



Queensland

Body Corporate and Community Management and Other Legislation Amendment Bill 2010



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2010

A Bill

for

An Act to amend the *Body Corporate and Community Management Act 1997*, the *Queensland Civil and Administrative Tribunal Regulation 2009* and the *Queensland Civil and Administrative Tribunal Rules 2009* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Body Corporate and Community Management and Other Legislation Amendment Act 2010*. 4
5

Clause 2 Commencement 6

The following provisions of this Act commence on a day to be fixed by proclamation— 7
8

(a) sections 6 and 11(1) and (2); 9

(b) section 12 to the extent it inserts section 51A; 10

(c) sections 13, 14, 16 to 25, 26, 27(1), (4) and (6), 34 and 36 to 40; 11
12

(d) section 41 to the extent it inserts sections 392 and 393; 13

(e) sections 42 and 43(1); 14

(f) section 43(2) to the extent it inserts the following definitions— 15
16

• *continuing contravention notice* 17

• *contravention notice* 18

• *future contravention notice* 19

• *lot owner agreement* 20

• *specified two-lot scheme* 21

• *specified two-lot schemes module*; 22

(g) the schedule, amendments 12 and 14. 23

Part 2	Amendment of Body Corporate and Community Management Act 1997	1 2 3
Clause 3	Act amended in pt 2 and schedule	4
	This part and the schedule amend the <i>Body Corporate and Community Management Act 1997</i> .	5 6
Clause 4	Amendment of s 46 (Lot entitlements)	7
	(1) Section 46(7)— <i>omit, insert—</i>	8 9
	‘(7) For the contribution schedule for a community titles scheme established after the commencement of this subsection, the respective lot entitlements must be consistent with either—	10 11 12
	(a) the equality principle; or	13
	(b) the relativity principle.	14
	‘(7A) For the interest schedule for a community titles scheme established after the commencement of this subsection, the respective lot entitlements must be consistent with the market value principle.’.	15 16 17 18
	(2) Section 46(8), from ‘In deciding’ to ‘subsection (7)’— <i>omit, insert—</i>	19 20
	‘In deciding the contribution schedule lot entitlements for a community titles scheme under subsection (7)(a), or the interest schedule lot entitlements for a community titles scheme under subsection (8)’.	21 22 23 24
	(3) Section 46(7A) to (9)— <i>renumber</i> as section 46(8) to (10).	25 26
Clause 5	Insertion of new ss 46A and 46B	27
	After section 46—	28

[s 5]

<i>insert—</i>	1
‘46A Principles for deciding contribution schedule lot entitlements	2 3
‘(1) The <i>equality principle</i> for deciding contribution schedule lot entitlements for the lots included in a community titles scheme is the principle that the lot entitlements must be equal, except to the extent to which it is just and equitable in the circumstances for them not to be equal.	4 5 6 7 8
<i>Examples of circumstances in which it may be just and equitable for lot entitlements not to be equal—</i>	9 10
• a layered arrangement of community titles schemes, the lots of which have different uses (including, for example, car parking, commercial, hotel and residential uses) and different requirements for public access or maintenance	11 12 13 14
• a commercial community titles scheme in which the owner of 1 lot uses a larger volume of water or conducts a more dangerous or higher risk activity than the owners of the other lots	15 16 17
‘(2) The <i>relativity principle</i> for deciding contribution schedule lot entitlements for the lots included in a community titles scheme is the principle that the lot entitlements must clearly demonstrate the relationship between the lots by reference to 1 or more particular relevant factors.	18 19 20 21 22
‘(3) A relevant factor for subsection (2) may, and may only, be any of the following—	23 24
(a) how the community titles scheme is structured;	25
(b) the nature, features and characteristics of the lots;	26
(c) the purposes for which the lots are used;	27
(d) the impact the lots may have on the costs of maintaining the common property;	28 29
(e) the market values of the lots.	30
‘46B Principle for deciding interest schedule lot entitlements	31 32
‘(1) The <i>market value principle</i> for deciding interest schedule lot entitlements for the lots included in a community titles	33 34

scheme is the principle that the lot entitlements must reflect the respective market values of the lots, except to the extent to which it is just and equitable in the circumstances for the individual lot entitlements not to reflect the respective market values of the lots.

‘(2) The following apply for working out the market values of lots included in a community titles scheme—

(a) if a lot included in the scheme is a subsidiary scheme, the market value of the lot is the market value of the scheme land for the subsidiary scheme;

(b) for establishing the market value of a lot created under a standard format plan of subdivision or volumetric format plan of subdivision, buildings and improvements on the lot are to be disregarded.’

Clause 6 Amendment of s 47 (Application of lot entitlements)

Section 47(2)(b)—

omit, insert—

‘(b) other than for the owner of a lot included in a specified two-lot scheme, the value of the lot owner’s vote for voting on an ordinary resolution if a poll is conducted for voting on the resolution.’

Clause 7 Insertion of new ss 47A and 47B

After section 47—

insert—

‘47A Adjustment of contribution schedule by resolution without dissent

‘(1) The body corporate for a community titles scheme, by resolution without dissent, may change the contribution schedule lot entitlements for the lots included in the scheme.

‘(2) The notice of the meeting at which the resolution is proposed to be passed must state, or be accompanied by a written notice stating—

[s 7]

- (a) the proposed changes to the contribution schedule lot entitlements; and 1
2
- (b) the reasons for the proposed changes to the contribution schedule lot entitlements. 3
4
- ‘(3) The changed contribution schedule lot entitlements must be consistent with either— 5
6
- (a) the deciding principle for the existing contribution schedule lot entitlements; or 7
8
- (b) another principle, if it is a contribution schedule principle. 9
10
- ‘(4) For subsection (3), if the deciding principle for the existing contribution schedule lot entitlements is the relativity principle based on 1 or more particular relevant factors (the *original factors*), the changed contribution schedule lot entitlements may— 11
12
13
14
15
- (a) under subsection (3)(a), be consistent with the relativity principle based on the same particular relevant factors; or 16
17
18
- (b) under subsection (3)(b), be consistent with— 19
- (i) the relativity principle based on 1 or more particular relevant factors that, when considered as a whole, are different to the original factors considered as a whole; or 20
21
22
23
- (ii) another contribution schedule principle. 24
- ‘(5) The body corporate must, as quickly as practicable, lodge a request to record a new community management statement incorporating the change. 25
26
27
- Maximum penalty—100 penalty units. 28
- Note—* 29
- Under section 46(10), a change to a lot entitlement takes effect on the recording of the new community management statement incorporating the change. 30
31
32
- ‘(6) The new community management statement must be prepared and recorded at the expense of the body corporate. 33
34

‘47B	Adjustment of contribution schedule for particular schemes by order of specialist adjudicator or QCAT	1 2
‘(1)	This section applies if—	3
	(a) a community titles scheme is affected by a material change that has happened since the last time the contribution schedule lot entitlements for the lots included in the scheme were decided; and	4 5 6 7
	(b) the owner of a lot included in the scheme believes an adjustment of the contribution schedule for the scheme is necessary because of the material change.	8 9 10
‘(2)	This section also applies if—	11
	(a) a community titles scheme is established after the commencement of this section; and	12 13
	(b) the owner of a lot included in the scheme believes the contribution schedule lot entitlements for the lots included in the scheme are not consistent with the deciding principle for the lot entitlements.	14 15 16 17
‘(3)	The owner of the lot may apply—	18
	(a) under chapter 6, for an order of a specialist adjudicator for an adjustment of the contribution schedule for the community titles scheme; or	19 20 21
	(b) as provided under the QCAT Act, for an order of QCAT, exercising the tribunal’s original jurisdiction, for an adjustment of the contribution schedule for the scheme.	22 23 24
‘(4)	Despite any other law or statutory instrument, the respondent to an application mentioned in subsection (3) is the body corporate.	25 26 27
	<i>Note—</i>	28
	The body corporate must be given notice of the application under—	29
	(a) for an application to a specialist adjudicator under chapter 6—section 243; or	30 31
	(b) for an application to QCAT as provided under the QCAT Act—the QCAT Act, section 37.	32 33

