

Queensland



Subordinate Legislation 1992 No. 115

*South Bank Corporation Act 1989*

**SOUTH BANK CORPORATION (MODIFIED  
BUILDING UNITS AND GROUP TITLES)  
REGULATION 1992**

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**Short title**

1. This regulation may be cited as the *South Bank Corporation (Modified Building Units and Group Titles) Regulation 1992*.

**Commencement**

2. This regulation commences on the day that section 26 of the *South Bank Corporation Amendment Act 1991* commences.

**Application of Schedule**

3. The provisions of the Schedule apply in relation to land that is subdivided under section 25F of the Act.

## SCHEDULE

# MODIFIED BUILDING UNITS AND GROUP TITLES REGULATION

section 3

### Explanatory Notes to the Schedule

1. The provisions set out in this Schedule are, subject to note 2, the provisions of the *Building Units and Group Titles Regulation 1980* (the “**applied regulation**”) as in force at the making of this regulation.

2. Various provisions of the applied regulation have been omitted or appear in a modified form in this Schedule. Other provisions have been inserted.

3. Notes have been included at the end of various provisions of the Schedule to indicate the source of provisions. The following rules have been followed in the inclusion of notes—

- (a) if a provision of the applied regulation has not been amended (other than in a way in which a regulation is authorised to be reprinted by section 7 of the *Reprints Act 1992*)—no note is included;
- (b) if a provision of the applied regulation has been omitted—instead of that provision, the note ‘(not applied)’ appears;
- (c) if an additional provision has been inserted or a provision has been replaced—the note ‘(new)’ appears;
- (d) if a provision has been otherwise amended (other than in a way in which a regulation is authorised to be reprinted by section 7 of the *Reprints Act 1992*)—the note ‘(amended)’ appears.

4. The notes do not form part of the provisions of this Schedule.

## PART 1—PRELIMINARY

### Short title

1. (not applied)

### Interpretation

2. In this Schedule—

- (a) a reference to **“the Act”** is a reference to the Modified Building Units and Group Titles Act; and
- (b) a reference to a **“section”** or other provision that is not accompanied by a reference to ‘the Act’ is a reference to a clause or other provision of this Schedule.

(new)

### Approved forms

- 3.(1) In this section—

**“approving officer”** means—

- (a) in relation to a form to be used in the office of the Registrar of Titles—the chief executive of the Land Department; or
- (b) in relation to any other form—the Corporation Manager;

**“Land Department”** means the department that deals with matters arising under the Real Property Acts;

(2) If this regulation allows or requires a person to give a form in the approved form, the approving officer must approve a form for that purpose.

(3) A person may request the approving officer to give to the person a document setting out an approved form.

(4) The approving officer must promptly comply with a request under subsection (3).

(new)

**Repeals**

5. (not applied)

**Transitional**

6. (not applied)

**PART 2—PLANS****Registers of plans**

7.(1) The Registrar of Titles must keep a register of leasehold building units plans in which must be recorded the following particulars of each leasehold building units plan and leasehold plan of resubdivision or amalgamation lodged in the office of the Registrar of Titles pursuant to the Act—

- (a) the number of the plan;
- (b) the number of lots comprised in the plan;
- (c) the name—
  - (i) if the plan does not relate to a stratum parcel—of the building; or
  - (ii) if the plan relates to a stratum parcel—of the stratum parcel;
- (d) the name of the relevant local authority;
- (e) the name of the party lodging the plan.

(amended)

- (2) (not applied)

**Requirements for registration**

8.(1) Every leasehold building units plan, leasehold plan of resubdivision or amalgamation and notice of conversion lodged in the office of the Registrar of Titles for registration must comply with the following

requirements—

- (a) It must be prepared on 1 side of water-marked tub-sized azure laid ledger paper which contains not less than 60% rag fibre and which is of not less substance than 113 g/m<sup>2</sup> (22.7 kg per 500 sheets of double demy (510 mm X 790 mm)) and of not less bursting strength than 3.5194 g/cm<sup>2</sup> (with a tolerance of 20%). The paper must not be creased and must be free from discolouration or blemishes, must measure 395 mm in length by 255 mm in width and must have clear margins on the face of each sheet of not less than 40 mm on the left-hand side and not less than 15 mm on the right-hand side, at the top and at the bottom;
- (b) A leasehold building units plan that does not relate to a proposed stratum parcel must comprise—
  - (i) a first sheet in the approved form on which is set out material complying with section 9(1)(d), (i)(i), and (j) of the Act; and
  - (ii) a second sheet on which is set out material complying with section 9(1)(a) and (c) of the Act; and
  - (iii) a third sheet in the approved form on which is set out the certificate of a licensed surveyor referred to in section 9(8)(a) and (ab) of the Act; and
  - (iv) a fourth sheet in the approved form on which is set out the certificate of the local authority referred to in section 9(7) of the Act; and
  - (v) a fifth sheet in the approved form on which is set out the certificate of an architect, a building surveyor or a building inspector, as the case may be, mentioned in section 9(8)(c) of the Act; and
  - (vi) a sixth sheet in the approved form on which is set out the schedule (being a schedule of lot entitlements) required by section 9(1)(h) of the Act; and
  - (vii) further sheets in the approved form on which is set out material complying with section 9(1)(e), (f)(i) and (g) of the Act;



