



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

# MAKING THE CHANGE

ASSOCIATIONS INCORPORATION ACT 2015

PRESENTER: XXX  
BRANCH

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## TODAY'S TOPICS

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

## THE NEW LAW

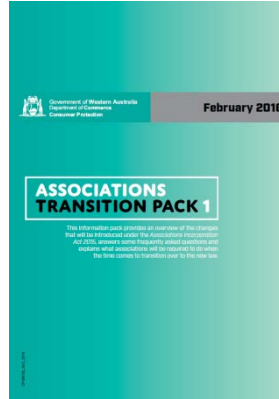
- Anticipated that the Associations Incorporation Act 2015 and regulations will come into effect on 1 July 2016.
- Applies to over 18,000 not for profit groups
- Replaces existing Associations Incorporation Act 1987.

## KEY FACTS

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

# OVERVIEW OF CHANGES

## *Transition Pack 1 Page 7*



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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.

## 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.

## RECORD KEEPING

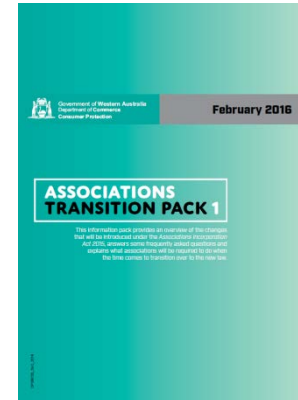
- Association must give each new member a copy of the rules when they join.
- Still required to keep up to date Register of Members, Record of Office Holders and Rules.
- Register of members may include email address in place of residential or postal address (subject to any other requirements in the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



# 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.

*Transition Pack 1*  
*Page 3 to 5*



## 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.

# WHAT'S NEW?

Committee duties  
Dispute resolution  
Commissioner's powers  
Amalgamations  
Notification requirements

## *Transition Pack 1 Page 7*



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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.

## DISPUTE RESOLUTION

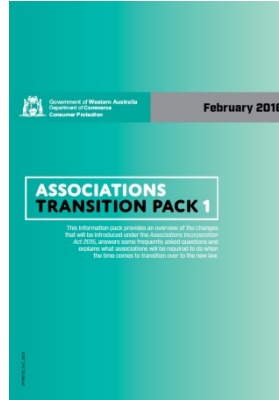
- Internal member disputes that cannot be resolved using the processes in the rules can be heard by the State Administrative Tribunal (SAT) who can:
  - Refer the dispute for mediation; or
  - Give orders:
    - directing that rules to be followed;
    - enforcing the rights and obligations of association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

## OTHER NEW PROVISIONS

- Commissioner's powers
- Amalgamations
- Notification requirements

# PRESCRIBED MODEL RULES

## *Transition Pack 1* *Page 6*



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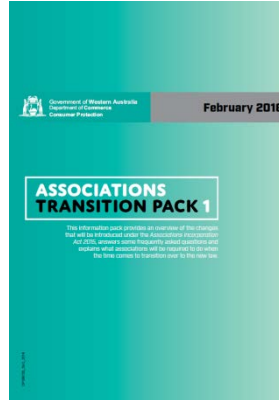
## MODEL RULES

- 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.



# TRANSITIONAL REQUIREMENTS

## *Transition Pack 1 Page 2 & 6*



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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.

## 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)

## 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

# FINDING MORE INFORMATION?

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## RESOURCES AND PUBLICATIONS

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



## NEW LAW REFERENCES

The new law: [www.slp.wa.gov.au](http://www.slp.wa.gov.au)

🖱️ Online Legislation Databases → Acts in force

Draft prescribed model rules:

[www.commerce.wa.gov.au/modelrules](http://www.commerce.wa.gov.au/modelrules)

Regulations: not currently available

## ASSOCIATIONS

THANK YOU

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