

RIGHTS AND RESPONSIBILITIES

ELIGIBILITY REQUIREMENTS FOR COMMITTEE MEMBERS

On 1 July 2016 the *Associations Incorporation Act 2015* (the Act) commenced replacing the previous *Associations Incorporation Act 1987*. The Act provides for the regulation of incorporated not-for-profit organisations in Western Australia.

The Act includes requirements to ensure that only suitable persons are responsible for running an incorporated association.

WHO WILL THESE REQUIREMENTS APPLY TO?

Under the Act a person is prohibited from sitting on the management committee of an incorporated association (without prior approval from the Commissioner for Consumer Protection) where they:

- are an undischarged bankrupt or their affairs are being managed under insolvency laws;
- have been convicted of an offence in connection with the promotion, formation or management of a body corporate;
- have been convicted of an offence involving fraud or dishonesty punishable on conviction by three months or more imprisonment; and/or
- have been convicted of an offence under Division 3 (the duties of officers provisions) or section 127 (the duty with respect to incurring of debt) of the Act.

ARE THESE DISQUALIFICATIONS PERMANENT?

A person will only be disqualified from sitting on a management committee for a particular period of time. In the case of bankruptcy or insolvency the person will be disqualified until their bankruptcy becomes discharged or their affairs are no longer managed under insolvency laws.

Where the disqualification is a result of a conviction, the person will be disqualified for a period of five years from conviction, except where the conviction results in imprisonment in which case the period of five years will run from the time the person is released from custody.

A person who is disqualified must not accept an appointment or act as a member of the management committee without seeking prior approval from the Commissioner for

Consumer Protection. Following 1 July 2016 it will be possible to submit an application for approval using **AssociationsOnline** (www.consumerprotection.wa.gov.au/associationsonline).

MEETING THE REQUIREMENTS OF THE ACT

It is the responsibility of each individual to ensure that they are eligible to act as a member of the Management Committee.

An incorporated association can also take steps to ensure that the processes in place for the election/appointment of committee members meet the requirements of the Act and ensure that all members of the committee are eligible under the Act to hold their positions.

This may require an association to:

- update the rules and/or internal policy documents to ensure that the provisions are consistent with the requirements of the Act;
- make potential committee members aware of these requirements;
- add a tick box to nomination forms requiring candidates to confirm that they are not an undischarged bankrupt and have not been convicted of one of the specified offences within the last five years.

MORE INFORMATION

INC GUIDE

You may wish to refer to the Management Committee chapter of the INC Guide for more information. The INC Guide is available at <https://www.consumerprotection.wa.gov.au/inc-guide>.

SELF CHECK

The Incorporated Associations Health Checklist provides a summary of the main obligations under the Act. Download the checklist at www.consumerprotection.wa.gov.au/associations-and-clubs.

CONTACT US:

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