- (c) A leasehold building units plan that relates to a proposed stratum parcel must comprise—
  - (i) a first sheet in the approved form on which is set out material complying with section 9(1)(d), (i)(ii) and (j) of the Act; and
  - (ii) a second sheet on which is set out material complying with section 9(1)(b) and (c) of the Act; and
  - (iii) a third sheet in the approved form on which is set out the certificate of a licensed surveyor referred to in section 9(8)(b) of the Act; and
  - (iv) a fourth sheet in the approved form on which is set out the certificate of the local authority referred to in section 9(7) of the Act; and
  - (v) a fifth sheet in the approved form on which is set out the certificate of an architect, a building surveyor or a building inspector, as the case may be, mentioned in section 9(8)(c) of the Act; and
  - (vi) a sixth sheet in the approved form on which is set out the schedule (being a schedule of lot entitlements) required by section 9(1)(h) of the Act; and
  - (vii) further sheets in the approved form on which is set out material complying with section 9(1)(e), (f)(ii) and (g) of the Act;
- (d) A leasehold plan of resubdivision that does not relate to a stratum parcel must comprise—
  - (i) a first sheet in the approved form on which is set out material complying with section 9(1)(d), (i)(i) and (j) of the Act; and
  - (ii) a second sheet on which is set out material complying with section 9(1)(a) and (c) of the Act; and
  - (iii) a third sheet in the approved form on which is set out the certificate of a licensed surveyor referred to in section 9(8)(a) of the Act; and
  - (iv) a fourth sheet in the approved form on which is set out the

- certificate of the local authority referred to in section 9(7) of the Act, and evidencing the approval of the local authority referred to in section 10(1) of the Act; and
- (v) a fifth sheet in the approved form on which is set out the certificate of an architect, a building surveyor or a building inspector, as the case may be, mentioned in section 9(8)(c) of the Act; and
  - (vi) a sixth sheet in the approved form on which is set out the schedule (being a schedule of lot entitlements) which, subject to the provisions of section 10(5) or (6)(a) of the Act, complies with section 9(1)(h) of the Act; and
  - (vii) where, pursuant to section 10(6)(b) of the Act, a certificate under the seal of the body corporate is required—a seventh sheet in the approved form on which is set out the certificate referred to in that section which certificate in addition evidences the approval referred to in the proviso to section 10(1) of the Act; and
  - (viii) further sheets in the approved form on which is set out material complying with section 9(1)(e), (f)(i) and (g) of the Act;
- (e) A leasehold plan of resubdivision that relates to a stratum parcel must comprise—
- (i) a first sheet in the approved form on which is set out material complying with section 9(1)(d), (i)(ii) and (j) of the Act; and
  - (ii) a second sheet on which is set out material complying with section 9(1)(b) and (c) of the Act; and
  - (iii) a third sheet in the approved form on which is set out the certificate of a licensed surveyor referred to in section 9(8)(b) of the Act; and
  - (iv) a fourth sheet in the approved form on which is set out the certificate of the local authority referred to in section 9(7) of the Act, and evidencing the approval of the local authority referred to in section 10(1) of the Act; and
  - (v) a fifth sheet in the approved form on which is set out the

- certificate of an architect, a building surveyor or a building inspector, as the case may be, mentioned in section 9(8)(c) of the Act; and
- (vi) a sixth sheet in the approved form on which is set out the schedule (being a schedule of lot entitlements) which, subject to the provisions of section 10(5) or (6)(a) of the Act, complies with section 9(1)(h) of the Act; and
  - (vii) where, pursuant to section 10(6)(b) of the Act, a certificate under the seal of the body corporate is required—a seventh sheet in the approved form on which is set out the certificate referred to in that section which certificate in addition evidences the approval referred to in the proviso to section 10(1) of the Act; and
  - (viii) further sheets in the approved form on which is set out material complying with section 9(1)(e), (f)(ii) and (g) of the Act;
- (f) A leasehold plan of amalgamation that does not relate to a stratum parcel must comprise—
- (i) a first sheet in the approved form which—
    - (A) bears a statement containing such particulars as may be necessary to identify the title to the parcel; and
    - (B) has endorsed upon it the name of the building; and
    - (C) has endorsed upon it the address at which documents may be served on the body corporate in accordance with section 127 of the Act; and
  - (ii) a second sheet which delineates the external surface boundaries of the parcel and the location of the building in relation thereto; and
  - (iii) a third sheet in the approved form on which is set out a certificate of the local authority evidencing the approval referred to in section 11(1) of the Act; and
  - (iv) a fourth sheet in the approved form on which is set out the lot entitlement of the lot resulting from the amalgamation; and

