

Queensland



Subordinate Legislation 1998 No. 189

Building Units and Group Titles Act 1980

**BUILDING UNITS AND GROUP TITLES
REGULATION 1998**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	3
2	Definitions	3
PART 2—FORMS AND REGISTRATION REQUIREMENTS		
3	Forms	4
4	Requirements for registration of relevant documents	4
5	Notification of registration of plans by registrar	4
PART 3—NOMINATIONS AND ELECTIONS		
6	Nominations and elections at first annual general meeting and other particular meetings	5
7	Nominations at second or subsequent annual general meetings	6
PART 4—MISCELLANEOUS		
8	Cost of improvements—Act, s 37(2)(g)(i)	6
9	Retaining records—Act, s 38D(1)(b)	7
10	Ground for application for exemption—Act, s 41(2)	7
11	Restriction on expenditure by committee—Act, s 47(1)	7
12	Amount of insurance cover—Act, s 56(2)	7
13	Classes of order—Act, s 117(a)(ii)	8
PART 5—FEES		
14	Fees	8

15 Remission of referee's fees 8

PART 6—REPEAL

16 Repeal 9

SCHEDULE 1 10

**NOMINATION AND ELECTION OF COMMITTEE AT FIRST
ANNUAL GENERAL MEETING AND OTHER PARTICULAR
MEETINGS**

SCHEDULE 2 16

**NOMINATION AND ELECTION OF COMMITTEE AT SECOND
AND SUBSEQUENT ANNUAL GENERAL MEETINGS**

SCHEDULE 3 23

FEES

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Building Units and Group Titles Regulation 1998*.

Definitions

2. In this regulation—

“**annual general meeting**” means an annual general meeting under section 29A(1)¹ of the Act.

“**approved form**” means a form approved by the chief executive under section 3(1).

“**books of account**” means the books of account required to be kept by a body corporate under section 38D(1)(b)² of the Act.

“**notice of conversion**” means a notice of conversion under section 12³ of the Act.

“**other committee member**”, of a body corporate, means a member of the committee, other than the chairperson, secretary or treasurer of the committee.

“**plan of amalgamation**” means a plan of amalgamation under section 11⁴ of the Act.

“**plan of resubdivision**” means a plan of resubdivision under section 10⁵ of the Act.

¹ Section 29A (Meetings, other than first annual general meeting, of body corporate)

² Section 38D (Duty of body corporate as to keeping records, convening meetings etc.)

³ Section 12 (Conversion of lots into common property)

⁴ Section 11 (Amalgamation of lots)

⁵ Section 10 (Resubdivision)

“**registrar**” see *Land Title Act 1994*, schedule 2.⁶

“**statement of accounts**” means a statement of accounts required to be prepared by a body corporate under section 38D(1)(c) of the Act.

PART 2—FORMS AND REGISTRATION REQUIREMENTS

Forms

3.(1) The chief executive may approve forms to be used under the Act.

(2) For a provision of the Act mentioning a prescribed form, the prescribed form is the approved form.

Requirements for registration of relevant documents

4.(1) A relevant document must be—

- (a) in the approved form; and
- (b) in conformity with directions of the registrar about the required format for a relevant document.

(2) In this section—

“**relevant document**” means—

- (a) a plan; or
- (b) a plan of amalgamation; or
- (c) a notice of conversion.

Notification of registration of plans by registrar

5.(1) The registrar must make appropriate notification of the registration of a plan of amalgamation, plan of resubdivision or notice of conversion—

⁶ The *Land Title Act 1994*, schedule 2, definition “registrar” reads as follows—
‘“**registrar**” means the registrar of titles.’.

- (a) on the certificates of title for each lot the subject of the original plan for the plan of amalgamation, plan of resubdivision or notice of conversion (the “**original plan**”); and
 - (b) on the original plan.
- (2) Without limiting subsection (1), the registrar must—
- (a) chart the effect of registration on the diagram illustrating the lots, common property, or lots and common property, the subject of the original plan; and
 - (b) for a plan of amalgamation—amend the schedule of lot entitlements to record the effect of registration.