[s 7]

- ‘(5) If the owner applies under chapter 6 for an order of a specialist adjudicator—
- (a) at the election of another owner of a lot in the community titles scheme, the other owner may be joined as a respondent to the application; and
 - (b) each party to the application is responsible for the party’s own costs of the application.
- ‘(6) An owner of a lot in the community titles scheme who elects, under subsection (5)(a), to become a respondent to the application must give written notice of the election to the body corporate.
- ‘(7) If the specialist adjudicator or QCAT orders an adjustment of the contribution schedule, the adjusted contribution schedule lot entitlements for the lots included in the community titles scheme must—
- (a) be consistent with the deciding principle for the existing contribution schedule lot entitlements, and be just and equitable to the extent the deciding principle allows; or
 - (b) if there is no apparent deciding principle for the existing contribution schedule lot entitlements, be just and equitable.
- ‘(8) If the specialist adjudicator or QCAT orders an adjustment of the contribution schedule, the body corporate must, as quickly as practicable, lodge a request to record a new community management statement incorporating the adjustment ordered.
- Maximum penalty—100 penalty units.
- Note—*
- Under section 46(10), a change to a lot entitlement takes effect on the recording of the new community management statement incorporating the change.
- ‘(9) To remove any doubt, it is declared that, if there is a deciding principle for the existing contribution schedule lot entitlements, the specialist adjudicator or QCAT can not change the deciding principle for the lot entitlements.’.

Clause 8	Amendment of s 48 (Adjustment of lot entitlement schedule)	1 2
(1)	Section 48, heading, ‘lot entitlement’— <i>omit, insert—</i> ‘interest’.	3 4 5
(2)	Section 48(1), ‘a lot entitlement’— <i>omit, insert—</i> ‘an interest’.	6 7 8
(3)	Section 48(2)— <i>insert—</i> ‘ <i>Note—</i> The body corporate must be given notice of the application under— (a) for an application to a specialist adjudicator under chapter 6—section 243; or (b) for an application to QCAT as provided under the QCAT Act—the QCAT Act, section 37.’.	9 10 11 12 13 14 15 16
(4)	Section 48(5) to (10)— <i>omit, insert—</i>	17 18
‘(5)	The order of the specialist adjudicator or QCAT must be consistent with the market value principle, as applied in relation to the respective market values of the lots included in the scheme when the order is made.	19 20 21 22
‘(6)	If the specialist adjudicator or QCAT orders an adjustment of the interest schedule, the body corporate must, as quickly as practicable, lodge a request to record a new community management statement incorporating the adjustment ordered.	23 24 25 26
	Maximum penalty for subsection (6)—100 penalty units.	27
	<i>Note—</i> Under section 46(10), a change to a lot entitlement takes effect on the recording of the new community management statement incorporating the change.’.	28 29 30 31

[s 9]

Clause 9	Insertion of new s 48A	1
	After section 48—	2
	<i>insert—</i>	3
‘48A	Criteria for deciding whether contribution schedule lot entitlements consistent with deciding principle	4
		5
	‘(1) This section applies if an application is made under section 47B(3) for an order of a specialist adjudicator or QCAT for an adjustment of the contribution schedule for a community titles scheme.	6
		7
		8
		9
	‘(2) This section sets out the only matters to which the specialist adjudicator or QCAT may have regard for deciding whether the contribution schedule lot entitlements are consistent with the deciding principle for the lot entitlements.	10
		11
		12
		13
	‘(3) The specialist adjudicator or QCAT may have regard to only—	14
		15
	(a) the deciding principle for the contribution schedule lot entitlements; and	16
		17
	(b) the information about the application of the deciding principle to the lots included in the scheme that is included in the community management statement; and	18
		19
		20
	(c) if the contribution schedule lot entitlements were decided on the equality principle, the matters to which the specialist adjudicator or QCAT may have regard under section 49; and	21
		22
		23
		24
	(d) the matters raised by the applicant to support the assertion that the contribution schedule lot entitlements are not consistent with the deciding principle for the lot entitlements; and	25
		26
		27
		28
	(e) the matters (if any) raised by each respondent to support the assertion that the contribution schedule lot entitlements are consistent with the deciding principle for the lot entitlements.’.	29
		30
		31
		32

Clause 10	Amendment of s 49 (Criteria for deciding just and equitable circumstances)	1
		2
(1)	Section 49(1), after ‘schedule’—	3
	<i>insert—</i>	4
	‘, decided on the equality principle or market value principle’.	5
(2)	Section 49(2)(b), ‘to reflect other than’—	6
	<i>omit, insert—</i>	7
	‘not to reflect’.	8
Clause 11	Amendment of s 51 (Limited adjustment of lot entitlement schedule—after formal acquisition of part of scheme land)	9
		10
		11
(1)	Section 51(1), after ‘scheme’, first mention—	12
	<i>insert—</i>	13
	‘, other than the body corporate for a specified two-lot scheme,’.	14
		15
(2)	Section 51(1)—	16
	<i>insert—</i>	17
	<i>Note—</i>	18
	For the adjustment of the lot entitlement schedules for a specified two-lot scheme in similar circumstances, see section 51A.’.	19
		20
(3)	Section 51(2)(a), ‘just and equitable changes’—	21
	<i>omit, insert—</i>	22
	‘changes, subject to subsection (3),’.	23
(4)	Section 51—	24
	<i>insert—</i>	25
(2A)	Any required changes set out in the lot entitlement adjustment advice must—	26
		27
(a)	be consistent with the deciding principle for the lot entitlements, and be just and equitable to the extent the deciding principle allows; or	28
		29
		30

[s 12]

- (b) if there is no apparent deciding principle for the lot entitlements— 1
2
 - (i) for contribution schedule lot entitlements—be just 3
and equitable; or 4
 - (ii) for interest schedule lot entitlements—be 5
consistent with the market value principle.’ 6
- (5) Section 51(2A) to (5)— 7
renumber as section 51(3) to (6). 8

- Clause 12 Insertion of new ss 51A–51C** 9
- Part 5, after section 51— 10
insert— 11
- ‘51A Limited adjustment of lot entitlement schedule for 12
specified two-lot scheme—after formal acquisition of 13
part of scheme land 14**
- ‘(1) This section applies if a constructing authority advises the 15
body corporate for a specified two-lot scheme that it proposes 16
to lodge— 17
- (a) a new plan of subdivision for the scheme as required 18
under the *Acquisition of Land Act 1967*, section 12A; 19
and 20
 - (b) a request to record a new community management 21
statement for the scheme as required under section 22
56(1). 23
- ‘(2) Within 4 months after receiving the constructing authority’s 24
advice and before consenting to the new community 25
management statement, the body corporate must— 26
- (a) obtain, from an appropriate person, independent 27
professional advice (the *lot entitlement adjustment 28
advice*) about any changes, subject to subsection (3), 29
required to the lot entitlement schedules for the scheme 30
to take account of the boundary change shown in the 31
new plan of subdivision; and 32
- Example of appropriate person for paragraph (a)— 33
a lawyer or registered valuer 34*

