

Associations Incorporation Act 1985 Section 43(A)

# 9c Application For Deregistration Of Incorporated Association With Surplus Assets Not Exceeding \$5000

## Important information

Consumer and Business Services (CBS) undertakes the administration of the Associations Incorporation Act 1985 (the Act) on behalf of the Corporate Affairs Commission.

Please attach copies of the following documents to this application (as prepared for the financial year of the association last preceding the due date for lodgement of this return).

NOTE: if required documents are not attached, this form may be returned for completion.

- Attachment 1. Surplus assets, details and manner of distribution
- Attachment 2. Rules governing distribution of assets (if relevant)  
Full set of rules (if relevant)
- Attachment 3. Copy of resolution and minutes of meeting (if applicable)

Please attach a list of committee members and their addresses.

Attached documents must be clearly printed or typed on single sheets of A4 white paper.

Please print all information using BLOCK LETTERS in blue or black ink.

Fees - please refer to the fee schedule. Any late fees must accompany this form.

Please complete ALL the sections on Form 9c and ensure it is signed by the applicant(s) named in section 2.

Section 43A of the Associations Incorporation Act 1985, enables an incorporated association with surplus assets of \$5000 or less to apply for deregistration. The procedure provides for an association to distribute its surplus assets and to be deregistered. Surplus assets means those assets that remain after the liabilities of the association have been discharged and the costs and expenses of deregistration have been paid.

The procedure is not available to an association with surplus assets exceeding \$5000. An association in this position should contact a registered liquidator or a person familiar with the procedures for conducting a members voluntary winding up.

An application for deregistration may be made by:

- a person authorised by special resolution to make the application (S.43A(1))
- not less than 2 people where it is impracticable to authorise a person because the association no longer has an active membership (Section 43A(2)). In this case each applicant must be an officer of the association, or a member or a person who (in the opinion of Consumer and Business Services) has a proper interest in the application.

## Procedure after lodgement of application

Within a month after a complete application is lodged, Consumer and Business Services will publish a notice in the Advertiser inviting submissions from members of the public.

After a minimum of one month from the date of publication of the advertisement, and provided that it has no reason not to do so, Consumer and Business Services will approve the application for deregistration. Where the surplus assets of the association have not been distributed, Consumer and Business Services will write to the applicant(s) advising that the association's surplus assets can be distributed.

Within a further month, Consumer and Business Services will publish a notice in the Government Gazette, which will have the effect of deregistering and dissolving the association. The applicant(s) will be advised of this in writing following the publication of the notice.

Please tear off and keep this for your records



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 91 Grenfell Street  
 Adelaide SA 5000  
 GPO Box 1719  
 Adelaide SA 5001  
 Telephone 131 882  
 www.cbs.sa.gov.au

## Instructions for completing application form

The application form (Form 9C) must be completed in full and all required attachments attached to the application. Some aspects of the form are dealt with in detail below.

Applicants must complete only one of either items 2(a) or 2(b)

Item 2(a) - When the application is made by a person authorised by special resolution.

1. Before making application the association will need to hold a meeting of members in order to pass a special resolution authorising a person to make the application. Where the rules of the association do not provide for the manner in which the assets of the association are to be distributed on deregistration or winding up then in addition to the above resolution the association will need to pass a special resolution determining the manner in which the assets are to be distributed. It is not lawful to distribute any surplus assets among members, former members or associates of members or former members of an incorporated association. (Section 43(1)).
2. A copy of the rules governing distribution of assets on deregistration or winding up must be attached to the form as Attachment 2.

Item 2(b) - When the application is made by two or more persons where it is impracticable to authorise a person to make the application because the association no longer has an active membership.

1. Each applicant should indicate the capacity in which they sign (whether as officer, member or person with a proper interest). A person signing in the capacity of a person with a proper interest should give particulars of the grounds for claiming to have a proper interest. Usually, the person should be able to demonstrate a relationship with the association, for example, in a professional capacity.
2. A copy of the rules governing distribution of assets on deregistration or winding up must be attached to the form as Attachment 2. Where the rules are silent on this issue then the approval of Consumer and Business Services under section 43A(5) must be obtained to the manner or proposed manner of the distribution. Application is made by ticking the box in Attachment 2 on page eight of the form, and paying the additional fee indicated on that page. A true copy of the full set of rules of the association must also be provided.

When considering such an application, Consumer and Business Services will have regard to the following -

- The objects of the association and any other relevant provisions of the rules (S.43A(6)).
- Approval cannot be granted if the manner or proposed manner of distribution is inconsistent with the requirements of section 43. Section 43 prohibits the distribution of surplus assets among members, former members or associates of members or former members. The exception (as provided for in section 43 in relation to a winding up) that may be considered for approval is that the surplus assets may be distributed among the members of the association if each of the members is also an incorporated association that has identical or similar aims and objects.