PART 3—NOMINATIONS AND ELECTIONS

Nominations and elections at first annual general meeting and other particular meetings

6.(1) This section applies to the nomination and election of a chairperson, secretary, treasurer and other committee members of a body corporate—

- (a) at the body corporate’s first annual general meeting under section 29(1)⁷ of the Act; or
- (b) at an annual general meeting of the body corporate if, because of a resolution of the body corporate under section 41(1)⁸ of the Act or a referee’s order under section 41(4) or (4A) of the Act—
 - (i) schedule 2, part 2, section 1(4)(d), (5), (6), (7) or (10), 4(b), 5(b), 6 or 8⁹ of the Act does not apply to the body corporate; or

⁷ Section 29 (First annual general meeting of body corporate)

⁸ Section 41 (Exemption from certain provisions of Act)

⁹ Schedule 2 (Meetings of, and voting at meetings of, body corporate), part 2 (Meetings other than first annual general meeting)

- (ii) schedule 4, section 10(f)¹⁰ of the Act does not apply to the body corporate; or
 - (c) at an extraordinary general meeting of the body corporate under section 42(5)(a)(i)¹¹ of the Act; or
 - (d) a meeting of the body corporate under section 43(3)¹² of the Act.
- (2) Schedule 1 applies to the nomination and election.

Nominations at second or subsequent annual general meetings

7.(1) This section applies to the nomination and election of a chairperson, secretary, treasurer and other committee members of a body corporate at an annual general meeting of the body corporate other than an annual general meeting mentioned in section 6(1)(a) or (b).

- (2) Schedule 2 applies to the nomination and election.

PART 4—MISCELLANEOUS

Cost of improvements—Act, s 37(2)(g)(i)

8.(1) For section 37(2)(g)(i)¹³ of the Act, the prescribed amount, for the cost of improvements made to common property, is the higher of the following—

- (a) \$1 000;
- (b) the amount calculated as follows—

$$\mathbf{\$200 \times L}$$

- (2) In subsection (1)—

¹⁰ Schedule 4 (Provisions applying to committees and office bearers), section 10 (Powers and duties of secretary)

¹¹ Section 42 (Constitution of committees)

¹² Section 43 (Vacation of office of member of committee)

¹³ Section 37 (Duties and powers of body corporate regarding property etc.)

“**L**” means the number of lots the subject of the plan that includes the common property.

Retaining records—Act, s 38D(1)(b)

9. For section 38D(1)(b)¹⁴ of the Act, the prescribed time is—

- (a) for minutes of meetings of a body corporate—until the day the plan whose registration incorporated the body corporate is extinguished under section 25(1)¹⁵ of the Act; and
- (b) for books of account of a body corporate—6 years after the day a statement of accounts prepared from the books of account is adopted by a general meeting of the body corporate.

Ground for application for exemption—Act, s 41(2)

10. The prescribed ground on which a body corporate may make an application under section 41(2)¹⁶ of the Act is that the body corporate has received written notice from each proprietor entitled to vote, but not voting, on a resolution under section 41(2) of the Act that the resolution is not opposed.

Restriction on expenditure by committee—Act, s 47(1)

11. For section 47(1)¹⁷ of the Act, the prescribed amount is \$40.

Amount of insurance cover—Act, s 56(2)

12. For section 56(2)¹⁸ of the Act, the prescribed amount of cover is \$10 000 000.

¹⁴ Section 38D (Duty of body corporate as to keeping records, convening meetings etc.)

¹⁵ Section 25 (Variation or extinguishment of plan)

¹⁶ Section 41 (Exemption from certain provisions of Act)

¹⁷ Section 47 (Statutory restrictions on powers of committees)

¹⁸ Section 56 (Further insurance by body corporate)

Classes of order—Act, s 117(a)(ii)

13. For section 117(a)(ii)¹⁹ of the Act, an order is of a prescribed class if the order is made by a referee about—

- (a) a body corporate; or
- (b) a committee; or
- (c) a proprietor or occupier of a lot about which an inquiry under section 117 of the Act is made; or
- (d) a proprietor or occupier of a lot other than a proprietor or occupier mentioned in paragraph (c) if the order is made no more than 12 months before the relevant inquiry under section 117 of the Act is made.

PART 5—FEES**Fees**

14.(1) The fees payable under the Act to the registrar are set out in schedule 3, part 1.

(2) The fees payable under the Act to the referee are set out in schedule 3, part 2.

(3) The fees payable under the Act to a body corporate are set out in schedule 3, part 3.