-
- (b) decide by a lot owner agreement to either— 1
- (i) change the lot entitlement schedules to take 2
account of the boundary change; or 3
- (ii) not change the lot entitlement schedules. 4
- ‘(3) Any required changes set out in the lot entitlement adjustment 5
advice must— 6
- (a) be consistent with the deciding principle for the lot 7
entitlements, and be just and equitable to the extent the 8
deciding principle allows; or 9
- (b) if there is no apparent deciding principle for the lot 10
entitlements— 11
- (i) for contribution schedule lot entitlements—be just 12
and equitable; or 13
- (ii) for interest schedule lot entitlements—be 14
consistent with the market value principle. 15
- ‘(4) The body corporate must give a copy of the lot entitlement 16
adjustment advice to the owner of each lot included in the 17
scheme as soon as practicable after obtaining the advice. 18
- ‘(5) Within 30 days after the decision mentioned in subsection 19
(2)(b) is made, the body corporate must give the constructing 20
authority written notice of the decision. 21
- ‘(6) The constructing authority is responsible for the costs of 22
obtaining the lot entitlement adjustment advice. 23
- ‘51B Limited adjustment of lot entitlement schedule—after 24
subdivision of lot 25**
- ‘(1) This section applies if a lot in a community titles scheme (the 26
pre-subdivision lot) is subdivided into 2 or more lots (the 27
post-subdivision lots). 28
- ‘(2) However, this section does not apply to— 29
- (a) the subdivision of a lot in a community titles scheme 30
intended to be developed progressively if the 31
circumstances mentioned in section 57(2) or (3) apply to 32
the scheme in relation to the subdivision; or 33

[s 12]

- (b) a lot in a community titles scheme subdivided into 2 or more lots, one of which is a subsidiary scheme. 1
2
- ‘(3) The owners of the post-subdivision lots must— 3
- (a) decide the lot entitlements for the post-subdivision lots by apportioning the lot entitlement for the pre-subdivision lot to the post-subdivision lots— 4
5
6
- (i) consistently with the deciding principle for the lot entitlement; or 7
8
- (ii) if there is no apparent deciding principle for the lot entitlement—according to the respective market values of the lots, except to the extent to which it is just and equitable in the circumstances for the individual lot entitlements not to reflect the respective market values of the lots; and 9
10
11
12
13
14
- (b) give the body corporate written notice of the lot entitlements for the post-subdivision lots. 15
16
- ‘(4) If the body corporate is given written notice under subsection (3)(b), the body corporate must, as quickly as practicable, lodge a request to record a new community management statement incorporating the change. 17
18
19
20
- Maximum penalty—100 penalty units. 21
- ‘(5) The new community management statement must be prepared and recorded at the expense of the owners of the post-subdivision lots. 22
23
24
- ‘51C Limited adjustment of lot entitlement schedule—after amalgamation of lots 25
26**
- ‘(1) This section applies if 2 or more lots in a community titles scheme (the *pre-amalgamation lots*) are amalgamated into 1 lot (the *post-amalgamation lot*). 27
28
29
- ‘(2) The lot entitlement for the post-amalgamation lot is the total of the lot entitlements for the pre-amalgamation lots. 30
31

-
- ‘(3) The owner of the post-amalgamation lot must give the body corporate written notice of the lot entitlement for the post-amalgamation lot. 1
2
3
- ‘(4) If the body corporate is given written notice under subsection (3), the body corporate must, as quickly as practicable, lodge a request to record a new community management statement incorporating the change. 4
5
6
7
Maximum penalty—100 penalty units. 8
- ‘(5) The new community management statement must be prepared and recorded at the expense of the owners of the pre-amalgamation lots.’. 9
10
11

Clause 13 Amendment of s 55 (Requirements for motion to change community management statement) 12
13

Section 55— 14

insert— 15

- ‘(3) This section does not apply to a specified two-lot scheme. 16

Note— 17

See chapter 3, part 1, division 5, subdivision 2 about decision making for specified two-lot schemes.’. 18
19

Clause 14 Amendment of s 63 (Responsibility for preparing, and for costs of preparing, new statement) 20
21

Section 63(2)(b)— 22

omit, insert— 23

‘(b) if paragraph (a) does not apply to the scheme— 24

(i) for a specified two-lot scheme— 25

(A) an owner of a lot; or 26

(B) a person authorised by the body corporate by a lot owner agreement to prepare the statement; or 27
28
29

[s 15]

	(ii) for a scheme other than a specified two-lot scheme—the committee for the body corporate.’.	1 2
Clause 15	Amendment of s 66 (Requirements for community management statement)	3 4
(1)	Section 66(1)(d)(i)— <i>omit.</i>	5 6
(2)	Section 66(1)(d)(ii) and (iii)— <i>renumber</i> as section 66(1)(d)(i) and (ii).	7 8
(3)	Section 66(1)— <i>insert—</i>	9 10
	‘(da) for a scheme (other than a scheme created under chapter 2, part 11) for which development approval is given after the commencement of paragraph (d) and to which paragraph (db) does not apply—if the contribution schedule lot entitlements for each lot included in the scheme are not equal, explain why they are not equal; and	11 12 13 14 15 16 17
	‘(db) for a scheme established after the commencement of this paragraph or an adjusted scheme, in relation to contribution schedule lot entitlements for the lots included in the scheme—	18 19 20 21
	(i) state the contribution schedule principle under section 46(7) on which the contribution schedule lot entitlements have been decided; and	22 23 24
	(ii) if the contribution schedule lot entitlements have been decided in accordance with the equality principle and are not equal—explain why they are not equal; and	25 26 27 28
	(iii) if the contribution schedule lot entitlements have been decided in accordance with the relativity principle—include sufficient details about the principle to show how individual contribution	29 30 31 32

-
- schedule lot entitlements for the lots were decided 1
by using it; and 2
- (dc) for a scheme established after the commencement of 3
this paragraph or an adjusted scheme, in relation to 4
interest schedule lot entitlements for the lots included in 5
the scheme— 6
- (i) if the interest schedule lot entitlements reflect the 7
respective market values of the lots—state that the 8
interest schedule lot entitlements reflect the 9
respective market values of the lots; or 10
- (ii) if the interest schedule lot entitlements do not 11
reflect the respective market values of the 12
lots—explain why the interest schedule lot 13
entitlements do not reflect the respective market 14
values of the lots; and’. 15
- (4) Section 66— 16
insert— 17
- ‘(1A) An explanation or details included in the community 18
management statement under subsection (1)(db) or (dc) must 19
be— 20
- (a) written in plain English; and 21
- (b) simple enough, and only as detailed as is necessary, for 22
an ordinary person to understand the explanation or 23
details.’. 24
- (5) Section 66(4) and (5), ‘(1)(d)(ii)’— 25
omit, insert— 26
‘(1)(d)(i)’ 27
- (6) Section 66(6)— 28
insert— 29
‘adjusted scheme— 30
- (a) for subsection (1)(db), means a scheme established 31
before the commencement of subsection (1)(db) if— 32
-

[s 16]

- (i) the contribution schedule for the scheme is adjusted after that commencement; and 1
2
- (ii) after the adjustment, the deciding principle for the contribution schedule lot entitlements for the lots included in the scheme is a contribution schedule principle (whether or not the deciding principle for the contribution schedule lot entitlements before the adjustment was a contribution schedule principle); or 3
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- (b) for subsection (1)(dc), means a scheme established before the commencement of subsection (1)(dc) if the interest schedule for the scheme is adjusted after that commencement.’. 10
11
12
13

Clause 16 Amendment of s 94 (Body corporate’s general functions) 14

- (1) Section 94(1)(b), from ‘any’ to ‘scheme’— 15
omit, insert— 16
‘enforcing any by-laws for the scheme in the way provided under this Act’. 17
18
- (2) Section 94(2)— 19
insert— 20
‘*Examples for subsection (2) of a body corporate making a decision—* 21
- passing a motion by resolution at a general meeting or a committee meeting 22
23
 - not passing a motion after a vote at a general meeting or a committee meeting 24
25
 - owners of lots included in a specified two-lot scheme entering into a lot owner agreement for the scheme (see section 111E(2)) 26
27
 - owners of lots included in a specified two-lot scheme failing to enter into a lot owner agreement following a request made by one of the owners (see section 111H(3))’. 28
29
30