- (v) further sheets in the approved form which—
  - (A) include a drawing illustrating the lot and distinguishing the lot by a number; and
  - (B) define the boundaries of the lot by reference to floors, walls and ceilings, provided that it is not necessary to show any bearings or dimensions of the lot; and
  - (C) show the approximate floor area of the lot;
- (g) A leasehold plan of amalgamation that relates to a stratum parcel must comprise—
  - (i) a first sheet in the approved form which—
    - (A) bears a statement containing such particulars as may be necessary to identify the title to the parcel; and
    - (B) has endorsed upon it the name of the stratum parcel; and
    - (C) has endorsed upon it the address of which documents may be served on the body corporate in accordance with section 127 of the Act; and
  - (ii) a second sheet that delineates—
    - (A) the external surface boundaries of the site of the building of which the proposed stratum parcel forms part; and
    - (B) in relation to the boundaries mentioned in subparagraph (A)—the location of the building and the proposed stratum parcel; and
    - (C) in relation to the external surface boundaries of the proposed stratum parcel—the location of the part of the building that will be the subject of a proposed leasehold building units plan; and
  - (iii) a third sheet in the approved form on which is set out a certificate of the local authority evidencing the approval referred to in section 11(1) of the Act; and
  - (iv) a fourth sheet in the approved form on which is set out the lot entitlement of the lot resulting from the amalgamation;

and

- (v) further sheets in the approved form that—
  - (A) include a drawing illustrating the lot and distinguishing the lot by a number; and
  - (B) define the boundaries of the lot by reference to floors, walls and ceilings (without necessarily showing any bearings or dimensions of the lot); and
  - (C) show the approximate floor area of the lot;
- (h) In the case of a notice of conversion, it must comprise—
  - (i) a first sheet in the approved form on which is set out the notice of conversion being the notice referred to in section 12(1) of the Act; and
  - (ii) a second sheet in the approved form on which is set out a certificate of the body corporate evidencing the unanimous resolution referred to in section 12(1) of the Act; and
  - (iii) a third sheet in the approved form on which is set out a certificate of the local authority evidencing the approval referred to in section 12(1) of the Act; and
  - (iv) a fourth sheet in the approved form on which is set out the schedule (being a schedule of lot entitlements) complying with the provisions of section 19 of the Act and referred to in section 12(4)(b) of the Act;
- (i) Each sheet must be endorsed in the top right-hand corner ‘Sheet no. of sheets’, and must be signed by—
  - (i) if the local authority is the Corporation—the Corporation Manager; or
  - (ii) if the local authority is the Council—the Town Clerk;
- (j) A diagram that does not relate to a stratum parcel and is intended to comply with the requirements of section 9(1)(a) and (c) of the Act must be drawn with the north point directed upwards and must be to a scale, indicated thereon, which will admit of all details and notations being clearly shown. The diagram must establish the precise location of the building, or the common

property, as the case may be, with respect to the parcel by showing offsets or dimensions to the boundary of the parcel. In the case of a leasehold building units plan or a leasehold plan of resubdivision or amalgamation, no other dimensions with respect to the building are necessary;

(ja) A diagram that relates to a stratum parcel and is intended to comply with the requirements of section 9(1)(b) and (c) of the Act must be drawn with the north point directed upwards and must be to a scale, indicated thereon, which will admit of all details and notations being clearly shown. The diagram must establish the precise location of—

- (i) the external surface boundaries of the site of the building of which the proposed stratum parcel forms part; and
- (ii) in relation to the boundaries mentioned in subparagraph (i)—the building, the proposed stratum parcel and any common property; and
- (iii) in relation to the external surface boundaries of the proposed stratum parcel—the part of the building that will be the subject of the proposed leasehold building units plan;

by showing offsets or dimensions to the external surface boundaries of the site of the building of which the proposed stratum parcel forms part. In the case of a leasehold building units plan or a leasehold plan of resubdivision or amalgamation, no other dimensions with respect to the stratum parcel are necessary;

(k)—

- (i) In the case of a leasehold building units plan, the lots must be numbered consecutively, commencing with lot 1 and terminating with a lot numbered to correspond to the total number of lots comprised in the leasehold building units plan; and
- (ii) In the case of a leasehold plan of resubdivision or amalgamation, the lots must be numbered consecutively, the lowest lot number being greater by 1 than the highest number of any lot in the original leasehold building units plan; and