Remission of referee's fees

15.(1) The referee may excuse a person from paying a fee, or part of a fee, payable to the referee.

(2) However, the referee may act under subsection (1) only if the referee is satisfied the person is suffering extreme financial hardship.

¹⁹ Section 117 (Inquiries)

PART 6—REPEAL**Repeal**

- 16.** The *Building Units and Group Titles Regulation 1980* is repealed.

SCHEDULE 1

NOMINATION AND ELECTION OF COMMITTEE AT FIRST ANNUAL GENERAL MEETING AND OTHER PARTICULAR MEETINGS

section 6(2)

PART 1—NOMINATIONS

Preliminary decisions

- 1.** The meeting must decide—
 - (a) if there are more than 3 proprietors, the number of other members required to make up a committee as required by section 42(4) of the Act;²⁰ and
 - (b) if the election of the committee will be by open ballot.²¹

Chairperson to call for nominations

2. The chairperson must call upon those present and entitled to nominate candidates for election as chairperson, secretary, treasurer and other committee members of the body corporate.

Consent for effective nominations

- 3.** A nomination under section 2 has no effect unless—
 - (a) the nominee's written consent is given to the chairperson before,

²⁰ If there are not more than 3 proprietors, section 42(3) of the Act applies to the constitution of the committee.

²¹ Section 42(15) of the Act provides for the election of the members of a committee and the chairperson, secretary and treasurer of a body corporate to be by secret ballot unless the body corporate otherwise resolves.

SCHEDULE 1 (continued)

or at, the meeting; or

- (b) the nominee's verbal consent is given to the chairperson at the meeting.

Sole nominees for election as chairperson, secretary or treasurer

4.(1) If there is only 1 nominee for election as chairperson, the nominee is taken to be elected as chairperson.

(2) If there is only 1 nominee for election as secretary, the nominee is taken to be elected as secretary.

(3) If there is only 1 nominee for election as treasurer, the nominee is taken to be elected as treasurer.

Multiple nominees for election as chairperson, secretary or treasurer

5.(1) If there are 2 or more nominees for election as chairperson, the election of the chairperson must be by ballot.

(2) If there are 2 or more nominees for election as secretary, the election of the secretary must be by ballot.

(3) If there are 2 or more nominees for election as treasurer, the election of the treasurer must be by ballot.

Required number of nominees for election as other committee members

6. If the number of nominees for election as other committee members is the same as the number of other committee members required to make up the committee, the nominees are taken to be elected as other committee members.

More than required number of nominees for election as other committee members

7. If the number of nominees for election as other committee members is

SCHEDULE 1 (continued)

more than the number of other committee members required to make up the committee, the election of other committee members must be by ballot.

PART 2—ELECTIONS**Elections must be separate**

8. A body corporate must have a separate election for each of the following—

- (a) the chairperson of the body corporate;
- (b) the secretary of the body corporate;
- (c) the treasurer of the body corporate;
- (d) the other committee members.

Pre-ballot

9. Before each ballot the chairperson must—

- (a) announce—
 - (i) the names of the nominees; and
 - (ii) whether or not a nominee is a proprietor or a company nominee; and
 - (iii) if a nominee is not a proprietor or company nominee, by whom the nominee was nominated; and
- (b) give each individual present and entitled to vote, for each lot entitling an individual to vote, a blank paper to be used as a ballot paper; and
- (c) for a secret ballot—give each individual present and entitled to vote—

SCHEDULE 1 (continued)

- (i) a ballot paper envelope; and
- (ii) a particulars envelope.

Opening envelopes

10. For a secret ballot, a ballot paper envelope must be opened by the chairperson, or an individual appointed by the chairperson, after—

- (a) all votes cast have been given to the chairperson; and
- (b) the chairperson, or an individual appointed by the chairperson, is satisfied that—
 - (i) the particulars envelope is properly completed; and
 - (ii) the individual who completed the particulars envelope is entitled to vote; and
- (c) the ballot paper envelope has been drawn randomly from a receptacle in open view of the meeting.

Counting ballot

11. The chairperson, or an individual appointed by the chairperson, must count the votes recorded on properly completed ballot papers.

