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Establishing your club rules



All members of clubs abide by club rules both written and unwritten. These rules are expressed in many ways, but the most important way is through a formal written set of club rules or in the past a constitution.

Let's clarify a few things.

When do you really need club rules?

- Your club may have been active for a while and your members think it is appropriate to adopt written club rules
- Your members think it appropriate for the club to be legally recognised in its own right by becoming incorporated under Western Australian law.

Many groups decide to register as a not-for-profit incorporated association because it enables them to create a separate legal entity through which to conduct their activities. There are several significant advantages:

- The individual members limit their exposure to personal legal liability
- Bank accounts can be opened in the name of the association
- The association can apply for government grants and it can hold property.

What are club rules?

Club rules are a basic set of rules for the daily running of your club or group. They detail the name, objects, methods of management and other conditions under which your club or group operates, and generally the reasons for its existence. Club rules also regulate the relationship between members by setting out the basis for working with other co-members.

Why do we need club rules?

The club rules:

1. Explain to members and non-members what your group is about
2. Provide guidelines for the daily running of your group
3. Help to sort out internal problems
4. Are legal necessities if your group wishes to become incorporated. One of the pre-requisites for incorporation are a set of rules complying with the *Associations Incorporation Act 2015*.
5. Can help in seeking resources from other organisations, such as a government agency
6. Allow you to apply for a liquor licence. If your group intends to apply for a liquor licence under section 49 of the *Liquor Control Act 1988*, it will generally need to be incorporated.

What level of detail should you include?

At a sporting club level, the rules need to **be kept as simple as possible**. Club members need to be able to read and understand the club rules and they should be written in clear simple language.

A complicated hard-to-read set of rules can cause unnecessary angst and misunderstandings that can lead to conflict. In fact, the club rules should be extremely simple, containing only the basic outline to explain who you are, what you are set up for and important management matters.

The extent to which you add detail in the rules depends on the needs or formality at the time of setting up the group, and on your group's thoughts about the projected needs of the group as it grows.

There are certain items that must be included in Club rules. These are included in the following Model Rules and Guidance Notes <http://www.commerce.wa.gov.au/publications/model-rules-associations-2016> and can also be found in Schedule 1 <http://www.commerce.wa.gov.au/sites/default/files/atoms/files/assocruleschecklist.pdf> on page 141 of the Act – Division 1 and if required Division 2.

What to avoid

Be sure to separate the club rules that set the club up from the more operational day-to-day tasks involved in running the club. Fundamentally the club rules cover:

- The name of the club
- The objects or purposes of the club
- The quorum for a general meeting of members of the club
- The quorum for a meeting of the management committee of the club
- If relevant, the period of the first financial year of the club.

Once established in the club rules, these things can only be changed by taking the changes to the members of the club and gaining their approval.

For things that are more operational and deal with issues and items that may be required to be changed fairly regularly by the committee, the club can establish regulations or by-laws.

For instance, you would not include the membership charges or club colours in the rules. A clause in the rules empowering the committee to make, alter or delete regulations or by-laws is important.

Developing a set of club rules.

For a club to establish its rules it is recommended that they establish a sub-committee to carry out the task.

To assist clubs in this the Western Australian Government, through the Department of Mines, Industry Regulations and Safety – Consumer Protection, has developed a model rules for clubs to use as a guide or adopt, as is, adding the club information.

The following is the model rules. It contains all the information required in a set of rules under the *2015 Act* including model clauses and explanatory and guidance notes.

Please note that where the word association/s is used in the text it refers also to club/s.

<http://www.commerce.wa.gov.au/publications/model-rules-associations-2016>

Becoming incorporated

If your club members decide that the club should become incorporated, the following is a guide to the incorporation process.

The Western Australian Government, through the Department of Mines, Industry Regulations and Safety – Consumer Protection has developed a comprehensive operational guide, *INC. A Guide for Incorporated Associations in Western Australia*.

www.commerce.wa.gov.au/consumer-protection/inc-guide

The guide:

- Provides information on the process of incorporation in Western Australia and highlights key legal provisions under the *Associations Incorporation Act 2015*
- Introduces the various aspects of managing an association, including conducting meetings, employing staff and engaging volunteers
- Is a reference for good governance practices
- Includes links to other sources of relevant information.