- (iii) In the case of every such plan, where a numbered lot is shown as consisting of separate parts, each part must be described as part of that numbered lot;
- (l)—
- (i) In respect of a schedule of lot entitlements, in the approved form, a column of not less than 40 mm in width must be preserved to the immediate right of such schedule to enable insertion of references to the certificates of title to be issued in respect of the leasehold estate in the leases of the lots in the plan to which the schedule relates, and the vertical interval between each item in the schedule and the next must be not less than 10 mm;
  - (ii) A schedule of lot entitlements must—
    - (A) set out in a vertical column or columns and in numerical sequence the numbers of the lots; and
    - (B) set out opposite the lot numbers and in a column or columns, as the case may be, as whole numbers, the proposed lot entitlements of the respective lots; and
    - (C) show at the foot of the last column of lot entitlements the aggregate lot entitlement (being the numerical total of the proposed lot entitlements of all lots); and
    - (D) where in the case of a leasehold building units plan that does not relate to a stratum parcel, a building, or if a leasehold building units plan relates to a stratum parcel, a stratum parcel, as the case may be, is divided horizontally into more than 1 level, have set out opposite each lot number the level of that lot;
  - (m) Where typewriting is employed, a dense black non-copying record ink must be used and the lines of typewriting must not overlap. Neither a carbon copy nor a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, must be employed;
  - (n) Handwriting and any imprint of a seal must be clear and legible and in permanent black non-copying ink;
  - (o) Printing, writing or drawing must not extend into any margin;

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- (p) Any alterations involving deletion must be made by striking through the matter intended to be deleted and not by rubbing, scraping or cutting the surface of the paper or by the use of patent correcting fluids;
  - (pa) Every alteration to a sheet must be authenticated by—
    - (i) in the case of an alteration to a sheet which is signed by a registered proprietor—the registered proprietor; and
    - (ii) where the alteration concerns the definition of a lot boundary—the surveyor and—
      - (A) if the local authority is the Corporation—the Corporation Manager; and
      - (B) if the local authority is the Council—the Town Clerk;
  - (q) In the case of a leasehold building units plan or a leasehold plan of resubdivision or amalgamation, a floor plan prepared for the purpose of complying with section 9(1)(f)(i) or (ii) of the Act, as the case may be, must be drawn with the north point directed upwards and must be of a size which will admit of all details and notations being clearly shown.

(amended)

(2) For the purpose of section 9(1)(d) of the Act, the parcel comprised in a leasehold building units plan must be defined by reference to the relevant certificate of title and must be further defined by the description of the parcel.

(amended)

### **Further requirements for registration**

9. Every leasehold building units plan, leasehold plan of resubdivision or amalgamation, and notice of conversion lodged in the office of the Registrar of Titles for registration must—

- (a) indicate the name and postal address of the registered proprietor in the land and the name and address of the party by whom the plan was lodged; and
- (b) be produced by hand at the office of the Registrar of Titles and be



accompanied by—

- (i) in the case of a leasehold building units plan—the certificate of title for the parcel; and
- (ii) in the case of a leasehold plan of resubdivision or amalgamation—the certificate of title for the leasehold estate in each lot comprised in that plan; and
- (iii) in the case of a notice of conversion—the certificate of title for the leasehold estate in each lot comprised in the notice.

(amended)

### **Manner of registration**

**10.** When registering a leasehold plan of resubdivision or amalgamation, or notice of conversion, the Registrar of Titles must—

- (a) endorse on the original leasehold building units plan and on the certificates of title for the leasehold estate in the lots the subject of the resubdivision, amalgamation or conversion, a notification thereof signed by the Registrar of Titles; and
- (b) indicate by appropriate charting on the diagram on the original leasehold building units plan illustrating the lots or common property or lots and common property the subject of the resubdivision, amalgamation or conversion, that such lots or common property or lots and common property have been resubdivided, amalgamated or converted; and
- (c) in the case of an amalgamation, amend the schedule of lot entitlements endorsed on the original leasehold building units plan by striking out the reference in the schedule to the lots that have been amalgamated and their entitlements and recording thereon the amalgamated lot and its entitlement.

(amended)

## PART 3—INSTRUMENTS

### **Certificates of title to be in the approved form**

**10A.** A certificate of title for the leasehold estate in a lot, issued by the Registrar of Titles under section 9A(6) of the Act, must be in the approved form.

(new)

### **Instruments to comply with certain requirements**

**11.** The requirements specified in section 8(1)(a), (m), (n), (o) and (p) with respect to every plan as referred to in section 8(1) and every notice of conversion, also apply to all other instruments lodged with the Registrar of Titles for the purposes of the Act or this regulation.

(amended)

### **Certificate by local authority**

**12.** (not applied)

### **Instruments under section 17A of the Act**

**12A.(1)** The prescribed form for an instrument under section 17A(1) of the Act is the approved form.

**(2)** A memorandum of variation for the purposes of section 17A(4) of the Act must be in the approved form.

**(3)** A person signing a form mentioned in this section must have his or her signature attested in accordance with section 115 of the *Real Property Act 1861*, as if the instrument were executed under that Act.

