

Australian Capital Territory

Associations Incorporation Amendment Regulation 2023 (No 1)

Subordinate law SL2023–24

made under the

Associations Incorporation Act 1991, section 127 (Regulation-making power)

EXPLANATORY STATEMENT

OVERVIEW

The *Associations Incorporation Act 1991* (Associations Incorporation Act) provides for the incorporation of certain associations, and for related purposes.

The *Associations Incorporation Regulation 1991* (Associations Incorporation Regulation) prescribes matters to support the objects of the Associations Incorporation Act.

The *Associations Incorporation Amendment Regulation 2023 (No 1)* (Associations Incorporation Amendment Regulation) amends the Model Rules in Schedule 1 of the Associations Incorporation Regulation to allow for virtual attendance at meetings.

Application of the Regulation

The Regulation applies to all incorporated associations registered in the ACT.

CONSULTATION ON THE PROPOSED APPROACH

The ACT Government undertook a project to update and modernise the Model Rules with a view to assisting Associations to meet their regulatory obligations more easily.

Consultation occurred from January – April 2023. In total 2,963 registered incorporated associations informed of the consultation and invited to comment. The proposed model rules and an accompanying fact sheet were made available on the Better Regulation Taskforce webpage, with additional information also available on the Access Canberra webpage.

The proposed model rules included provisions to permit virtual meeting attendance for committee meetings and general meetings. The inclusion of these provisions was generally welcomed by Associations. Accordingly, the new model rules in the Associations Incorporation Amendment Regulation permit virtual attendance at

committee meetings and general meetings. The new model rules commence on 1 February 2024.

The Associations Incorporation Amendment Regulation is a transitional measure for the period before the new model rules commence. It amends the existing model rules to permit virtual meeting attendance for committee meetings and general meetings.

CONSISTENCY WITH HUMAN RIGHTS

All legislative regulations must be compatible with the *Human Rights Act 2004* (HR Act). The compatibility of the Associations Incorporation Amendment Regulation was considered during its development. It does not have any human rights impacts.

CLAUSE NOTES

Clause 1 – Name of Regulation

This clause names the Regulation the *Associations Incorporation Amendment Regulation 2023 (No 1)*.

Clause 2 – Commencement

This clause details the commencement date of the Regulation. The regulation commences on the expiry of the *Associations Incorporation Act 1991*, section 70AA.

Clause 3 – Legislation amended

This clause names the legislation amended as the *Associations Incorporation Regulation 1991*.

Clause 4 – Schedule 1, new section 18 (2A) and (2B)

This clause inserts two new sections.

New section 18 (2A) introduces the option for a committee to decide, by resolution, to hold a committee meeting which allows for virtual attendance. Previously the model rules did not provide for virtual attendance at a committee meeting.

Committees may decide to hold a committee meeting using a method or methods of communication that allow committee members to participate in the meeting without being physically in each other's presence.

The note gives examples of methods of communication to include video conferencing software, instant messaging and/or telephone conferencing.

New section 18 (2B) makes it clear that where a committee member attends a committee meeting virtually, they are taken to be present at the meeting.

Clause 5 – Schedule 1, new section 24A

The option to hold general meetings allowing for virtual attendance was inserted into the *Associations Incorporation Act 1991* as a COVID-19 emergency measure. This measure has since expired.

To continue to permit Associations to provide for virtual attendance at general meetings, new section 24A introduces the option for Associations to hold a general meeting which allows members to attend virtually and, through section 24A (2), be taken to be present at the meeting.

A committee may decide, by resolution, to hold a general meeting using a method or methods of communication that allow members to participate in the meeting without being physically in each other's presence.

It also provides that a general meeting may be held that permits virtual attendance where there is a written requisition by members to call for a meeting and that requisition requests that the meeting allow for virtual attendance.

The note gives examples of methods of communication to include video conferencing software, instant messaging and/or telephone conferencing.

Clause 6 – Schedule 1, section 25 (2)

This clause amends section 25 (2) of the Associations Incorporation Regulation to remove the requirement that for quorum for a general meeting, five members must be present in person. The amendment supports virtual general meeting attendance by providing that, for quorum, five members must be present at the meeting.

Clause 7 – Schedule 1, section 28 (1)

Clause 8 – Schedule 1, section 28 (1)

Clause 9 – Schedule 1, section 28 (1)

These clauses support virtual meeting attendance at a general meeting by removing references to a show of hands as the required voting method to decide a question arising at a general meeting.

The amendment introduces a relevant voting method to provide other methods by which a vote can be cast. A relevant voting method is defined in section 28 (4) to mean a vote taken orally, in writing or by a show of hands.

Clause 10 – Schedule 1, section 28 (2)

Clause 10 supports virtual meeting attendance by removing the requirement for in person presence for when a poll is demanded at a general meeting.

In accordance with new section 24A (2), members who attend a general meeting virtually are taken to be present.

Clause 11 – Schedule 1, new section 28 (4)

This clause supports virtual meeting attendance by providing that a relevant voting method means a vote taken orally, in writing or by a show of hands.

Clause 12 – Schedule 1, new section 29 (5)

This clause clarifies that voting personally includes voting while attending a general meeting virtually.