### Attachment 1. Surplus assets - Details and manner of distribution

This attachment is to be completed and attached to the form. The table must contain the details and manner of distribution of the surplus assets of the association. The table must be completed in full regardless of whether or not the association's surplus assets have already been distributed. If nothing to distribute, write 'nothing to distribute' across the form.

### Attachment 2. Rules governing distribution of assets

A true copy of the rules of the association governing the distribution of assets on deregistration or winding up must be attached to the application as Attachment 2 unless the application is made under item 3(b) and there are no such valid rules.

### Further attachments

- Copy of resolution and minutes of meeting, if applicable
- Committee of association

CBS requires the applicant(s) to set out the names and residential addresses of the members of the committee of the association. This information will not be made available for inspection by members of the public.

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1.

Full name of association

Registration number

Lodging party

Address for service

Street number	Street name
---------------	-------------

Suburb/town	Postcode
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Phone

Fax

Email

2.

**Applicants** - complete either (A) or (B)

(A) Fill in this section if the applicant is authorised by special resolution of the association to apply for deregistration of the association (for the meaning of 'special resolution' see the definition of that expression in section 3(1) of the Act)

Full name of applicant

Residential address

Street number	Street name
---------------	-------------

Suburb/town	Postcode
-------------	----------

Date of meeting at which special resolution passed

Type of meeting at which special resolution passed (tick one box)

 annual general meeting special general meeting other (please specify)

Copy of resolution and meeting minutes are required.

OR

(B) Fill in this section if the association no longer has an active membership and therefore cannot authorise a person to make an application under section 43A of the Act. There must be at least two applicants for an application for deregistration of such an association.

Full name

Residential address

Street number	Street name
---------------	-------------

Suburb/town	Postcode
-------------	----------

Phone

Email

Applicant 1 is (tick one box and provide details if required):

 an officer of the association a member of the association a person who claims proper interest in the application on the following grounds:
  


B) Fill in this section if the association no longer has an active membership and therefore cannot authorise a person to make

**Applicant 2**

Full name

Residential address  Street number  Street name

Suburb/town  Postcode

Phone  Email

Applicant 2 is (tick one box and provide details if required):

- an officer of the association       a member of the association       a person who claims proper interest in the application on the following grounds:

Attach details separately if there are further applicants.

**3.**

**Declaration**

I/we make the following declaration:

- (a) the association has no liabilities
- (b) the association is not party to any legal proceedings
- (c) none of the assets available for distribution have been, or are proposed to be, distributed to members or former members or associates of members or former members of the association
- (d) attachments 1, 2, 3 and 4 have been completed and attached to the application as required
- (e) the information in this form and the attachments are, to the best of my/our knowledge and belief, true and complete.

It is an offence to make a statement that is, to the person's knowledge, false or misleading in a document lodged with Consumer and Business Services, or to omit or authorise the omission from any such document a particular which is, to the person's knowledge, a material particular.

Name

Signature  Date

Name

Signature  Date

Attach details separately if there are further applicants.

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Attachment 1

This attachment must be completed and attached to the application.

Surplus Assets - Details and Manner of Distribution

Description of asset	Name of body to whom asset has been or is to be distributed	Value \$
Total value of surplus assets		

The table must be completed; if nothing to distribute - identify as 'nothing to distribute'.

None of the assets available for distribution may be distributed to members or former members or associates of members or former members of the association.

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## Attachment 2 - Rules Governing Distribution of Assets

A true copy of the rules of the association governing the distribution of assets on deregistration or winding up must be attached to the application as Attachment 2 unless the application is made under item 3(b) and there are no such valid rules.

If the application is made under item 3(b) and there are no valid rules of the association governing the distribution of assets on deregistration or winding up, the applicants must, by ticking the box below, request that under section 43A(5) of the Act Consumer and Business Services approve the manner or proposed manner of distribution of assets.

- Consumer and Business Services is requested to approve the manner or proposed manner of distribution of assets set out in Attachment 1.

The box is to be ticked only if the application is made under item 3(b) and there are no valid rules governing the distribution of assets on deregistration or winding up.

Fees - please refer to the enclosed fee schedule. An additional fee will be payable in respect of this request, and a true copy of the full set of rules of the association must be provided.

## Further attachments - Committee of Association

Please supply the names and residential addresses of the committee of the association.

The information is required by Consumer and Business Services but will not be made available for inspection by members of the public.

In the case of an application under item 3(b), where full details are not available to the applicants, you are asked to provide as much information as is available.

If the association is deregistered, the persons who are members of the committee of the association immediately before deregistration should be made aware that they are required to keep the association's books (other than certain books required to be kept by a liquidator) for three years after the deregistration (see section 601AD of the Corporations Act 2001 of the Commonwealth as modified by regulations under the Associations Incorporation Act 1985).

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