

RULES WORKBOOK

Every incorporated association has its own set of rules (often known as the **constitution**) which defines the group's objects and purposes and outlines how its affairs will be managed.

Consumer Protection recommends that incorporated associations and clubs review the rules every three to five years to ensure the document meets the needs of the organisation and the requirements of the *Associations Incorporation Act 2015* (the Act).

This pack is a step by step guide on how to review and update the rules of an incorporated association.

IN THIS WORK BOOK:

- What's in the rules of an association;
- Options for updating the rules;
- How to pass the changes; and
- How to lodge a change of rules.

ABOUT THE RULES

Every incorporated association has its own set of rules which defines the group's objects and purposes and outline how its affairs will be managed. The Act requires a copy of the rules to be held by the Department of Local Government, Industry Regulation and Safety - Consumer Protection Division (Consumer Protection) as the 'official' version of the association's rules. The rules lodged by an association with Consumer Protection (including any amendments) are the only effective rules of the association.

OBTAINING A COPY OF THE RULES

If an association has misplaced its rules, a copy of the current version can be purchased from Consumer Protection using [AssociationsOnline](#). Simply:

1. **Search** for the association's name;
2. **Select** the documents you wish to purchase; and
3. Complete the online **check out**.

In some cases a linked user may be able to download a copy of the rules from AssociationsOnline free of charge by completing the following steps:

1. **Log in** with your user name and password (see the [enrolment help guide](#) for assistance).
2. You must be linked to your association (see the [managing my association's details](#) for assistance).
3. Click **Lodge application** and scroll down to your linked association.
4. Select **Download free documents** from the application type drop down list and click "**Go**".

WHAT TO INCLUDE IN THE RULES

To meet the requirements of the Act an association must ensure that its rules:

- include all of the matters required by the Schedule 1 of the Act;
- are generally consistent with the Act (for example profits cannot be distributed to members, an Annual General Meeting must be held every year and a member is entitled to inspect the register of members); and
- meet the needs of the individual association by clearly explaining how the organisation will be run.

IMPORTANT: If an association's rules do not address a Schedule 1 requirement then certain clauses of the [model rules](#) are deemed to apply until action is taken to correct the rules. [Refer to Consumer Protection's website for more information.](#)

THE SCHEDULE 1 REQUIREMENTS

Schedule 1 of the Act has 19 matters that an association needs to provide for in its rules. It is important to understand that while Schedule 1 lists the matters to be included, it is up to the association to decide the specific rule that it will adopt. For example Schedule 1 requires an association to include information about who will be responsible for the management of the association (referred to in this pack as the **committee**) but the association decides:

- what the management body will be called, e.g. committee of management, board, council etc. and whether the office bearers will have any special titles such as chairperson, president, secretary, registrar, treasurer, finance officer;
- how many people make up the managing body;
- whether a person will need to meet any specific criteria before they are eligible to be part of the managing body; and
- the process for electing or appointing people to be part of the managing body.

More detailed information about the individual Schedule 1 matters is available in [What's in the rules: Explaining Schedule 1](#).

UPDATING THE RULES

STEP 1: REVIEW THE RULES

It is suggested that the first step is to complete an assessment of the existing rules using the [Schedule 1 checklist](#) at the end of this pack. This provides the committee with an understanding of the alterations that will be required in order to comply.

During this step you may wish to make notes about any matters that don't make sense or need updating to better reflect the association's current processes. This information will be useful later when decide what option to use to update the rules.

References to the Act

The *Associations Incorporation Act 2015* commenced on 1 July 2016 replacing the *Associations Incorporation Act 1987* (the Repealed Act). If the rules refer to specific sections of the Act it is important to ensure that these references are correct.

Some of the most commonly referred to sections of the legislation referred to in the rules include:

Topic	1987 Act reference	2015 Act reference
Change of rules (constitution)	s17	s30
Change of name	s18	s31
Change of objects	s19	s33

Topic	1987 Act reference	2015 Act reference
Conflicts of interest	s21	s42
	s22	s43
Annual General Meeting	s23	s50
Special resolutions	s24	s51
Financial records	s25	s66
Financial statements and report	s26	Tier 1 s68 & 70
		Tier 2 s71 & 73
		Tier 3 s74 & 76
Register of members	s27	s53
Rules of association be available to members	s28	s35
Record of office holders	s29	s58
Distribution of surplus property	s33	s24

STEP 2: UPDATING THE RULES

After reviewing the existing rules in Step 1, the association will have a better understanding of those Schedule 1 matters that are already provided for, what is missing and what other changes are needed to better meet the needs of the association.

Options for updating the rules

There are several ways an association can update its rules to meet the requirements of the Act:

1. amend the existing rules so the document contains all of the matters required by Schedule 1 and is otherwise consistent with the Act;
2. replace the existing rules with the prescribed model rules; or
3. use the prescribed model rules as a starting point and customise the content to reflect the activities and structure of the association.