Properly completed ballot papers

12.(1) A ballot paper for an open ballot is properly completed if—

- (a) it states—
 - (i) the name of the individual voting; and
 - (ii) the number of the lot entitling the individual to vote; and
 - (iii) the name of the proprietor of the lot; and
 - (iv) the capacity in which the individual is voting; and
 - (v) the name of one nominee for each of the members of the committee required to be elected and to which the ballot relates; and

SCHEDULE 1 (continued)

- (b) the signature of the individual appears on the paper; and
 - (c) the individual gives the paper to the chairperson.
- (2) A ballot paper for a secret ballot is properly completed if—
- (a) it states the name of one nominee for each of the members of the committee required to be elected and to which the ballot relates; and
 - (b) it is put into a ballot paper envelope and the envelope is sealed; and
 - (c) the ballot paper envelope mentioned in paragraph (b) is—
 - (i) if separate from a particulars envelope—put into a properly completed particulars envelope; or
 - (ii) if attached to a particulars envelope—still attached to a properly completed particulars envelope; and
 - (d) the properly completed particulars envelope is sealed and given to the chairperson.

Properly completed particulars envelope

13. A particulars envelope is properly completed if—
- (a) it states—
 - (i) the name of the individual voting; and
 - (ii) the number of the lot entitling the individual to vote; and
 - (iii) the name of the proprietor of the lot; and
 - (iv) the capacity in which the individual is voting; and
 - (b) it contains, or is attached to, a sealed ballot paper envelope containing a properly completed ballot paper; and
 - (c) the signature of the individual and the date of signing appears on the particulars envelope.

SCHEDULE 1 (continued)

Result of ballot

14.(1) For an election—

- (a) of chairperson—the individual who receives the highest number of votes is elected as chairperson; or
- (b) of secretary—the individual who receives the highest number of votes is elected as secretary; or
- (c) of treasurer—the individual who receives the highest number of votes is elected as treasurer; or
- (d) as other committee members—the individuals who receive the highest number of votes, in descending order, up to the number of persons required to be elected, are elected as the other committee members.

(2) However, if 2 or more individuals receive the same number of votes and the number of individuals who would, under subsection (1)(a), (b), (c) or (d) be elected, is higher than the number required to be elected, the result of the election must be decided by chance in the way the meeting decides.

SCHEDULE 2

NOMINATION AND ELECTION OF COMMITTEE AT SECOND AND SUBSEQUENT ANNUAL GENERAL MEETINGS

section 7(2)

PART 1—NOMINATIONS

Secretary to give notices calling for nominations

1.(1) The secretary must give a written notice to each proprietor inviting the proprietor to nominate individuals for election as chairperson, secretary, treasurer and other committee members of the body corporate.

(2) The notice must be given 35 days before the anniversary of the first annual general meeting.

Properly completed nominations

2. The nomination of an individual eligible for election as chairperson, secretary, treasurer or other committee member is properly completed if—

- (a) it is in writing; and
- (b) it states—
 - (i) the name of the proprietor making the nomination, or on whose behalf the nomination is being made; and
 - (ii) the name of the nominee; and
 - (iii) whether the nominee is—
 - (A) a proprietor; or
 - (B) a company nominee; or
 - (C) neither a proprietor nor a company nominee; and

SCHEDULE 2 (continued)

- (c) it is signed by—
 - (i) the proprietor making the nomination or the individual making the nomination on the proprietor's behalf; and
 - (ii) the nominee.

Absence of nominees**3.** Schedule 1 applies instead of this schedule—

- (a) if there is no nominee for chairperson—to the nomination and election of the chairperson; and
- (b) if there is no nominee for secretary—to the nomination and election of the secretary; and
- (c) if there is no nominee for treasurer—to the nomination and election of the treasurer; and
- (d) if there are no nominees for other committee members—to the nomination and election of the other committee members.

Sole nominees for election as chairperson, secretary or treasurer

4.(1) If there is only 1 nominee for election as chairperson, the nominee is taken to be elected as chairperson.

(2) If there is only 1 nominee for election as secretary, the nominee is taken to be elected as secretary.

(3) If there is only 1 nominee for election as treasurer, the nominee is taken to be elected as treasurer.

Multiple nominees for election as chairperson, secretary or treasurer

5.(1) If there are 2 or more nominees for election as chairperson, the election of the chairperson must be by ballot.

