



# *Information Session WOCS Child Care Forum*

# *Incorporated Associations*

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The presentation will briefly consider why your club becomes incorporated and the obligations under the *Associations Incorporation Act*.

## TOPICS

- Incorporation – Why would you do it?
- Obligations: AGM, Annual Accounts and records
- Committee responsibilities and liabilities
- New Legislation – Green Bill
- Where to get more information

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## *Incorporation! – Why would you do it?*

- Incorporation creates a legal entity - separate from the members;
- Liability is generally limited to the assets of the association;
- Incorporation may be required to obtain funding or a grant;
- Required when entering into contracts;
- Protects the association's name;
- Can sue or be sued in its own name;
- Has perpetual succession;
- Incorporation may be necessary for insurance purposes or to obtain a licence eg charitable collections licence.



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## **OBLIGATIONS** - *Associations Incorporation Act*

### **Annual General Meetings**

- must be convened every year;
- within 4 months of the end of an association's financial year; or
- such longer period as allowed by the Commissioner.

### **Annual accounts to be prepared**

- submitted to members at the AGM; and
- accounts to show the financial position of the association at the end of the immediately preceding financial year.

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## **OBLIGATIONS** - *Associations Incorporation Act*

1. **Register of Members**
2. **Record of Office Bearers &**
3. **Rules (or Constitution)**
  - An incorporated association shall keep and maintain these records in an up to date condition; and
  - upon the request of a member of the association, shall make the records available for the inspection.



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## *Associations Incorporation Act*

### ***Committee responsibilities and liabilities***

If a member of the committee of an incorporated association fails to take all reasonable steps to secure compliance by the association with its obligations under this Act, the member commits an offence and is liable to a fine of \$500.

- Examples:
- not holding an AGM
  - not submitting accounts to members at an AGM
  - not allowing access to the members' register



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## **Committee duties assumed under common law:**

To act honestly

Not to make improper use of position/information

To comply with the rules (constitution)

To exercise reasonable skill and care

To ensure that the association complies with other laws

Committee has a *fiduciary duty* to the members

***(to act in good faith for the benefit of another)***

## **Proposed new legislation** (Associations Incorporation Bill 2006)

- Improvements to the incorporation process
- Rules of associations
- Management and accountability
- Increased powers for DOCEP
- Winding up provisions



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## *Associations Incorporation Bill*

### **Latest news about the new Bill**

Public comments on the Bill closed in 2007 and over 300 submissions received. The submissions have resulted in a number of alterations to the Bill.

Subject to Government approval, the new Associations Incorporation Bill is expected to be ready for introduction into Parliament in the first half of 2009.

#### **Further information:**

Website: [www.docep.wa.gov.au/agb](http://www.docep.wa.gov.au/agb)



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**Where can you get more information  
about the current Act?**

**DEPARTMENT OF CONSUMER & EMPLOYMENT  
PROTECTION**

**Associations Section**

**Perth Office**

**Ground floor, 219 St George's Terrace**

**Telephone: 1300 30 40 74**

**Facsimile: 08-9282 0948**

**Associations website: [www.docep.wa.gov.au/associations](http://www.docep.wa.gov.au/associations)**

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## ***INC guide***

### **for incorporated associations in Western Australia**

A free copy of the guide available on compact disc or from the website: [www.docep.wa.gov.au/associationsguide](http://www.docep.wa.gov.au/associationsguide)

- comprehensive operational document;
- information on the requirements under the *Act*;
- an introduction to the various aspects of managing an association;
- overview of good governance practices; and
- links to other sources of relevant information.



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## Associations *Information Sheets*

- ***Info Sheet 1 - Introduction to Incorporated Associations***
- ***Info Sheet 2 - Applying for the Incorporation of an Association***
- ***Info Sheet 3 – Voluntarily Winding Up an Incorporated Association***
- ***Info Sheet 4 – Altering the Rules of your Incorporated Association***
- ***Info Sheet 5 – Complaints about Incorporated Associations***
- ***Info Sheet 6 – Running an Incorporated Association***