Clause 17	Insertion of new ch 3, pt 1, div 5	1
	Chapter 3, part 1—	2
	<i>insert—</i>	3
‘Division 5	Special management arrangements for specified two-lot schemes	4 5
‘Subdivision 1	Preliminary	6
‘111B Purpose of div 5		7
	‘This division provides—	8
	(a) that particular provisions of this chapter about management structures and arrangements for a community titles scheme do not apply to a specified two-lot scheme; and	9 10 11 12
	(b) for a simplified decision-making process by which the body corporate for a specified two-lot scheme may make a decision or may be taken to have made a decision; and	13 14 15 16
	(c) for a person to act as the representative of an owner of a lot included in a specified two-lot scheme.	17 18
‘111C Meaning of <i>specified two-lot scheme</i>		19
	‘(1) A <i>specified two-lot scheme</i> means a community titles scheme to which all of the following apply—	20 21
	(a) there are only 2 lots included in the scheme;	22
	(b) the scheme is not part of a layered arrangement of community titles schemes;	23 24
	(c) there is no letting agent for the scheme;	25
	(d) the lots included in the scheme are residential lots.	26
	‘(2) A community titles scheme is also a <i>specified two-lot scheme</i> if subsection (1)(a) to (c) apply to the scheme and either—	27 28

[s 17]

- (a) all of the following apply to the scheme— 1
- (i) the lots included in the scheme are not residential 2
lots; 3
 - (ii) the first community management statement (which 4
could be the community management statement 5
recorded for the scheme on its establishment) 6
identified the specified two-lot schemes module as 7
the regulation module applying to the scheme; 8
 - (iii) when that community management statement was 9
recorded, the lots included in the scheme were 10
intended to be residential lots; or 11
- Example of circumstances in which paragraph (a) may apply—* 12
- Lots included in a community titles scheme were offered for sale 13
as residential lots, but the buyers chose not to use them as 14
residential lots. 15
- (b) all of the following apply for the scheme— 16
- (i) the lots included in the scheme have previously 17
been, but are no longer, residential lots; 18
 - (ii) when the lots included in the scheme last stopped 19
being residential lots, the community management 20
statement for the scheme identified the specified 21
two-lot schemes module as the regulation module 22
applying to the scheme; 23
 - (iii) since the lots included in the scheme last stopped 24
being residential lots, each community 25
management statement (if any) recorded for the 26
scheme has identified the specified two-lot 27
schemes module as the regulation module applying 28
to the scheme. 29
- ‘(3) In this Act, a reference to a specified two-lot scheme is a 30
reference to a community titles scheme— 31
- (a) that is a specified two-lot scheme within the meaning of 32
subsection (1) or (2); and 33

(b)	whose community management statement identifies the specified two-lot schemes module as the regulation module applying to the scheme.	1 2 3
‘(4)	In this section—	4
	<i>residential lot</i> means a lot that is used for residential purposes, and includes a lot that is—	5 6
(a)	the subject of a lease or letting for accommodation for long or short term residential purposes; or	7 8
(b)	immediately available to be the subject of a lease or letting for accommodation for long or short term residential purposes.	9 10 11
‘111D	Divisions 2 to 4 do not apply to specified two-lot scheme	12 13
	‘Divisions 2 to 4 do not apply to a specified two-lot scheme.	14
‘Subdivision 2	Decision making for specified two-lot schemes	15 16
‘111E	Meaning and effect of <i>lot owner agreement</i>	17
‘(1)	A <i>lot owner agreement</i> for a specified two-lot scheme is an agreement between the owners of the lots included in the scheme about a matter—	18 19 20
(a)	related to the carrying out of the functions given to the body corporate under this Act and the community management statement; and	21 22 23
(b)	for which the body corporate is required or permitted to make a decision under this Act or the community management statement.	24 25 26
‘(2)	A lot owner agreement for a specified two-lot scheme is a decision of the body corporate.	27 28

[s 17]

- ‘111F Regulation of lot owner agreement** 1
- ‘(1) A lot owner agreement for a specified two-lot scheme must be 2
entered into in the way prescribed under the specified two-lot 3
schemes module. 4
- ‘(2) Without limiting subsection (1), the regulation module may 5
include provisions about the following— 6
- (a) a representative for an owner of a lot included in the 7
scheme entering into a lot owner agreement on behalf of 8
the owner; 9
- (b) circumstances in which, if there is more than 1 owner of 10
a lot included in the scheme, the owners of the lot are 11
taken to have entered into a lot owner agreement. 12
- ‘111G Body corporate may only make decision by lot owner 13
agreement** 14
- ‘(1) This section applies if a provision of this Act or the 15
community management statement requires or permits the 16
body corporate for a community titles scheme to make a 17
decision about a matter related to the carrying out of the 18
functions given to the body corporate under this Act and the 19
community management statement— 20
- (a) in any of the following ways— 21
- (i) by resolution without dissent; 22
- (ii) by special resolution; 23
- (iii) by majority resolution; 24
- (iv) by ordinary resolution; or 25
- (b) without stating the way in which the decision is to be 26
made. 27
- ‘(2) The body corporate may only make the decision by a lot 28
owner agreement. 29

-
- ‘111H Request to enter into lot owner agreement** 1
- ‘(1) The owner of a lot included in a specified two-lot scheme may 2
ask the owner of the other lot included in the scheme to enter 3
into a lot owner agreement about a proposed decision. 4
- ‘(2) A request under subsection (1) must— 5
- (a) be made in the way prescribed under the specified 6
two-lot schemes module; and 7
- (b) state a reasonable period for the owner of the lot to 8
whom the request is made to enter into a lot owner 9
agreement about the proposed decision. 10
- ‘(3) If the owner of the lot to whom the request is made does not 11
enter into a lot owner agreement about the proposed decision 12
within the period stated, the body corporate is taken to have 13
decided against making the proposed decision contained in 14
the request. 15
- ‘(4) Subsection (3) applies despite section 111G(2). 16
- ‘(5) In this section— 17
- proposed decision* means a proposed decision— 18
- (a) about a matter related to the carrying out of the 19
functions given to the body corporate under this Act and 20
the community management statement; and 21
- (b) that the body corporate is required or permitted to make 22
under this Act or the community management 23
statement. 24
- ‘111I Amending or revoking decision of body corporate** 25
- ‘A decision of the body corporate for a specified two-lot 26
scheme made by a lot owner agreement may be amended or 27
revoked by another lot owner agreement. 28

[s 18]

‘Subdivision 3	Representatives of owners of lots	1
‘111J	Representative of owner of lot	2
‘(1)	A person may act as a representative for an owner of a lot included in a specified two-lot scheme in the circumstances prescribed under the specified two-lot schemes module.	3 4 5
‘(2)	Without limiting subsection (1), the regulation module may include provisions about the following—	6 7
(a)	authorisation of a representative to act for an owner of a lot included in the scheme, and amendment and revocation of that authorisation;	8 9 10
(b)	functions and powers of a representative authorised to act for an owner of a lot included in the scheme.’.	11 12
Clause 18	Amendment of s 120 (Schemes for which there is no committee for the body corporate)	13 14
(1)	Section 120— <i>insert—</i>	15 16
‘(1A)	However, this section does not apply to a specified two-lot scheme.’.	17 18
(2)	Section 120(1A) to (3)— <i>renumber</i> as section 120(2) to (4).	19 20
Clause 19	Amendment of s 151 (Body corporate’s financial institution accounts)	21 22
(1)	Section 151(6), definition <i>authorised members</i> , paragraph (b), after ‘small scheme’— <i>insert—</i> ‘or a specified two-lot scheme’.	23 24 25 26
(2)	Section 151(6), definition <i>authorised members</i> — <i>insert—</i>	27 28

‘(d) for a specified two-lot scheme—at least 1 person, other than a body corporate manager for the scheme or an associate of the manager, who is authorised by the body corporate, by a lot owner agreement, to operate the account.’.

