



Form 5

This form is effective from September 2023

Notice of special resolution to change the rules

Associations Incorporation Act 2015 s 30

Please read this information before completing this form

ABOUT THIS FORM

Use this application form to lodge the changes made to an incorporated association's rules (also commonly known as the constitution) by special resolution of its members in accordance with the *Associations Incorporation Act 2015* (the Act).

Lodgement period:

Within one (1) month after the meeting where the rule changes were passed by special resolution

RELATED INFORMATION

Changing the rules

- An incorporated association can only change its rules by passing a special resolution at a general meeting of members, not at a **management committee meeting**.
- For the changes to be validly passed as a special resolution:
 - written notice stating date, time and place of the meeting, the proposed special resolution that is to be voted and a copy of the rule amendments must be provided to all members in accordance with the existing rules;
 - a quorum must be present at the meeting; and
 - at least 75% of the members that cast a vote must be in favour of the resolution/changes. (This may include postal or proxy votes if the current rules allow)
- Before the changes are presented to members to vote on, it's important to check that the amended rules, if accepted, will continue to provide for the following mandatory requirements:
 - the name of the association,
 - the objects or purposes of the association;
 - the quorum for committee and general meetings;
 - a not-for-profit clause; and
 - all of the matters set out in [schedule 1](#) of the Act (listed in section D)
- The Departments publication [Rules Workbook](#) can assist with reviewing the rules and the procedure for adopting a new set of rules or amendments.

Changing the name:



- When seeking to change the association's name is important to appreciate that the new name may be refused in certain circumstances, including where:
 - it is considered to be offensive or undesirable; or
 - it is likely to mislead the public as to the objective or purposes of the association; or
 - it is identical or resembles the name of an existing incorporated association and the public would likely be misled; or
 - it is the same as, or likely to be confused with a registered business, company or co-operative name; or
 - the name or words in the name are restricted by the Regulations.
- If new name is considered suitable for use, the association will be asked to return its original certificate of incorporation or confirm that the original has been lost or destroyed before a Certificate of incorporation on change of name will be issued.

FEES

Visit our [fees forms and online transactions](#) page for current application fees. GST is not payable on these fees.

HOW TO LODGE AND PAY

You can lodge online using our [AssociationsOnline](#) portal or else complete this form and return it, together with any supporting documents, using one of the following methods

| | |
|---|--|
|  In person | Pay in person using cash, cheque, money order or card (debit or credit) via our customer service counter at: Level 1, Mason Bird Building, 303 Sevenoaks Street CANNINGTON Hours: 8:30 am to 4:30 pm (weekdays) |
|  Post | Pay by mail with cheque or money order to: Department of Mines, Industry Regulation and Safety Associations & Charities Branch Locked Bag 100 EAST PERTH 6892 Make cheques and money orders payable to “ <i>Department of Mines, Industry Regulation and Safety</i> ” |

NOTE: From September 2023, the Department will not accept payments by credit card for mailed forms. Card payments can only be made in person at our cashing services.

WHAT HAPPENS NEXT

- The form and supporting documents will be reviewed. The contact person will be notified in writing if further information is needed.
- This form may not be processed if it:
 - is incomplete or is not completed correctly
 - is received without payment;
 - is not accompanied by the necessary supporting documents; and
 - it is lodged more than one month after the changes were voted on.
- If accepted, the contact person will be advised of the date that the changes take effect.
- If any change occurs in the provided information, notify the Department as soon as possible.

PRIVACY

The Department of Mines, Industry Regulation and Safety is collecting and holding information supplied for the purposes of the *Associations Incorporation Act 2015* (the Act).

In accordance with the Act, a copy of this form and any documents lodged with will be available for inspection and purchase by the public upon payment of a prescribed fee. In other instances, information on this form can be disclosed without your consent where authorised or required by law.

CONTACT

For assistance with completing this form, or information about the progress of an application, contact the Associations and Charities Branch by:

Telephone **1300 30 40 74 or (08) 6552 9300** (8:30 am to 4:30 pm weekdays)

Email associations@dmirs.wa.gov.au

Website www.dmirs.wa.gov.au/associations

The above information is intended as a guide only and is included to assist you in completing and lodging this form. This page is not part of the form. If required, professional advice should be obtained regarding the matters dealt with in this form



FORM 05

Notice of special resolution to change the rules

Associations Incorporation Act 2015 s 30

Use this form to lodge the changes made to an incorporated association's rules (also commonly known as the constitution) by special resolution of its members in accordance with the *Associations Incorporation Act 2015* (the Act).

