions have occurred.	Section 67	
25.	<p>Tier 1 financial reporting</p> <p>Within 6 months after the end of the financial year, the Tier 1 Association must prepare financial statements that give a true and fair view of the Association's financial position and performance.</p> <p>The financial statements may be prepared on a cash basis or an accrual basis.</p>	Section 68	
26.	The Tier 1 Association must present the financial statements for consideration at the AGM.	Section 70(2)	
27.	The members at a general meeting may require the Tier 1 Association to have the financial statements audited or reviewed.	Section 69	
28.	<p>Tier 2 financial reporting</p> <p>Within 6 months after the end of the financial year, the Tier 2 Association must prepare financial statements that give a true and fair view of the Association's financial position and performance and complies with the accounting standards.</p>	Section 71	
29.	The financial statements of a Tier 2 Association must be reviewed.	Section 72(1)	
30.	The members at a general meeting may require the Tier 2 Association to have the financial statements audited.	Section 72(3)	
31.	The Tier 2 Association must present the financial statements and review report for consideration at the AGM.	Section 73(2)	
32.	<p>Tier 3 financial reporting</p> <p>Within 6 months after the end of the financial year, the Tier 3 Association must prepare financial statements that give a true and fair view of the Association's financial position and performance and complies with the accounting standards.</p>	Section 74	
33.	The financial statements of a Tier 3 Association must be audited.	Section 75	

No	Item	Reference	Status
34.	The Tier 3 Association must present the financial statements and audit report for consideration at the AGM.	Section 76	
35.	The fees of the reviewer or auditor are payable by the Association.	Section 84	
36.	A committee member must allow a reviewer or auditor access at all reasonable times to the books of the Association.	Section 85	
37.	<p>A reviewer or auditor is entitled (and the Association must enable):</p> <ul style="list-style-type: none"> • to receive all notices of meeting; • attend any general meeting; and • be heard at any general meeting. 	Section 86	
38.	<p>The reviewer or auditor may only be appointed by a resolution of the members at a general meeting. The auditor/reviewer holds office until (amongst other circumstances) resigns or is removed – ie an annual appointment is not required.</p>	Section 87(1), (3)	
39.	The committee has the right to appoint the reviewer or auditor if no member appointment has been made and the financial statements need review or audit. This appointment last until the relevant report has been presented at the AGM.	Section 87(2), (4)	
40.	<p>The Association must lodge with the Commissioner an address for service.</p> <p>Any changes to the address of the Association must be notified to the Commissioner within 28 days. This can be done through AssociationsOnline.</p>	Section 174 Section 175 Section 203 Regulation 19	
41.	<p>The Association must submit annual information statements to the Commissioner within 6 months after the end of each financial year. This can be done through AssociationsOnline – the form can be downloaded at https://www.commerce.wa.gov.au/publications/information-statement-associations.</p> <p>This information statement must detail the following:</p> <ul style="list-style-type: none"> • confirmation: <ul style="list-style-type: none"> » of the association’s address; and » if different from that address, of the 	Section 156 and regulation 15.	

No	Item	Reference	Status
	<p>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;</p> <ul style="list-style-type: none"> • confirmation that the Association continues to have at least 6 members who have full voting rights under the association's rules; • the date on which the Association held its most recent annual general meeting; • the revenue of the Association for the most recent financial year. 		