Clause 20	Insertion of new ch 3, pt 5, div 4, sdiv 1, hdg and s 181A	6
	Chapter 3, part 5, division 4, before section 182—	7
	<i>insert—</i>	8
	‘Subdivision 1 Contravention notices for schemes other than specified two-lot schemes	9
		10
		11
	‘181A Application of sdiv 1	12
	‘This subdivision applies to a community titles scheme other than a specified two-lot scheme.’.	13
		14
Clause 21	Insertion of new ch 3, pt 5, div 4, sdiv 2	15
	Chapter 3, part 5, division 4—	16
	<i>insert—</i>	17
	‘Subdivision 2 Contravention notices for specified two-lot schemes	18
		19
	‘183B Application of sdiv 2	20
	‘This subdivision applies to a specified two-lot scheme.	21
	‘183C Continuing contravention notice	22
	‘(1) This section applies to a specified two-lot scheme if an owner of a lot included in the scheme (the <i>complainant</i>) reasonably believes that—	23
		24
		25

[s 21]

- (a) a person (the *person*) who is the owner or occupier of a lot included in the scheme is contravening a provision of the by-laws for the scheme; and
- (b) the circumstances of the contravention make it likely that the contravention will continue.
- ‘(2) The complainant may, by notice (a *continuing contravention notice*) given to the person, require the person to remedy the contravention.
- ‘(3) A complainant who gives a continuing contravention notice under subsection (2) must when, or as soon as practicable after, the notice is given to the person, also—
- (a) give a copy of the notice to the body corporate; and
- (b) if the notice is given to a person who is not the owner of a lot included in the scheme, give a copy of the notice to the owner of the lot.
- ‘(4) If the continuing contravention notice is given following a request under section 185(3)(b)(i), the complainant must, within 14 days after receiving the request, advise the person who made the request that the continuing contravention notice has been given.
- ‘(5) The continuing contravention notice must state—
- (a) that the complainant believes the person is contravening a provision of the by-laws; and
- (b) the provision the complainant believes is being contravened; and
- (c) details sufficient to identify the contravention; and
- (d) the period (which must be reasonable in the circumstances) within which the person must remedy the contravention; and
- (e) that if the person does not comply with the notice the complainant may, without further notice—
- (i) start proceedings in the Magistrates Court for the failure to comply with the notice; or

-
- (ii) make an application under chapter 6 for resolution
of the dispute. 1
2
- ‘(6) The person must comply with the continuing contravention
notice. 3
4
Maximum penalty—20 penalty units. 5
- ‘(7) However, the person does not commit an offence under
subsection (6) if, when the continuing contravention notice is 6
given to the person, the person is not contravening the 7
provision mentioned in subsection (1)(a) in the way detailed 8
for subsection (5)(c). 9
10
- ‘183D Future contravention notice 11**
- ‘(1) This section applies to a specified two-lot scheme if an owner
of a lot included in the scheme (the *complainant*) reasonably 12
believes that— 13
14
- (a) a person (the *person*) who is the owner or occupier of a 15
lot included in the scheme has contravened a provision 16
of the by-laws for the scheme; and 17
- (b) the circumstances of the contravention make it likely 18
that the contravention will be repeated. 19
- ‘(2) The complainant may, by notice (a *future contravention*
notice) given to the person, require the person not to repeat 20
the contravention. 21
22
- ‘(3) A complainant who gives a future contravention notice under
subsection (2) must when, or as soon as practicable after, the 23
notice is given to the person, also— 24
25
- (a) give a copy of the notice to the body corporate; and 26
- (b) if the notice is given to a person who is not the owner of 27
a lot included in the scheme, give a copy of the notice to 28
the owner of the lot. 29
- ‘(4) If the future contravention notice is given following a request
under section 185(3)(b)(i), the complainant must, within 14 30
days after receiving the request, advise the person who made 31
the request that the future contravention notice has been given. 32
33

[s 22]

- ‘(5) The future contravention notice must state— 1
- (a) that the complainant believes the person has 2
contravened a provision of the by-laws; and 3
 - (b) the provision the complainant believes has been 4
contravened; and 5
 - (c) details sufficient to identify the contravention; and 6
 - (d) that the person must not repeat the contravention; and 7
 - (e) that if the person does not comply with the notice the 8
complainant may, without further notice— 9
 - (i) start proceedings in the Magistrates Court for the 10
failure to comply with the notice; or 11
 - (ii) make an application under chapter 6 for resolution 12
of the dispute. 13
- ‘(6) The future contravention notice has effect for— 14
- (a) 3 months after it is given to the person; or 15
 - (b) a shorter period mentioned in the notice. 16
- ‘(7) The person must comply with the future contravention notice. 17
Maximum penalty—20 penalty units. 18
- ‘(8) However, the person does not commit an offence under 19
subsection (7) if, when the future contravention notice is 20
given to the person, the person has not contravened the 21
provision mentioned in subsection (1)(a) in the way detailed 22
for subsection (5)(c).’ 23

- Clause 22 Insertion of new ch 3, pt 5, div 4, sdiv 3, hdg 24**
Chapter 3, part 5, division 4, before section 184— 25
insert— 26
‘Subdivision 3 Other provisions’. 27

Clause 23	Amendment of s 185 (Preliminary procedure for application by owner and occupier for resolution of dispute)	1 2 3
(1)	Section 185(2), ‘The’— <i>omit, insert—</i> ‘For a complainant who is the owner or occupier of a lot included in a community titles scheme other than a specified two-lot scheme, the’.	4 5 6 7 8
(2)	Section 185— <i>insert—</i>	9 10
‘(2A)	For a complainant who is the owner or occupier of a lot included in a specified two-lot scheme, the complainant may make an application under chapter 6 for resolution of the dispute only if—	11 12 13 14
(a)	if the complainant is an owner of a lot included in the scheme—the complainant has given the accused person a contravention notice for the contravention the subject of the dispute; or	15 16 17 18
(b)	if the complainant is an occupier of a lot included in the scheme—	19 20
(i)	the complainant has, in the approved form, asked the owner of the lot they occupy to give the accused person a contravention notice for the contravention the subject of the dispute; and	21 22 23 24
(ii)	the lot owner does not advise the complainant, as required under section 183C(4) or 183D(4), that the contravention notice has been given to the accused person.’.	25 26 27 28
(3)	Section 185(2A) and (3)— <i>renumber</i> as section 185(3) and (4).	29 30

[s 24]

Clause 24	Amendment, relocation and renumbering of s 187 (Copy of contravention notice to be given to owner)	1 2
	(1) Section 187(1), ‘this division’—	3
	<i>omit, insert—</i>	4
	‘this subdivision’.	5
	(2) Section 187—	6
	<i>relocate</i> to chapter 3, part 5, division 4, subdivision 1 and	7
	<i>renumber</i> as section 183A.	8
Clause 25	Replacement of s 188 (Who may start proceeding)	9
	Section 188—	10
	<i>omit, insert—</i>	11
‘188	Who may start proceeding	12
	‘A proceeding for an offence under this division may be started only by—	13 14
	(a) for an offence under subdivision 1—the body corporate that gave the continuing contravention notice or future contravention notice the subject of the proceeding; or	15 16 17
	(b) for an offence under subdivision 2—the owner that gave the continuing contravention notice or future contravention notice.’.	18 19 20
Clause 26	Amendment of s 205 (Information to be given to interested persons)	21 22
	Section 205(4), after ‘form’—	23
	<i>insert—</i>	24
	‘applying to the scheme’.	25