(2) If there are 2 or more nominees for election as secretary, the election of the secretary must be by ballot.

SCHEDULE 2 (continued)

(3) If there are 2 or more nominees for election as treasurer, the election of the treasurer must be by ballot.

Required number of nominees for election as other committee members

6. If the number of nominees for election as other committee members is the same as the number of other committee members required to make up the committee, the nominees are taken to be elected as other committee members.

Less than required number of nominees for election as other committee members

7. If the number of nominees for election as other committee members is less than the number of other committee members required to make up the committee—

- (a) the nominees are taken to be elected as other committee members of the committee; and
- (b) schedule 1 applies instead of this schedule to the nomination and election of the number of committee members, other than those mentioned in paragraph (a), required to make up the committee.

More than required number of nominees for election as other committee members

8. If neither section 6 nor 7 applies, the election of the other committee members must be by ballot.

SCHEDULE 2 (continued)

PART 2—ELECTIONS**Elections must be separate**

9. A body corporate must have a separate election for each of the following—

- (a) the chairperson of the body corporate;
- (b) the secretary of the body corporate;
- (c) the treasurer of the body corporate;
- (d) the other committee members.

Pre-ballot

10.(1) Before each ballot the secretary must give to each proprietor—

- (a) for an open ballot—
 - (i) a ballot paper; and
 - (ii) a ballot paper envelope addressed to the secretary; or
- (b) for a secret ballot—
 - (i) a ballot paper; and
 - (ii) a ballot paper envelope; and
 - (iii) a particulars envelope addressed to the secretary.

(2) If a ballot paper is not available for use for any reason, a secretary must give a replacement ballot paper to the proprietor or the individual voting on the proprietor's behalf.

(3) A secretary who gives a replacement ballot paper under subsection (2) must—

- (a) make a written record of—
 - (i) the reason the ballot paper is not available for use; and
 - (ii) the individual to whom the replacement paper is given; and

SCHEDULE 2 (continued)

- (iii) when the replacement paper is given; and
- (b) show the record to the chairperson before the votes are counted.

Ballot papers

11. A ballot paper must state—

- (a) the number of individuals required to be elected; and
- (b) the names of the nominees nominated by properly completed nominations; and
- (c) whether a nominee is—
 - (i) a proprietor; or
 - (ii) a company nominee; or
 - (iii) neither a proprietor nor a company nominee; and
- (d) by whom each nominee was nominated.

Opening envelopes

12. A ballot paper envelope must be opened—

- (a) for an open ballot—by the secretary, after all votes cast have been given to the secretary; and
- (b) for a secret ballot—by the chairperson, or an individual appointed by the chairperson, after—
 - (i) all votes cast have been given to the secretary; and
 - (ii) the chairperson, or an individual appointed by the chairperson, is satisfied that—
 - (A) the particulars envelope for the ballot paper envelope is properly completed; and
 - (B) the individual who completed the particulars envelope is entitled to vote; and

SCHEDULE 2 (continued)

- (iii) the ballot paper envelope has been drawn randomly from a receptacle in open view of the meeting.

Counting ballot

13. The chairperson, or an individual appointed by the chairperson, must count the votes recorded on properly completed ballot papers.

Properly completed ballot papers

14.(1) A ballot paper for an open ballot is properly completed if—

- (a) it states—
 - (i) the name of the individual voting; and
 - (ii) the number of the lot entitling the individual to vote; and
 - (iii) the name of the proprietor of the lot; and
 - (iv) the capacity in which the individual is voting; and
 - (v) the name of 1 nominee for each member of the committee required to be elected and to which the ballot relates; and
- (b) the signature of the individual appears on the paper; and
- (c) if the paper is given to the secretary before the annual general meeting—it is put into a ballot paper envelope and the envelope is sealed; and
- (d) the individual gives the paper to the secretary before or at the annual general meeting.

(2) A ballot paper for a secret ballot is properly completed if—

- (a) it states the name of 1 nominee for each member of the committee required to be elected and to which the ballot relates; and
- (b) it is put into a ballot paper envelope and the envelope is sealed; and
- (c) the ballot paper envelope mentioned in paragraph (b) is—

SCHEDULE 2 (continued)

- (i) if separate from a particulars envelope—put into a properly completed particulars envelope; or
- (ii) if attached to a particulars envelope—still attached to a properly completed particulars envelope; and
- (d) the properly completed particulars envelope is sealed and given to the secretary before or at the annual general meeting.