(new)

**Certificate of licensed surveyor**

**12B.** A certificate of a licensed surveyor under section 9(1A)(b)(ii) of the Act must be in the approved form.

(new)

**Certificate of lessees approving subdivision**

**12C.(1)** A certificate given under section 9(1A)(b)(iv)(A) of the Act must be in the approved form.

**(2)** The persons prescribed for the purposes of section 9(1A)(b)(iv)(A) of the Act are—

- (a) if there are no more than 3 leases—all of the lessees; or
- (b) if there are more than 3 leases—the person elected as chairperson at the meeting mentioned in section 9(1A)(b)(iii) of the Act and 2 other lessees who are not joint lessees under the same lease.

(new)

**Certificate of body corporate**

**13.** A certificate of the body corporate under section 21(2)(b), 22(8) or 23(5) of the Act must be in the approved form.

(amended)

**Notification of extinguishment**

**14.** (not applied)

**Form of request under section 26B(1) of the Act**

**14A.** The prescribed form for a request made to the Registrar of Titles under section 26B(1) of the Act is the approved form.

(new)

**Notification of change of by-laws**

**15.** The prescribed form for a notification given by a body corporate under section 30(3) or (7B) of the Act is the approved form.

(amended)

**Notice of change of address**

**16.** The prescribed form for a notice of change of address of a body corporate for service of notices on it, given under section 34(2) of the Act, is the approved form.

(amended)

**Notice of change of name**

**16A.** A notice given by a body corporate for the purposes of section 9(4) of the Act must be in the approved form.

(amended)

**Manner of registration of certain dealings**

**17.** For the purposes of sections 22(11) and 23(7) of the Act, the Registrar of Titles must endorse a memorial, signed by the Registrar of Titles, of a sublease, transfer of lease, surrender of sublease or instrument creating or surrendering an easement, on a sheet annexed to the first sheet of the registered leasehold building units plan.

(amended)

**Production of certain certificates of title not necessary**

**18.** (not applied)

**Manner of entry of notification of extinguishment on plan**

**19.** (not applied)

**Statement by original lessee**

**19A.** The prescribed form for a statement given by an original lessee under section 49 of the Act is the approved form.

(amended)

**PART 4—ELECTIONS****Procedure at first annual general meeting etc.**

**20.** The procedure for nomination and election of a chairperson, secretary and treasurer of the body corporate and other members of a committee—

- (a) at the first annual general meeting of a body corporate; or
- (b) at an extraordinary general meeting of a body corporate convened pursuant to section 42(5) of the Act; or
- (c) at a meeting of a body corporate convened pursuant to section 43(2A) of the Act; or
- (d) at the annual general meeting of a body corporate exempted under section 41 of the Act from complying fully with Part 2 of Schedule 2 to the Act and clause 10 of Schedule 4 to the Act;

must be in accordance with the following rules—

**1.** The meeting is to determine—

- (a) if there are more than 3 lessees and subject to section 42(4) of the Act—the number of persons who are to be committee members; and
- (b) for the purposes of section 42(15) of the Act—if the election is to be an open election or by secret ballot.

**2.** The chairperson of the meeting must call upon those persons present and entitled to nominate candidates (as determined by clause 4 of Part 1 of Schedule 2 to the Act) to nominate candidates for election as chairperson, secretary and treasurer of the body corporate and other members of the committee.

**3.** A nomination is ineffective unless supported by the consent of the nominee to his or her nomination, given—

- (a) in writing, and furnished to the chairperson at the meeting; or
- (b) orally, by the nominee who is present at the meeting.

**4.** The election of chairperson, secretary and treasurer of the body corporate, and the other members of the committee, must be conducted separately and, when no further nominations are forthcoming in respect of each election, the chairperson—

- (a) where there is only 1 nomination in respect of any 1 or more of the offices of chairperson, secretary or treasurer—must declare the candidate has been elected as the chairperson, secretary or treasurer, as the case may be; and
- (b) where the number of candidates in respect of other members of the committee equals the number of other members of the committee as determined in accordance with section 42(4) of the Act—must declare that those candidates have been elected as the other members of the committee; and
- (c) where there is more than 1 candidate in respect of any 1 or more of the offices of the chairperson, secretary or treasurer—must direct that a ballot be held for the office in respect of which there is more than 1 candidate; and
- (d) where the number of candidates in respect of other members of committee exceeds the number of other members of the committee as determined in accordance with section 42(4) of the Act—must direct that a ballot be held.