Instructions

- Type directly into this form electronically before printing and signing or else complete by hand using blue or black pen and print in BLOCK letters.
- Complete Sections A, B and E in every case.
- Associations using the Prescribed Model Rules without modification, must complete Section C
- Associations using Own rules, or customised prescribed model rules must complete Section D and attach a full copy of the rules.
- Make a copy of this application (including attachments) for your own records.

OFFICE USE ONLY

SECTION A: INCORPORATED ASSOCIATION PARTICULARS

1. Name of the incorporated association

2. Incorporated association's registration number (IARN)

A

SECTION B: SUBJECT OF THE SPECIAL RESOLUTION

3. Date of the meeting where changes were passed by special resolution?
(*dd/mm/yyyy – ie 30/06/2022*)

3A. If you have not lodged this notice within one month of passing the special resolution, an extension for further time may be requested by outlining in the space below the reasons for the delay and why the extension should be granted.

WARNING: Even with very good reasons, extensions are generally only allowed for a maximum of two to three months

4. The rules that association is using are:

the [MODEL RULES](#) ▶ **Complete Section C.**

its OWN RULES ▶ **Complete Section D**

SECTION C: DETAILS OF THE SPECIAL RESOLUTION AFFECTING THE MODEL RULES

Only complete this section if the association is using the model rules without any additions or changes.

If any changes were made to the model rules, apart from items A to E in the Information to be provided to the Commissioner shown below, you must complete Section D – Own rules.

Which area of the rules has the special resolution affected? *(tick all that apply)*

- | | |
|-------------------------------|--|
| Name | ▶ Write the new name at A |
| Objects or Purposes | ▶ Write the new objects or purposes at B |
| Quorum for general meetings | ▶ Write the new quorum value at C |
| Quorum for committee meetings | ▶ Write the new quorum value at D |
| Financial year | ▶ Write the new ending of the financial year at E |

Please complete items A to E (Information to be provided to the Commissioner) below.

NOTE: This information is part of the associations rules and should be attached to the copy of rules provided to members.

You must complete every item. Write the new information passed by the special resolution in the appropriate space then, write the current (unchanged) information in the remaining spaces.

(i.e. If the Association only changed its name, write its new name at A and then fill in items B to E with the unchanged objects, quorums and financial year information).

A: The name of the association is:

The new name (if applicable) must end with the word 'Incorporated' or 'Inc.'

B: The objects or purposes of the association are:

If there is insufficient space, please attach an annexure labelled "B: Objects or Purposes of the Association"

C: The amount of members personally present and entitled to vote under the rules that constitute a quorum for the conduct of business at a general meeting is:

D: The amount of committee members to constitute a quorum for the conduct of business at a committee meeting is:

E: The financial year for the association will the 12 month period ending on:

(DD/MM)

SECTION D: DETAILS OF THE SPECIAL RESOLUTION AFFECTING OWN RULES

Use this section if the association is using its Own rules or has added or made changes (customised) the Model Rules

Which area of the rules has the special resolution affected? *(tick all that apply)*

Name

▶ Write the **new** name in the space below:

Inc.

Incorporated

Objects or Purposes

▶ Write the **new** objects or purposes in the space below:

If there is insufficient space, please write refer to attached "Rules"

Distribution of surplus property

▶ Write the **new** terms for distributing the associations surplus property in the space below:

If there is insufficient space, please write refer to attached "Rules"

Any other rule clauses

▶ List the rule/clause numbers that were changed by the Special Resolution or indicate if a complete new set of rules has been adopted

IMPORTANT: You must also complete the Own Rules Matters Table on the following page.