Each association will need to decide for itself which option will be the most appropriate but this will probably depend on whether the current rules allow the association to function effectively and pursue its objects.

The prescribed model rules

The prescribed [model rules](#), which will simply be referred to as the model rules, are a standard set of rules that have been developed for use by associations. These rules meet all the requirements of the Act and provide a suitable governance framework for an incorporated association to adopt. If an association chooses to use the model rules the only details that need to be decided are:

- the name of the association;
- the objects of the association;
- the quorums for general meetings and committee meetings; and
- the association’s financial year.

A word version of the model rules is available for download from Consumer Protection’s website.

REMEMBER: If an association makes any changes to the model rules no matter how minor then it is considered to be using its own rules.

About the guidance notes

The website version of the model rules also includes summary information about the obligations under the Act and other explanatory material. These summaries are presented in grey boxes as “Guidance Notes” and “Act Requirements” and are intended to help associations.

This information does not form part of the model rules as prescribed in the *Associations Incorporation Regulations 2016* and so **the grey boxes can be removed by an association if an association wishes**; however it is recommended that all associations adopting the model rules keep the information on the first page about the name, objects, quorums and financial year as this provides a record of what has been lodged with Consumer Protection (and is not included anywhere else in the model rules document).

Exemptions from Schedule 1 requirements

If the association does not intend to include provision in its rules for a particular Schedule 1 matter it will need to formally [apply to the Commissioner for Consumer Protection for an exemption](#), when it submits the change of rules for lodgement. Obtaining an exemption will prevent the model rules applying by default. Please note that the Commissioner will only grant an exemption if satisfied:

- that the special circumstances of the association justify the exemption; and
- that the exemption will not affect the objects or purposes of the association; and
- that the application of the provision to the association would cause undue hardship to its members.

STEP 3: DISCUSS AND VOTE ON THE PROPOSED CHANGES

For the updated rules to have legal effect it is necessary for the changes to be passed by a special resolution of the members at a general meeting (unless there are restrictions in the rules the special resolution can be passed at the annual general meeting or a special/extraordinary general meeting) and lodged with Consumer Protection.

Checklist for passing a special resolution

Notice for the general meeting

- Must be in writing.
- Must be sent to **all** members, irrespective of their membership class or voting rights.
- Must be sent in accordance with the timeframe and manner set out by the rules.
- Must set out the exact wording of the proposed special resolution and sufficient information about the changes to enable members to make an informed decision.

If the association is adopting a new or substantially different version of the rules a full copy of the new rules is to be included with the notice.

If these requirements are not met the special resolution will have no effect.

At the meeting

- Make sure that there is a quorum present before proceeding to vote on the proposed rules.
- Only a member who has the right to vote under the existing rules may participate in a vote on a proposed special resolution.
- Proxies or postal voting should only be used if it is already allowed in the rules.
- The special resolution is passed if it is agreed to be at least 75% of the members who vote at the meeting (not 75% of the total membership).

Lodging the changes

- The committee must lodge the change of rules with Consumer Protection within one month of the meeting (late lodgments incur additional fees). The application must include:
 - a complete copy of the updated rules or a statement that the model rules are being adopted.
 - the completed checklist identifying the location of all of the Schedule 1 items if using own rules.
 - the prescribed fee; and
 - if submitting a manual application, a [Notice of special resolution to change rules](#) and [Certificate and statement of a management committee member](#).

See **Step 4** for more detailed information about how to lodge the changes.

- Once Consumer Protection confirms that the document has been accepted the association can start using the new rules.

STEP 4: HOW TO EFFECTIVELY LODGE THE CHANGES

Any change of rules must be lodged within **1 month** of being passed in order to have legal effect. Late applications may be accepted but additional fees apply.

How to lodge the changes

[AssociationsOnline](#) is Consumer Protection's preferred method for communicating with associations. The benefit to associations in using this method is that it is available anytime, lodgements can be tracked and a 20% discount on fees is given when lodging online.

If an association does not wish to use the online portal, manual forms can be downloaded from the [website](#) and submitted by post.

Adopting the model rules

If the association has chosen to adopt the model rules the changes can be lodged with AssociationsOnline by completing the following steps:

4. **Log in** with your user name and password (see the [enrolment help guide](#) for assistance).
5. You must be linked to your association to submit an application (see the [managing my association's details](#) for assistance).
6. Click **Lodge application** and scroll down to your linked association.
7. Select **Change of rules by special resolution** from the application type drop down list and click "**Go**".
8. When asked which rules the association is operating under select **Prescribed Model Rules**.
9. Provide details of the:
 - the name of the association;
 - the objects of the association;
 - the quorums for general meetings and committee meetings; and
 - the association's financial year.
10. Fill in the rest of the form, clicking **next** to move through the screens.
11. When you finish click "**Submit**".