**5.** In respect of each ballot held the chairperson must—

- (a) announce the names of the candidates and, in the case of each candidate, whether the candidate is a lessee or, if not, by whom the candidate was nominated; and
- (b) if the election is an open election—distribute to each person present and entitled to vote a blank paper for each lot entitling that person to vote, for use as a ballot paper; or
- (c) if the election is by secret ballot—distribute to each person present and entitled to vote a blank paper for each lot entitling the person

to vote, and a ballot paper envelope and particulars envelope that comply with section 21B.

**6.** A person who is entitled to vote must complete a valid ballot paper by—

- (a) in the case of the election of the chairperson, secretary or treasurer—writing thereon the name of a candidate;
- (b) in the case of the election of the other members of the committee—writing thereon the names of candidates, equal in number to the number of other members of the committee determined in accordance with section 42(4) of the Act, so that no name is repeated;
- (c) if the election is an open election—
  - (i) indicating on the ballot paper the number of the lot entitling the person to vote and whether the person votes in the capacity of lessee, first mortgagee, proxy, nominee or trustee; and
  - (ii) signing the ballot paper; and
  - (iii) returning the ballot paper to the chairperson;
- (d) if the election is by secret ballot—
  - (i) completing the ballot paper in a manner that complies with section 21B; and
  - (ii) returning the ballot paper to the chairperson.

**7.** The chairperson, or a person appointed by the chairperson, must count the votes recorded on valid ballot papers in favour of each candidate.

**8.** Subject to rule 9, in the case of the election of the other members of the committee, candidates, being equal in number to the number of other members of the committee determined in accordance with section 42(4) of the Act, who receive the highest numbers of votes must be declared elected to the committee.

**9.** Where the number of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in rule 8 and—

- (a) that number equals the number of votes recorded in favour of any other candidate; and

- (b) if each of those candidates were to be declared elected, the number of persons elected would exceed the number of persons required to be elected;

as between those candidates, the election must be decided by lot.

(amended)

### **Nomination procedures for second or subsequent annual general meeting**

**21.(1)** This section does not apply to a body corporate that, under section 41 of the Act, is exempt from a provision of Schedule 2 or 4 to the Act that applies to voting at an election conducted by a body corporate.

**(2)** The rules of procedure for the nomination of candidates for election as—

- (a) chairperson, secretary or treasurer; or
- (b) other member of the committee;

of a body corporate are as follows—

**1.** The secretary must serve notice on each lessee shown on the body corporate's roll, inviting the nomination of candidates for the position of chairperson, secretary, treasurer or other member of the committee.

**2.** The notice must be served as required by section 127(3) of the Act at least 14 days before the date on which nominations close.

**3.** Nominations close on the day that is 21 days before the anniversary of the first annual general meeting.

**4.** A nomination of a person who, under section 42(6) of the Act, is eligible for election as chairperson, secretary or treasurer or other member of a committee must—

- (a) state the full name of the person nominated; and
- (b) state whether the nominee is—
  - (i) an individual who is a lessee; or
  - (ii) a company nominee of a corporation that is a lessee; or
  - (iii) an individual who is not a lessee but who is nominated for



election; and

- (c) state the full name of the nominator; and
- (d) be signed by the nominee and the nominator.

**5.** The secretary must not include in a ballot paper the name of a person whose name is included in a nomination that does not comply with rule 4.

**6.** If, in respect of the position of chairperson, secretary or treasurer—

- (a) no person is nominated—the chairperson at the annual general meeting is to invite nominations for any such position and must conduct an election in the same manner as for an election under section 20; or
- (b) only 1 person is nominated for any such position—the chairperson at the annual general meeting must declare that person to be elected; or
- (c) more than 1 person is nominated for any such position—a ballot is to be conducted in respect of the position.

**7.** If, in respect of the position of another member of the committee—

- (a) no person is nominated—the chairperson at the annual general meeting is to invite nominations for the position and must conduct an election in the same manner as for an election under section 20; or
- (b) less than the number of persons required to be elected are nominated—the chairperson at the annual general meeting—
  - (i) must declare any person who has been nominated to be elected; and
  - (ii) is to invite nominations for the positions that have not been filled and must conduct an election for those positions in the same manner as for an election under section 20; or
- (c) more persons are nominated than are required to be elected—a ballot is to be conducted in respect of the position.

(amended)

**Procedure on open ballot**

**21A.** The rules of procedure for the conduct of an open election by ballot are as follows—

**1.** The secretary must prepare ballot papers indicating the number of persons required to be elected and setting out the names of the candidates in alphabetical order and, in respect of each candidate, whether each candidate is—

- (a) an individual who is a lessee; or
- (b) a company nominee of a corporation that is a lessee; or
- (c) an individual who is not a proprietor but who is nominated for election by a lessee;

and the name of the person who nominated the candidate.

**2.** A ballot paper and an envelope marked “Ballot Paper” and addressed to the secretary is to be forwarded to each person shown on the roll.