Clause 27	Amendment of s 206 (Information to be given by seller to buyer)	1 2
(1)	Section 206(2)(a)(i)—	3
	<i>omit, insert—</i>	4
	‘(i) the following—	5
	(A) if the scheme is a specified two-lot scheme—each person who is responsible for keeping body corporate records under the specified two-lot schemes module;	6 7 8 9
	(B) otherwise—the secretary of the body corporate; or’.	10 11
(2)	Section 206(2)(b)—	12
	<i>omit, insert—</i>	13
	‘(b) state—	14
	(i) the amount of annual contributions currently fixed by the body corporate as payable by the owner of the lot; and	15 16 17
	(ii) the extent to which the amount mentioned in subparagraph (i) is based on the contribution schedule lot entitlements for the lots included in the scheme; and	18 19 20 21
	(iii) the extent to which the amount mentioned in subparagraph (i) is based on the interest schedule lot entitlements for the lots included in the scheme; and	22 23 24 25
	(iv) that the contribution schedule lot entitlements, and interest schedule lot entitlements, for the lots included in the scheme are set out in the community management statement for the scheme; and’.	26 27 28 29 30
(3)	Section 206(2)(c) and (f)—	31
	<i>omit.</i>	32

[s 28]

- (4) Section 206(2)(e)— 1
omit, insert— 2
'(e) list the following— 3
 (i) if the scheme is a specified two-lot scheme—the 4
 body corporate assets of more than \$1000 in value; 5
 (ii) otherwise—the body corporate assets required to 6
 be recorded on a register the body corporate keeps; 7
 and'. 8
- (5) Section 206(2)— 9
insert— 10
'(i) be accompanied by a copy of the community 11
 management statement for the scheme.' 12
- (6) Section 206(2)(d) to (i)— 13
renumber as section 206(2)(c) to (g). 14

Clause 28 Insertion of new s 206B 15

After section 206A— 16
insert— 17

**'206B Copy of new community management statement to 18
be given** 19

- '(1) This section applies if, after the contract is entered into but 20
before it settles, a new community management statement for 21
the community titles scheme is recorded. 22
- '(2) The seller must, within 14 days (or a longer period agreed 23
between the buyer and seller) after subsection (1) starts to 24
apply, give the buyer a copy of the new community 25
management statement. 26
- '(3) The buyer may cancel the contract if— 27
 (a) it has not already been settled; and 28
 (b) the buyer would be materially prejudiced if compelled 29
 to complete the contract, given the extent to which the 30

	new community management statement is different	1
	from the community management statement last advised	2
	to the buyer; and	3
	(c) the cancellation is effected by written notice given to the	4
	seller within 14 days, or a longer period agreed between	5
	the buyer and seller, after the seller gives the buyer the	6
	further statement.	7
	‘(4) Subsections (1) to (3) apply each time a new community	8
	management statement for the community titles scheme is	9
	recorded before the contract settles.’.	10
Clause 29	Amendment of s 209 (Terminating contract for inaccuracy	11
	of disclosure statement)	12
	(1) Section 209(1)(b)(ii)—	13
	<i>renumber</i> as section 209(1)(b)(iii).	14
	(2) Section 209(1)(b)—	15
	<i>insert</i> —	16
	‘(ii) the copy of the community management statement	17
	that was attached to the contract when it was	18
	entered into is different from the community	19
	management statement most recently advised to	20
	the buyer, and the buyer would be materially	21
	prejudiced if compelled to complete the contract,	22
	given the difference;’.	23
	(3) Section 209(1)(c)(ii), ‘paragraph (b)(ii)’—	24
	<i>omit, insert</i> —	25
	‘paragraph (b)(iii)’.	26
	(4) Section 209(3), ‘subsection (1)(b)(ii)’—	27
	<i>omit, insert</i> —	28
	‘subsection (1)(b)(iii)’.	29

[s 30]

Clause 30	Insertion of new s 209A	1
	After section 209—	2
	<i>insert—</i>	3
	‘209A Terminating contract if contribution schedule lot entitlements inconsistent with contribution schedule principle	4
		5
		6
	‘(1) This section applies if—	7
	(a) the seller is the original owner for the community titles scheme; and	8
		9
	(b) the buyer reasonably believes—	10
	(i) the contribution schedule lot entitlements for the lots included in the scheme are inconsistent with the contribution schedule principle on which they were decided; and	11
		12
		13
		14
	(ii) the buyer would be materially prejudiced if compelled to complete the contract.	15
		16
	‘(2) Subject to subsection (3), the buyer may terminate the contract at any time before it settles by giving signed, dated notice of termination to the seller.	17
		18
		19
	‘(3) The termination must happen not later than 30 days, or a longer period agreed between the buyer and seller, after the buyer’s copy of the contract is received by the buyer or a person acting for the buyer.	20
		21
		22
		23
	‘(4) The notice of termination must state that the contract is terminated under this section.’.	24
		25
Clause 31	Amendment of s 213 (Information to be given by seller to buyer)	26
		27
	Section 213(2)(a)—	28
	<i>omit, insert—</i>	29
	‘(a) must state—	30

-
- (i) the amount of annual contributions reasonably expected to be payable to the body corporate by the owner of the proposed lot; and
 - (ii) the extent to which the amount mentioned in subparagraph (i) is based on the contribution schedule lot entitlements for the lots included in the scheme; and
 - (iii) the extent to which the amount mentioned in subparagraph (i) is based on the interest schedule lot entitlements for the lots included in the scheme; and
 - (iv) that the contribution schedule lot entitlements, and interest schedule lot entitlements, for the lots included in the scheme are set out in the proposed community management statement for the scheme; and’.

- Clause 32 Amendment of s 217 (Terminating contract for inaccuracy of statement)**
- (1) Section 217(b)(iii), ‘66(1)(d)’—
omit, insert—
‘66(1)(da)’.
 - (2) Section 217(b)(iv)—
renumber as section 217(b)(viii).
 - (3) Section 217(b)—
insert—
 - ‘(iv) the community management statement most recently advised to the buyer is required under section 66(1)(db)(i) to state the contribution schedule principle on which the contribution schedule lot entitlements have been decided and does not include the statement;
 - (v) the community management statement most recently advised to the buyer is required under

[s 33]

- section 66(1)(db)(ii) to explain why the contribution schedule lot entitlements are not equal and does not contain the explanation; 1
2
3
- (vi) the community management statement most recently advised to the buyer is required under section 66(1)(db)(iii) to include sufficient details about the relativity principle to show how individual contribution schedule lot entitlements were decided by using it (the *details*) and does not include the details; 4
5
6
7
8
9
10
- (vii) the community management statement most recently advised to the buyer is required under section 66(1)(dc)(ii) to explain why the interest schedule lot entitlements do not reflect the respective market values of the lots included in the scheme and does not contain the explanation;’. 11
12
13
14
15
16

- Clause 33 Insertion of new s 217A** 17
- After section 217— 18
- insert—* 19
- ‘217A Terminating contract if lot entitlements inconsistent with deciding principle** 20
21
- ‘(1) This section applies if— 22
- (a) the seller is intended to be the original owner for the scheme when it is established; and 23
24
- (b) the buyer reasonably believes either— 25
- (i) the proposed contribution schedule lot entitlements for the lots proposed to be included in the scheme are inconsistent with the contribution schedule principle on which they are proposed to be decided; or 26
27
28
29
30
- (ii) the proposed interest schedule lot entitlements for the lots proposed to be included in the scheme are inconsistent with the market value principle; and 31
32
33

