



Application seeking leave to be appointed to the committee

Associations Incorporation Act 2015 s 39, 40 and 127

Please read this information before completing this form

ABOUT THIS FORM

This form may be used by persons prohibited under the *Associations Incorporation Act 2015* (the Act) to obtain leave from the Commissioner for Consumer Protection (the Commissioner) to remain involved in the management of an incorporated association or else to take up a position on an associations committee.

RELATED INFORMATION

Persons who are not to be members of the management committee (prohibited persons)

- To protect the well-being and financial interests of the association and its members, section 39 of the Act prohibits the following persons from being a member of an associations management committee:
 - a person who is bankrupt or whose affairs are under insolvency laws; and
 - a person who has been convicted of:
 - an indictable offence concerning the promotion, formation or management of a corporate body.
 - an offence involving fraud or dishonesty punishable on conviction by imprisonment for not less than three months.
 - an offence under Part 4, Division 3 of the Act (duties of officers).
 - an offence under section 127 of the Act (incurring debt whilst the association is insolvent).
- A person should consider seeking legal advice if they have any doubt as to whether they are a prohibited person and are connected, directly or indirectly, in an incorporated association's management.

What factors will be taken into account when deciding whether to grant leave?

- The Act does not limit the factors the Commissioner may consider in determining whether a person is granted leave. Every application will be considered on its individual merits.
- The ground/s on which a person is prohibited (and any mitigating circumstances) will generally be considered in the context of the person's role in the association's management, as this will affect the nature and extent of any risk to the interests of members.
- Although the factors that may be considered will vary from application to application, some matters that will be relevant for all include:
 - the full details and circumstances that result in the person being prohibited.
 - the nature and extent of the person's proposed involvement in the association's management, including whether the person or other committee members have exercised reasonable diligence by putting in place measures or policies to address any possible risks.
 - the reasons why the person believes leave should be granted.
 - any relevant conduct of the person after the person became a prohibited person, including whether the person shows insight, remorse, etc. and/or has taken steps to address any underlying causes of past conduct that have led to the prohibition.
 - Other factors, however, may be relevant for some applications and not for others. E.g. For persons prohibited due to bankruptcy, the nature and extent of their involvement in the association's financial management (such as whether the person has any authority to incur expenditure or debt) is likely to be relevant.

RELATED INFORMATION (cont.)

Who can apply for leave?

- Leave can be sought by prohibited persons already appointed to the management committee and persons who propose to take on a position on the management committee.
- The Commissioner may grant a person leave subject to certain conditions and limitations and may revoke the leave by written notice. If a person is granted leave and subsequently becomes a prohibited person under another provision of section 39, the leave will be revoked.

National Police Check



- If you are required to provide a National Police check, it must be in your full name and no more than three months old. Please note we will not return the original documents.

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

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 be made in person at our cashiering services.

WHAT HAPPENS NEXT

- The form 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; and
 - is not accompanied by the necessary supporting documents.
- If any change occurs in the provided information, notify the Department as soon as possible

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.

SECTION B: DETAILS OF INCORPORATED ASSOCIATION

2. Name of the incorporated association that you intend to take (or already hold) a position on the management committee of?

3. Name of the role that you propose (or already hold) to take on?

4. Please provide a comprehensive summary of the duties of the role below including whether you:
 - are involved in the financial management of the association; and/or
 - have a significant degree of control and influence in the association decisions.

If there is insufficient space, please attach an annexure labelled "Statement of Duties"

SECTION C: REASONS FOR PROHIBITION AND SEEKING LEAVE

5. The reason for seeking leave is because I: *(Tick all that apply)*
 - a) have been convicted, within or outside Western Australia, of an offence involving fraud or dishonesty punishable on conviction by imprisonment for not less than 3 months. The conviction or my release from custody (whichever is the later) occurred within the last five years.
 - b) have been convicted, within or outside Western Australia, of an indictable offence in relation to the promotion, formation or management of a body corporate. The conviction or my release from custody (whichever is the later) occurred within the last five years.
 - c) have been convicted, within or outside Western Australia, of an offence under Division 3 or Section 127 of the *Associations Incorporation Act 2015*. The conviction or my release from custody (whichever is the later) occurred within the last five years.
 - d) am bankrupt or my affairs are under insolvency laws according to section 13D of the *Interpretation Act 1984*.

6. Has the nature of the prohibition listed above been disclosed to the management committee members?
 - Yes
 - No

7. Explain why, in your opinion, neither the wellbeing nor its financial interests of the association and its members will be at risk if you are involved with the management of the incorporated association?

For example, outline any mitigating circumstances which exist, any previous experience held that would assist the association and members and any other matters you consider relevant to this application.

SECTION D: DOCUMENT CHECKLIST

This application cannot be processed without the following documents. Mark the documents you are submitting.

- Evidence of the **duties and responsibilities** of role
(e.g., a statement of duties or extract from the rules (constitution) stipulating the duties of the position)

If you have any convictions that fall under section 39(1) (b) of the *Associations Incorporation Act 2015* (ie. you ticked boxes (a), (b) and/or (c) at question 5) you must provide:

- A **National Police Check** which not more than six (6) months old.
A National Police check can be obtained through participating Australia Post outlets or by contacting an authorised agency listed on our website www.commerce.wa.gov.au/CP/policechecks
- A **written explanation** of the circumstances surrounding your conviction(s).

SECTION D: APPLICANT DECLARATION

Provide the name and particulars of the person making this application:

Any correspondence about this application will be sent to this person.

I declare that:

- the information and answers given in within this application, including any attachments, are to the best of my knowledge complete, true and correct; and
- In order to assist with the determination of this application, I authorise the Commissioner, or persons so directed, to obtain on my behalf any document, record, file or information including but not limited to records relating to my criminal history, financial history or other relevant information; and
- I understand that it is an offence under section 177 of the Act to make a false and misleading declaration in relation to this application.

Full name

Signature

Date signed

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

CONTACT FOR THIS APPLICATION

Who should the Department contact if there is a query about this application form?

The applicant (submitter)

Another person ► Provide the contact's details below:

Title Mr Mrs Ms Miss Other, please specify:

Name

Surname

Address

(Street or PO)

Suburb

State

Postcode

Email

Telephone