**3.** A person who is entitled to vote is to vote by—

- (a) crossing out the names of candidates for whom the person does not wish to vote until the number of names remaining equals the number of persons required to be elected to each position; and
- (b) signing the back of the ballot paper; and
- (c) marking the number of the lot entitling the person to vote on the back of the ballot paper; and
- (d) unless the ballot paper is completed at the annual general meeting—
  - (i) placing the ballot paper in the ballot paper envelope; and
  - (ii) sealing the envelope and signing the back of the envelope; and
  - (iii) marking the number of the lot entitling the person to vote on the back of the ballot paper; and
- (e) giving or sending the envelope to the secretary before or at the annual general meeting.

**4.** A person who is entitled to vote but has not voted before the annual general meeting is, upon request, to be given a ballot paper, and must give

the completed ballot to the secretary when called upon to do so.

**5.** A ballot paper envelope must not be opened until all votes cast have been given to the secretary.

(amended)

### **Procedure on secret ballot**

**21B.** The rules of procedure for the conduct of an election by secret ballot are as follows—

**1.** The secretary must forward to each person shown on the roll a ballot paper and a ballot paper envelope that complies with section 21A, rule 1, and a particulars envelope.

**2.** A particulars envelope may be—

- (a) a separate envelope; or
- (b) a part of the ballot paper envelope that may be detached without opening the ballot paper envelope.

**3.** The particulars envelope is to be completed by inserting—

- (a) the number of the lot; and
- (b) the name of the lessee of the lot; and
- (c) the name of the person entitled to vote; and
- (d) the capacity in which that person votes;

and is to be signed and dated by the voter.

**4.** A person who is entitled to vote in a secret ballot is to vote by—

- (a) crossing out the names of candidates for whom the person does not wish to vote until the number of names remaining equals the number of persons required to be elected; and
- (b) placing the ballot paper in a ballot paper envelope, which is to be sealed and, if a separate particulars envelope is provided, placed in a completed particulars envelope; and
- (c) giving or sending the sealed envelope to the secretary.

**5.** The secretary may issue a fresh ballot paper in place of a ballot paper

that has been lost, not received, destroyed or is for any other reason not available for use and is to record that fact in writing and show that record to the chairperson at the meeting before the votes in the election are counted.

(amended)

### **Result of ballot**

**21C.** The rules of procedure for determining the result of a ballot are as follows—

**1.** If the election was conducted by secret ballot, the chairperson, or a person appointed by the chairperson, must scrutinise the particulars endorsed on the particulars envelope in the presence of any scrutineers appointed by the chairperson and if satisfied that the person who completed the envelope is entitled to vote in the election is to remove the ballot paper envelope from the particulars envelope.

**2.** If the election was conducted by secret ballot, all ballot paper envelopes are to be placed in a receptacle in open view of the meeting and are to be randomly mixed.

**3.** The chairperson, or a person appointed by the chairperson, is to open the ballot paper envelopes and count the votes recorded on the ballot papers in those envelopes.

**4.** Subject to rule 5—

- (a) in the case of an election for the position of chairperson, secretary or treasurer, the person who receives the highest number of votes is to be declared elected; and
- (b) in the case of an election for the position of other members of a committee, the chairperson is to declare elected the person who received the highest number of votes, in descending order, until the number of persons required to be elected have been elected.

**5.** If 2 or more persons receive the same number of votes and the number of persons to be elected would be exceeded by declaring those persons elected, the result of the ballot is to be determined by lot.

(amended)

**PART 5—FEES**

**Fees payable to Registrar of Titles**

**22.(1)** In respect of any matter for which a fee is prescribed under section 140 of the *Real Property Act 1861* then, subject to this section, such fee is payable as if prescribed by this regulation.

(amended)

**(2)** The lodgment fee on any dealing executed by the body corporate pursuant to the powers conferred by section 21, 22 or 23 of the Act must be assessed as if such dealing related to the land comprised in a single certificate of title.

(amended)

**(3)** The following fees must be paid to the Registrar of Titles in respect of the several matters hereinafter referred to—

<b>Item no.</b>	<b>Item or service for which fee is charged</b>	<b>Fee \$</b>
1	Lodgment for registration of a leasehold building units plan or leasehold plan of subdivision or amalgamation—	
	(a) first 9 lots .....	125.00

- (b) ..... each additional lot 15.70
- 2 Lodgment of—
  - (a) a notice of conversion; or
  - (b) a request under section 26B of the Act; or
  - (c) ..... a notification of change of by-laws 78.00
- 3

Lodgment of any other notice or document required under the Act for which no fee is

specified  
15.70

(amended)

**Fees payable to referee**

23.(1) The following fees must be paid to a referee in respect of the several matters hereinafter referred to—

<b>Item or service for which fee is charged</b>	<b>Fee \$</b>
Lodgment of an application for the making of an order under section 77(1) of the Act in which a request for an interim order under section 76(2) of the Act is made .....	50.00

(amended)

(2) If in the opinion of a referee an applicant or appellant is unable to pay the prescribed fee in respect of an application or notice of appeal made or lodged under Part 5 of the Act, the referee must remit that fee.