Associations adopting the prescribed model rules do not need to submit a copy of the rules with the application but will need to retain a copy of the rules for their future use. The association should also fill in the box on page 1 of this copy to confirm the information that has been submitted to Consumer Protection.

Adopting own rules

If the association has chosen to adopt its own set of rules (this includes modifying the model rules) the changes can be lodged with AssociationsOnline by completing the following steps:

1. **Log in** with your user name and password. If you are new to the system see the [enrolment help guide](#) for assistance.
2. You must be linked to your association to submit an application. See the [managing my association's details](#) for assistance.
3. Click **Lodge application** and scroll down to your linked association.
4. Select Change of rules by special resolution from the application type drop down list and click "Go".
5. When asked which rules the association is operating under select **Own Rules**.
6. The association will also need to complete a table that identifies where each of the Schedule 1 items has been addressed in the rules.
7. If the association knows that it has not included provision for a schedule 1 item but intends to correct this in the future it should put a dash (-) in the relevant box. Please do not write "exemption" in a box unless the association will be making an application to be exempted from including the Schedule 1 matter in its rules (See [Step 2](#) for more information about exemptions).
8. A complete copy of the new rules will need to be uploaded and attached to the application.
It is not necessary to track or identify the changes that have been made to the rules and any watermarks or headings such as "DRAFT" should be removed.
9. Fill in the rest of the form, clicking **next** to move through the screens.
10. When you finish click "Submit".

FINISHING UP

The association will be notified in writing when the updated rules have been accepted for lodgement by Consumer Protection. This marks the end of the change of rules process and the association can begin using the new rules.

RULES CHECKLIST: SCHEDULE 1 REQUIREMENTS

Not for profit clause	Association's rule number
<p>The rules must include a provision in, or substantially in, the following terms:</p> <p><i>The property and income of the association must be applied solely towards the promotion of the objects or purposes of the association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member of the association, except in good faith in the promotion of those objects or purposes</i></p>	

SCHEDULE 1 REQUIREMENTS

Matter	Association's rule number	
1. The name of the incorporated association.		
2. The objects or purposes of the incorporated association.		
3. The qualifications (if any) for membership of the incorporated association and provision for when membership commences and when it ceases.		
4. The register of members of the incorporated association.		
5. The entrance fees, subscriptions and other amounts (if any) to be paid by members of the incorporated association.		
6. The name, constitution, membership and powers of the management committee or other body having the management of the incorporated association (in this clause referred to as the committee) and provision for the following:		
a) The election or appointment of members of the committee;		
b) The terms of office of members of the committee;		
c) The grounds on which, or reasons for which, the office of a member of the committee shall become vacant;		
d) The filling of casual vacancies occurring on the committee;		
e) The quorum and procedure at meetings of the committee;	Quorum:	
	Procedure:	
f) The making and keeping of records of the proceedings at meetings of the committee;		
g) The circumstances (if any) in which payment may be made to a member of the committee out of the funds of the association. <i>Note: Any rules that provide for payment to a committee member from the Association's funds must state that this can only occur if the payment is authorised by a resolution of the association.</i>		
7. The quorum and procedure at general meetings of members of the incorporated association.	Quorum:	
	Procedure:	
8. The notification of members or classes of members of general meetings of the incorporated association and their rights to attend and vote at those meetings. <i>Note: The rules made must provide for all members of the incorporated association to be entitled to receive notice of and to attend any general meeting of the association.</i>		

Matter	Association's rule number
9. The time within which, and manner in which, notices of general meetings and notices of motion are to be given, published or circulated.	
10. The number of members, expressed as a percentage of membership, who may at any time require that a general meeting of the incorporated association can be convened. <i>Note: This percentage cannot be greater than 20%.</i>	
11. The manner in which the funds of the association are controlled.	
12. The day in each year on which the financial year of the incorporated association commences.	
13. The intervals between general meetings of members of the incorporated association and the manner of calling general meetings.	
14. The manner of altering and rescinding the rules and of making additional rules of the incorporated association.	
15. Provisions for the custody and use of the common seal of the incorporated associations, if it has one.	
16. The custody of books and securities of the incorporated association.	
17. The inspection by members of the incorporated association of records and documents of the incorporated association.	
18. A procedure for dealing with any dispute under or relating to the rules: a) between members; or b) between members and the incorporated association.	
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. <i>Note: An association's surplus property can only be distributed to:</i> <ul style="list-style-type: none"> • An incorporated association • A company limited by guarantee registered under the Corporations Act 2001; • An organisation that holds a current licence under the Charitable Collections Act 1946 • An organisation that is a member or former member of the association and whose rules prevent the distribution of property to its members; or • A non-distributing co-operative registered under the Co-operatives Act 2009. 	