Properly completed particulars envelope

15. A particulars envelope is properly completed if—

- (a) it states—
 - (i) the name of the individual voting; and
 - (ii) the number of the lot entitling the individual to vote; and
 - (iii) the name of the proprietor of the lot; and
 - (iv) the capacity in which the individual is voting; and
- (b) it contains, or is attached to, a sealed ballot paper envelope containing a properly completed ballot paper; and
- (c) the signature of the individual and the date of signing appears on the particulars envelope.

Result of ballot

16.(1) For an election—

- (a) as chairperson—the individual who receives the highest number of votes is elected as chairperson; and
- (b) as secretary—the individual who receives the highest number of votes is elected as secretary; and
- (c) as treasurer—the individual who receives the highest number of votes is elected as treasurer; and
- (d) as other committee members—the individuals who receive the highest number of votes, in descending order, up to the number

SCHEDULE 2 (continued)

of persons required to be elected, are elected as the other committee members.

(2) However, if 2 or more individuals receive the same number of votes and the number of individuals who would, under subsection (1)(a), (b), (c) or (d) be elected, is higher than the number required to be elected, the result of the election must be decided by chance in the way the meeting decides.

SCHEDULE 3

FEES

section 14

PART 1—FEES PAYABLE TO THE REGISTRAR

	\$
1. Fee for lodging a plan or plan of amalgamation for registration	100.00
2. Additional fee for each lot in a plan or plan of amalgamation mentioned in item 1	15.00
3. Fee for lodging for registration—	
(a) a notice of conversion; or	
(b) a request to register an order amending a building units plan under section 25(7A)(c) of the Act; or	
(c) a notification of proposed extinguishment under section 26(1) of the Act	70.00
4. Fee for recording—	
(a) an order (s 112(1)(b) of the Act); or	
(b) an amendment of, addition to or repeal of by-laws under section 30(3) of the Act	70.00
5. Prescribed fee under section 14 of the Act for copies of plan	16.00
6. Fee for an application—	
(a) for reservation of a name (s 120(1) of the Act); or	
(b) to extend the period for which a name is reserved (s 120(3) of the Act)	50.00
7. Fee for lodging another document under the Act	20.00

SCHEDULE 3 (continued)

PART 2—FEES PAYABLE TO THE REFEREE

8.	Fee for an application for an order under section 77(1) of the Act if, in the application, the applicant requests an interim order under section 76(1) of the Act	50.00
9.	Fee for an application—	
	(a) for exemption under section 41(2) of the Act; or	
	(b) for an order under section 77(1) of the Act other than an application mentioned in item 8	20.00
10.	Fee for lodging a notice of appeal (s 106(1) of the Act)	20.00
11.	Fee for issuing a summons (s 103(2) of the Act)	20.00
12.	Fee for an inquiry (s 117(1) of the Act)—	
	(a) if the reply is collected from referee	10.00
	(b) if the reply is posted to the inquirer	12.00
	(c) if the reply is sent by facsimile to the inquirer	18.00

PART 3—FEES PAYABLE TO A BODY CORPORATE

13.	Fee for giving information (s 40(1)(a) of the Act)	20.00
14.	Fee for making documents available for inspection (s 40(1)(b) of the Act)—	
	(a) to a person mentioned in section 40(5)(a) of the Act	10.00
	(b) to a person mentioned in section 40(5)(b) of the Act	20.00
15.	Fee for giving a certificate (s 40(1)(c) of the Act)—	
	(a) if the applicant asks to be given the certificate, and is given the certificate, within 24 hours after it is requested	55.00
	(b) if paragraph (a) does not apply	40.00
16.	Additional fee for sending a certificate mentioned in item 15 by facsimile	10.00

 SCHEDULE 3 (continued)

- 17.** Fee for giving a copy of the by-laws (s 40(1)(d) of the Act)—
- | | |
|--|---------|
| (a) if a body corporate has decided a fee less than the fee mentioned in paragraph (b) | the fee |
| (b) if paragraph (a) does not apply | 1.00 |
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ENDNOTES

1. Made by the Governor in Council on 23 June 1998.
2. Notified in the gazette on 26 June 1998.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Natural Resources.