-
- (c) the buyer reasonably believes the buyer would be materially prejudiced if compelled to complete the contract. 1
2
3
- ‘(2) Subject to subsection (3), the buyer may terminate the contract at any time before it settles by giving signed, dated notice of termination to the seller. 4
5
6
- ‘(3) The termination must happen not later than 30 days, or a longer period agreed between the buyer and seller, after the buyer’s copy of the contract is received by the buyer or a person acting for the buyer. 7
8
9
10
- ‘(4) The notice of termination must state that the contract is terminated under this section.’. 11
12

Clause 34 Amendment of s 242 (Time limit on certain adjudication applications) 13
14

- (1) Section 242(1)— 15
insert— 16
‘(ba) a decision of the body corporate for a specified two-lot scheme made by a lot owner agreement; or’. 17
18
- (2) Section 242(1)(ba) and (c)— 19
renumber as section 242(1)(c) and (d). 20
- (3) Section 242(2)— 21
insert— 22
‘(ba) if subsection (1)(c) applies—the day when the lot owner agreement was made; or’. 23
24
- (4) Section 242(2)(c), ‘(1)(c)’— 25
omit, insert— 26
‘(1)(d)’. 27
- (5) Section 242(2)(ba) and (c)— 28
renumber as section 242(2)(c) and (d). 29

[s 35]

Clause 35	Amendment of s 264 (Specialist adjudication by agreement)	1 2
	Section 264(3), definition <i>joined respondent</i> , ‘section 48(3)(a)’—	3 4
	<i>omit, insert—</i>	5
	‘section 47B(5)(a), 48(3)(a) or 388(3)(a)’.	6
Clause 36	Amendment of s 284 (Ancillary provisions)	7
	Section 284(4), ‘or ordinary resolution’—	8
	<i>omit, insert—</i>	9
	‘, ordinary resolution or lot owner agreement’.	10
Clause 37	Amendment of s 301 (Appointment of administrator)	11
	(1) Section 301(3)—	12
	<i>omit, insert—</i>	13
	‘(3) Without limiting subsection (2), the power may include—	14
	(a) for a specified two-lot scheme—power to authorise an item of expenditure for the body corporate to meet the cost of complying with obligations to which the order relates and the costs of the administration; or	15 16 17 18
	(b) for a scheme other than a specified two-lot scheme—power to levy a special contribution against the owners of lots included in the scheme to meet the cost of complying with obligations to which the order relates and the costs of the administration.’.	19 20 21 22 23
	(2) Section 301(5)—	24
	<i>omit, insert—</i>	25
	‘(5) The administrator’s remuneration must be paid by the body corporate.’.	26 27

Clause 38	Amendment of s 312 (Proceedings)	1
(1)	Section 312(1), from ‘by’—	2
	<i>omit, insert—</i>	3
	‘by—	4
	(a) if the scheme is a specified two-lot scheme—a lot owner agreement for the scheme; or	5 6
	(b) otherwise—special resolution by the body corporate.’.	7
(2)	Section 312(2)—	8
	<i>omit, insert—</i>	9
‘(2)	However, an owner of a lot included in a specified two-lot scheme may bring or start a prescribed proceeding on behalf of the body corporate even though the body corporate has not decided, by a lot owner agreement, to bring or start the proceeding.	10 11 12 13 14
‘(3)	Also, the body corporate for a community titles scheme other than a specified two-lot scheme does not need a special resolution to bring to start a prescribed proceeding.	15 16 17
‘(4)	In this section—	18
	<i>prescribed proceeding</i> , for a community titles scheme, means—	19 20
	(a) a proceeding for the recovery of a liquidated debt against the owner of a lot included in the scheme; or	21 22
	(b) a counterclaim, third-party proceeding or other proceeding, in a proceeding to which the body corporate is already a party; or	23 24 25
	(c) a proceeding for an offence under chapter 3, part 5, division 4; or	26 27
	(d) a proceeding, including a proceeding for the enforcement of an adjudicator’s order or an appeal against an adjudicator’s order, under chapter 6.’.	28 29 30

[s 39]

Clause 39	Amendment of s 315 (Service of notices etc.)	1
	Section 315(1)—	2
	<i>omit, insert—</i>	3
	‘(1) A notice, legal process or other document is served personally on the body corporate for a community titles scheme if served personally on—	4
		5
		6
	(a) for the body corporate for a specified two-lot scheme—1 or more of the owners of the lots included in the scheme; or	7
		8
		9
	(b) for the body corporate for another community titles scheme—the secretary or, in the absence of the secretary, another member of the committee for the body corporate.’.	10
		11
		12
		13
Clause 40	Amendment of s 322 (Regulation-making power)	14
	Section 322(3)—	15
	<i>insert—</i>	16
	‘(c) failure of an original owner for a specified two-lot scheme to comply with obligations relating to handing over documents and materials to the body corporate after the original owner stops being an owner of a lot included in the scheme.’.	17
		18
		19
		20
		21
Clause 41	Insertion of new ch 8, pt 9	22
	Chapter 8—	23
	<i>insert—</i>	24

‘Part 9	Transitional provisions for Body Corporate and Community Management and Other Legislation Amendment Act 2010	1 2 3 4 5
‘Division 1	Preliminary	6
‘374	Definition for pt 9	7
	‘In this part—	8
	<i>commencement</i> means commencement of this section.	9
‘Division 2	Interest schedules for particular schemes	10 11
‘375	Interest schedules for particular schemes	12
	‘(1) This section applies to a community titles scheme established after the commencement if a contract for the sale of a lot intended to come into existence as a lot included in the scheme was entered into before the commencement.	13 14 15 16
	‘(2) Section 46(8) does not apply in relation to the interest schedule for the community titles scheme.	17 18
	‘(3) In deciding the interest schedule lot entitlements for the community titles scheme, regard must be had to—	19 20
	(a) how the scheme is structured; and	21
	(b) the nature, features and characteristics of the lots included in the scheme; and	22 23
	(c) the purposes for which the lots are used.	24

[s 41]

‘(4)	Despite subsection (2), section 48(5) applies to an order of a specialist adjudicator or QCAT to adjust the interest schedule for the community titles scheme.	1 2 3
‘Division 3	Effect of particular actions relating to contribution schedule lot entitlements	4 5 6
‘376	Application of div 3	7
‘(1)	This division applies to each of the following (each a <i>pre-commencement adjustment action</i>)—	8 9
(a)	a motion, other than a motion mentioned in subsection (2), submitted to the body corporate for a community titles scheme proposing an adjustment of the contribution schedule for the scheme that—	10 11 12 13
(i)	was made before the commencement; and	14
(ii)	has not been passed by the body corporate at the commencement;	15 16
(b)	a resolution, other than a resolution without dissent, of the body corporate for a community titles scheme to adjust the contribution schedule for the scheme that—	17 18 19
(i)	was made before the commencement; and	20
(ii)	has not been given effect at the commencement;	21
(c)	an application under section 48, as in force from time to time before the commencement, for an order of a specialist adjudicator or QCAT for the adjustment of the contribution schedule for a community titles scheme that has not been decided at the commencement;	22 23 24 25 26
(d)	a decision of a specialist adjudicator or QCAT to adjust the contribution schedule for a community titles scheme that—	27 28 29
(i)	was made before the commencement; and	30
(ii)	has not been given effect at the commencement;	31

-
- (e) an appeal against a decision of a specialist adjudicator or QCAT to adjust the contribution schedule for a community titles scheme that has not been decided at the commencement;
- (f) a decision of an appeal entity to adjust the contribution schedule for a community titles scheme that—
- (i) was made before the commencement; and
 - (ii) has not been given effect at the commencement.
- ‘(2) For subsection (1)(a), a motion submitted to the body corporate for a community titles scheme proposing an adjustment of the contribution schedule for the scheme on the basis of either of the following is not a pre-commencement adjustment action—
- (a) the deciding principle for the contribution schedule lot entitlements for the lots included in the scheme;
 - (b) another principle for deciding the contribution schedule lot entitlements for the lots included in the scheme, if it is a contribution schedule principle.
- Note—*
- See section 47A for the adjustments of contribution schedule lot entitlements for the lots included in a community titles scheme that may be made by the body corporate by resolution without dissent.
- ‘(3) For subsection (1)(b), (d) and (f), a body corporate’s resolution, or a specialist adjudicator’s, QCAT’s or appeal entity’s decision, to adjust the contribution schedule for a community titles scheme has not been given effect if a new community management statement incorporating the adjustment has not been recorded.
- ‘(4) In this section—
- appeal entity*** means a court or tribunal having jurisdiction to hear and decide an appeal against a decision of a specialist adjudicator or QCAT to adjust the contribution schedule for a community titles scheme.

