



GROUP DEVELOPMENT - INCORPORATION

Most groups start small with no legal recognition in law; once they are more established, they may decide to register as a 'not-for-profit' incorporated association; the process of being recognised as a legal entity.

Who can be incorporated?

- ◆ The group must be not-for-profit
- ◆ Have at least 6 members
- ◆ Must be applicable to the specified sectors ie. Community, Educational, Charitable etc.

Purpose

An incorporated association will then have the ability to:

- ◆ Hold and sell real estate
- ◆ Hold, lease and receive property and goods
- ◆ Open and operate bank accounts with the incorporated name on it
- ◆ Participate in investments of its moneys
- ◆ Borrow money as an association
- ◆ Enter into contracts deemed suitable


How it affects the group

- ◆ The group may then exist going forward in its own right, even when the membership may continuously change.
- ◆ 'Incorporation' or 'Inc' is added to the end of the name submitted on the certificate of application.
- ◆ It will alleviate the facilitators/ members/committee of the group of being liable towards payment of debts or liabilities.
- ◆ The group can sue or be sued within the corporate name.
- ◆ It gives the group/association/body a similar legal status as that of a natural person.



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How does this affect the future running of the group?

- ◆ Option to allow Association to do what is convenient for carrying out its objective and purpose as articulated in its rules.
 - ◆ Management Committee is elected with the roles and duties clarified.
 - ◆ The Incorporated Association must have a common seal, the official stamp which can only be used by authorised individuals.
 - ◆ Commence record keeping: Accounting Records, members register, Committee members/ office bearer's details.
 - ◆ Annual meetings according to the constitution within 4 months of the end of the Association's financial year on the date agreed upon within the constitution guidelines.
 - ◆ Special Resolutions deliberated, approved and lodged with Consumer Protection.
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- ◆ An Association is able to amalgamate to another form of incorporated structure.
 - ◆ Members going forward agree to be bound by the rules of the Association (within their rights), unless they are apparently inconsistent.
 - ◆ Archiving of records are to be considered.
 - ◆ An Incorporated Body may be dissolved voluntarily (only if it is solvent and resolved by special resolution) or by the Supreme Court.



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Becoming Incorporated Summary

- ◆ Member approval established prior via a meeting
- ◆ Check that the name of choice is eligible and available
- ◆ Establish the Association rules, constitution ie. AGM specifics.
- ◆ Hold a meeting to approve the available proposed name and rules.
- ◆ Place an advertisement to disclose the intention for incorporation within the area where affairs will be conducted (1 month prior to submitting documents)
- ◆ Complete and submit application form available on the Department of Commerce Protection site
- ◆ Keep a record of all of the above.



Further References

Department of Commerce - www.commerce.wa.gov.au

Australian Securities & Investment Commission - www.asic.gov.au



ConnectGroups
helping support groups & individuals

10 Almondbury Road
Booragoon WA 6154
PO Box 1209
Booragoon WA 6954

(t) 9364 6909
(f) 9364 4471



info@connectgroups.org.au
www.connectgroups.org.au