(amended)

### **Fees payable to body corporate**

24. (not applied)

## **PART 6—GENERAL**

### **Retention of records, etc.**

25.(1) (not applied)

(2) For the purposes of section 38D(1)(b) of the Act the prescribed period is—

- (a) in the case of minutes of a body corporate—the period up to and including the date of extinguishment of the leasehold building units plan; and

- (b) in the case of books of account of a body corporate—a period of 6 years commencing on the day when a statement of those accounts was submitted to an annual general meeting.

(amended)

### **Prescribed investment**

26. (not applied)

### **Form of roll under section 39(3) of the Act**

27. That part of the roll on which the body corporate records information with respect to a lot under section 39(3) of the Act must be in the approved form.

(amended)

### **Application to body corporate under section 40 of the Act**

28.(1) An application made to a body corporate under section 40(1) of the Act must be in the approved form and the information and certification for the purposes of section 40(1)(a) and (c) of the Act respectively must be provided by the body corporate on the application.

(amended)

(2) A departure from the approved form of—

- (a) an application mentioned in subsection (1); or
- (b) any information or certification provided by a body corporate for the purposes of section 40(1)(a) and (c) of the Act;

does not of itself affect the validity of the application, or constitute a failure of the body corporate to comply with the provisions of section 40(1) of the Act.

(amended)



**Application for exemption**

**29.** The prescribed form for an application under section 41(2) of the Act is the approved form.

(amended)

**Grounds for application for exemption**

**30.** For the purposes of section 41(2) of the Act the prescribed grounds are—

- (a) a lessee who was a permanent resident has transferred the lease of the lot to a non-resident lessee who does not oppose the application; and
- (b) a lessee who is a permanent resident is the owner of more than 1 lot in a leasehold building units plan; and
- (c) a lessee is a corporation; and
- (d) all non-resident lessees have notified the body corporate in writing that they do not oppose the application.

(amended)

**Restriction on expenditure by committee**

**31.** (not applied)

**Notices to body corporate under section 53 of the Act**

**32.** A notice given to a body corporate under section 53 of the Act must be in the appropriate approved form.

(amended)

**Request for summons**

**33.** A request for the issue of a summons under section 103(1) of the Act must be in the approved form and must be lodged with a referee.

(amended)

**Forms of summons**

**34.** A summons issued under section 103(1) of the Act must be in the approved form.

(amended)

**Form of inquiry**

**35.** The prescribed form for an inquiry under section 117 of the Act, concerning an application to, or an order made by, a referee, is the approved form.

(amended)

**Classes of order**

**36.** For the purposes of section 117(a)(ii) of the Act, the prescribed classes of order are orders made by a referee in respect of—

- (a) a body corporate or its committee; or
- (b) a body corporate manager; or
- (c) a lessee or occupier of the particular lot the subject of the inquiry;  
or
- (d) a lessee or occupier of any other lot in that parcel within the period of 12 months preceding the date of lodgment of the inquiry.

(amended)

**Application for reservation of name**

**37.(1)** The prescribed form for an application for the reservation of a name under section 120(1) of the Act is the approved form.

(amended)

**(2)** The application must be lodged in the office of the Registrar of Titles.

(amended)

**Manner of reservation of name**

**38.(1)** For the purposes of section 120(2) of the Act, the Registrar of Titles must, with respect to the reservation of the name of a building or a stratum parcel in a proposed leasehold building units plan, record the name and the date of the lodgment of the application in a register kept solely for that purpose.

(amended)

(2) (not applied)

**Notice of general meeting**

**39.(1)** A notice of a general meeting of a body corporate, other than the first annual general meeting, must be in the approved form.

(amended)

(2) A departure from the approved form of a notice mentioned in subsection (1) does not of itself affect the validity of the notice.

(amended)

**Requirements of application or notice of appeal**

**40.** The requirements of section 8(1)(m), (n) and (p) apply to an application or notice of appeal lodged with the referee as if it were a plan or notice of conversion as referred to in section 8, and any alteration must be authenticated by the applicant or appellant.

(amended)

**Offences**

**41.(1)** Any person (including a body corporate) who contravenes or fails to comply with any provision of this regulation commits an offence against this regulation and is liable on conviction to a penalty not exceeding 4 penalty units.

(amended)

(2) An offence against this regulation must be prosecuted in a summary way under the *Justices Act 1886*.

**Cost of improvements**

**42.** (not applied)

**Insurance**

**43.** (not applied)

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**ENDNOTES**

1. Made by the Governor in Council on 4 June 1992.
2. Published in the Gazette on 5 June 1992.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of the Premier, Economic and Trade Development.

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