The key step-by-step guide to incorporation is:

1. Obtain members' approval for incorporation
2. Determine a suitable name and check that the group is eligible for incorporation
3. Develop your own set of rules or adopt the model rules
4. Hold a meeting to formally pass a resolution to adopt the rules and approve the proposed name of the association
5. Complete and submit the application.

1. Members approval

If the members agree that the organisation is to become an incorporated association they need to:

- Authorise one or more members to prepare and submit the application for incorporation
- Decide on a possible name for the association
- Decide on the aims of the association
- Elect a member or committee to draft the rules.

2. Determine a suitable name and eligibility

- Checking the name
 - It is recommended that you first check that the proposed association name is available for registration. Although this step is not compulsory, it may save you time and effort later. The Commissioner for Consumer Protection can reject a name if it is:
 - already in use;
 - offensive or undesirable;
 - likely to mislead the public; or
 - likely to be confused with the name of an existing body corporate or registered business name.

- Associations, at no charge, may confirm the availability of their proposed name by lodging an online application to the Department of Mines, Industry Regulations and Safety – Consumer Protection. The Consumer Protection section of the department will notify you in writing whether or not the name is available.
- Please be aware that while a name may be available for use at the time of your enquiry it cannot be reserved or protected in any way. Final approval of the name will be subject to a formal assessment of the application for incorporation.
- Approval of purpose
- It is important to make sure that the objects of your association are consistent with the Act. If the purpose of the association is not one which is specified in section 4 of the Act, the association can only be incorporated if the purpose is approved by the Commissioner under section 4(a)(x).
 - This section allows for incorporation ‘for any other purpose approved by the Commissioner’
- There is a fee payable for this application.

3. Develop a set of rules

You may choose to adopt the model rules (as detailed above) or draft your own rules, however the rules must:

- Be consistent with the requirements of the Act;
- Provide for all the matters set out in Schedule 1 of the Act www.commerce.wa.gov.au/sites/default/files/atoms/files/assocruleschecklist.pdf (that can also be found on page 141 of the Act); and
- Comply with any taxable status provisions the group is seeking. This is rare for sports clubs.

When developing your own set of rules for the association you may wish to follow a systematic and democratic process such as:

1. Establish a sub-committee and draft the rules using the model rules as a guideline
2. Check the Schedule 1 requirements of the Act are met
3. Circulate the rules to the entire membership for consideration, discussion and feedback. You may also seek legal, tax or other professional advice.
4. Decide on any changes and redraft the rules
5. Repeat points 3 and 4 until a final draft is produced
6. Call a meeting of the association’s membership to formally adopt the final set of rules
7. Send the rules to Consumer Protection along with the other documents for incorporation under the Act.

4. Hold a meeting to formally pass a resolution to adopt the rules and approve the proposed name of the association

After a draft set of rules has been developed, a meeting to adopt the rules of the association and approve the proposed name should be held. The motions should be formally moved, seconded and recorded in the minutes.

5. Complete and submit the application

The application for incorporation can be submitted online at the Department of Mines, Industry Regulations and Safety – Consumer Protection. The online application form requires:

- The name of the association (including the word ‘Inc’ or ‘Incorporated’)
- The main purpose of the association
- Details of the applicant
- A copy of the rules developed by the association or a statement that the group will be adopting the Model Rules. If an association has developed its own rules it will also be required to complete a table identifying the Schedule 1 matters within the rules.
- Necessary information about the proposed association name, objects, quorums and financial year.

Once all information is entered and uploaded, payment can be made using a secure payment system.

When submitting your application to Consumer Protection remember to:

- Complete the application in full and sign the declaration
- Pay the correct fee
- Attach a complete copy of the association’s rules
- Keep a copy of all documents submitted. Consumer Protection does not provide a final copy to the association.

Just be careful!

This booklet must not be relied on as legal advice. For more information refer to the complete *Associations Incorporation Act 2015* and *Regulations*, available from the State Law Publisher and refer to the *INC. A Guide for Incorporated Associations in Western Australia* found at www.commerce.wa.gov.au/consumer-protection/inc-guide

Acknowledgment – In the redrafting of this booklet in July 2016 much of the content used has been developed by the Department of Mines, Industry Regulations and Safety – Consumer Protection.