Own Rules Matters Table

Fill in the table by stating the rule number(s) that deal with listed matter in the space provided. Possible wording for any or all of these matters may be found in the [model rules](#).

| Matters for own rules | Clause number from associations rules |
|--|---------------------------------------|
| 1. The name of the incorporated association. | |
| 2. The objects or purposes of the incorporated association. | |
| 3. The eligibility criteria (if any) for a person to become a member of the association and details on when membership starts and ends. (example – see model rules 4,7 and 9) | |
| 4. The register of members of the incorporated association. (example – see model rule 13) | |
| 5. The entrance fees, subscriptions and other amounts to be paid by members (if any). (example – see model rule 12) | |
| 6. The name, composition and powers of the management committee including: (example – see model rule 26) | |
| a. The election or appointment of members of the committee. (example – see model rule 33) | |
| b. The terms of office of members of the committee. (example – see model rule 35) | |
| c. The grounds on or reasons for which the office of a member of the committee shall become vacant. (example – see model rule 37) | |
| d. The filling of casual vacancies occurring on the committee. (example – see model rule 38) | |
| e. The quorum and procedure at meetings of the committee. (example – see model rules 41 to 43) | |
| f. The making and keeping of records of the proceedings at meetings of the committee. (example – see model rule 47) | |
| g. The circumstances (if any) in which payment may be made to a member of the committee out of the funds of the association. (example – see model rule 40) | |
| 7. The quorum and procedure at general meetings of members of the incorporated association. (example – see model rules 55 to 60) | |
| 8. The notification of members or classes of members of general meetings and their rights to attend and vote at those meetings. (example – see model rules 52,66, 8(5) and 57) | |
| 9. The time within which, and manner in which, notices of general meetings and notices of motion are to be given, published or circulated. (example – see model rule 66) | |
| 10. The percentage of members who may at any time require that a general meeting be convened. (example – see model rule 52(2)) | |
| 11. The manner in which the funds of the association are controlled. (example – see model rule 62) | |
| 12. The day in each year on which the financial year of the incorporated association commences. | |
| 13. The intervals between general meetings of members and the manner of calling general meetings. (example – see model rule 51) | |
| 14. The manner of altering and rescinding the rules and of making additional rules of the incorporated association. (example – see model rule 72) | |
| 15. Provisions for the custody and use of the common seal of the incorporated associations (if it has one). (example – see model rule 65) | |
| 16. The custody of books and securities of the incorporated association. (example – see model rule 67) | |
| 17. The inspection by members of the incorporated association of records and documents of the incorporated association. (example – see model rule 69) | |
| 18. A procedure for dealing with any dispute under or relating to the rules between members and between members and the incorporated association (example – see model rules 17 to 25) | |
| 19. The manner in which surplus property of the incorporated association must be distributed or dealt with if the association is wound up or its incorporation cancelled. (example – see model rule 71) | |
| 20. A statement that the property and income of the association must be applied solely towards promoting the association's objects or purposes and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in promoting those objects or purposes. (example – see model rule 3) | |

A copy of the association's Own Rules containing the changes passed by the special resolution is attached

The financial year end for the association, as set out in the rules, will be:

(DD/MM)

SECTION E: APPLICANT'S PARTICULARS & DECLARATION

Tick only **one (1)** option.

If you do not hold a position on the committee, select the Agents declaration and provide a signed copy of the [Certificate and statement of a management committee member](#)

Committee Member's declaration

I certify that

- *I am a duly elected committee member of the association;*
- *the alterations to the rules covered in this Notice of Special Resolution to change rules were duly passed by resolution of members at a general meeting called in accordance with the rules and the requirements of the Act; and*
- *I acknowledge that it is an offence under section 177 of the Act to make a false and misleading declaration in relation to this application.*

OR

Agent's declaration

I certify that:

- *I am authorised by the association's committee to lodge this application any accompanying documents under the Act;*
- *I have prepared this application in accordance with the information supplied by the association's committee;*
- *I have attached a [Certificate and Statement of a Committee Member form](#) signed by a member of the association's management committee; and*
- *I acknowledge that it is an offence under section 177 of the Act to make a false and misleading declaration in relation to this application.*

Signature

Date signed

Title

Mr Mrs Ms Miss Other, please specify:

Name

Surname

Address

(Street or PO)

Suburb

State

Postcode

Email

Telephone

IMPORTANT: Before you sign this application, check that you have provided true and correct information.

Privacy Statement – please read. The Department of Mines, Industry Regulation and Safety, Consumer Protection Division is collecting and holding information supplied for the purposes of the Act. In accordance with this legislation, a copy of this form and the information it contains will be available for purchase by the public upon payment of a prescribed fee.