[s 41]

'377	Pre-commencement adjustment actions cease to have effect	1 2
'(1)	Each pre-commencement adjustment action ceases to have effect at the commencement.	3 4
'(2)	Without limiting subsection (1)—	5
(a)	the pre-commencement adjustment action is taken to have never been made; and	6 7
(b)	no further action may be taken in relation to the pre-commencement adjustment action.	8 9
'Division 4	Adjustment of contribution schedule for existing scheme to which adjustment order applies	10 11 12
'Subdivision 1	Definitions	13
'378	Definitions for div 4	14
'In this division—		15
<i>adjustment order</i> —		16
(a)	means an order of a court, tribunal or specialist adjudicator, made before the commencement, providing for an adjustment of the contribution schedule for an existing scheme; but	17 18 19 20
(b)	does not include an order of a court or tribunal giving effect to a decision that is not made by the court or tribunal or another court or tribunal (including a decision that is not, but is taken to have been, made by a court or tribunal).	21 22 23 24 25
<i>Examples for paragraph (b)—</i>		26
•	an order of a court or tribunal giving effect to the terms of the settlement of a dispute between an owner of a lot included in an existing scheme and the body corporate, if	27 28 29

-
- the terms provide for the adjustment of the contribution
schedule for the scheme 1
2
- a written agreement that— 3
 - (a) is between an owner of a lot included in an existing
scheme and the body corporate; and 4
5
 - (b) provides for the adjustment of the contribution
schedule for the scheme; and 6
7
 - (c) is filed in the registry of a court or tribunal and is
enforceable as an order of the court or tribunal 8
9
- changed entitlements***, for an existing scheme, means the
contribution schedule lot entitlements for the scheme after a
new community management statement is recorded for the
scheme because a relevant decision is made in relation to the
scheme. 10
11
12
13
14
- existing scheme*** means a community titles scheme established
before the commencement. 15
16
- pre-adjustment order entitlements***, for an existing scheme to
which an adjustment order applies, means— 17
18
- (a) if the adjustment order is the only adjustment order
applying to the scheme—the contribution schedule lot
entitlements for the lots included in the scheme as they
were immediately before the order was made; or 19
20
21
22
 - (b) otherwise—the contribution schedule lot entitlements
for the lots included in the scheme as they were
immediately before the first adjustment order applying
to the scheme was made. 23
24
25
26
- relevant decision*** means— 27
- (a) a decision of the committee for the body corporate for
an existing scheme under section 385(4); or 28
29
 - (b) a decision of the body corporate for an existing scheme
under section 387(2); or 30
31
 - (c) an order of a specialist adjudicator or QCAT under
section 388. 32
33

[s 41]

‘Subdivision 2	Motion for adjustment of contribution schedule	1 2
‘379	Motion proposing adjustment of contribution schedule	3
‘(1)	Subsection (2) applies if—	4
(a)	an adjustment order increased the proportion of the total contribution schedule lot entitlements for all the lots included in an existing scheme that are attributable to a lot included in the scheme; and	5 6 7 8
(b)	before the commencement, a new community management statement reflecting the increase has been recorded.	9 10 11
‘(2)	The owner of the lot may submit a motion proposing the adjustment of the contribution schedule for the existing scheme to reflect the pre-adjustment order entitlements for the scheme, subject to sections 381 to 384, to—	12 13 14 15
(a)	if there is a committee for the body corporate—the committee; or	16 17
(b)	otherwise—the body corporate.	18
‘(3)	Subsection (2) does not apply to a person who—	19
(a)	became an owner of the lot after the adjustment order was made; or	20 21
(b)	becomes an owner of the lot after the commencement.	22
‘(4)	Subsection (2) ceases to apply 3 years after the commencement.	23 24
‘Subdivision 3	Dealing with motion for adjustment of contribution schedule	25 26
‘380	Purpose of sdiv 3	27
	‘This subdivision provides for how a motion under section 379 must be dealt with, including providing for the	28 29

adjustment of the pre-adjustment order entitlements for an 1
existing scheme in circumstances to which sections 381 to 2
384 apply. 3

**‘381 Adjustment if a lot in existing scheme has been 4
subdivided 5**

‘(1) This section applies if a lot (the *pre-subdivision lot*) in an 6
existing scheme as it was when the pre-adjustment order 7
entitlements for the scheme were decided comprises 2 or more 8
lots (the *post-subdivision lots*) when a relevant decision is 9
made in relation to the scheme. 10

‘(2) The changed entitlements for the existing scheme must 11
apportion the pre-adjustment order entitlement for the 12
pre-subdivision lot between the post-subdivision lots 13
according to the respective market values of the 14
post-subdivision lots, except to the extent to which it is just 15
and equitable in the circumstances for the individual 16
contribution schedule lot entitlements for the post-subdivision 17
lots not to reflect the respective market values of the lots. 18

‘(3) In this section— 19
pre-adjustment order entitlement, for the pre-subdivision lot, 20
means the proportion of the pre-adjustment order entitlements 21
for the existing scheme attributable to the pre-subdivision lot. 22

**‘382 Adjustment if 2 or more lots in existing scheme have 23
been amalgamated 24**

‘(1) This section applies if 2 or more lots (the *pre-amalgamation 25
lots*) in an existing scheme as it was when the pre-adjustment 26
order entitlements for the scheme were decided comprises 27
only 1 lot (the *post-amalgamation lot*) when a relevant 28
decision is made in relation to the scheme. 29

‘(2) The changed entitlements for the existing scheme must 30
provide for the contribution schedule lot entitlement for the 31
post-amalgamation lot to be the total of the pre-adjustment 32
order contribution schedule lot entitlements for the scheme 33
attributable to the pre-amalgamation lots. 34

[s 41]

‘383	Adjustment if the boundary for a lot included in existing scheme has changed	1 2
‘(1)	This section applies if a constructing authority has given advice mentioned in section 51(1) to the body corporate for an existing scheme in relation to a boundary change for the lots included in the scheme that happened after the pre-adjustment order entitlements for the scheme were decided.	3 4 5 6 7
‘(2)	The changed entitlements for the existing scheme must take account of the boundary change, having regard to the lot entitlement adjustment advice obtained by the body corporate under section 51(2)(a) in relation to the boundary change.	8 9 10 11
‘384	Adjustment if material change since contribution schedule lot entitlements decided	12 13
‘(1)	This section applies if an existing scheme has been affected by a material change that happened after the pre-adjustment order entitlements for the scheme were decided.	14 15 16
‘(2)	The changed entitlements for the existing scheme must take account of the material change.	17 18
‘(3)	However, any adjustments of the pre-adjustment order entitlements for the existing scheme to take account of the material change must—	19 20 21
	(a) be consistent with the deciding principle for the pre-adjustment order entitlements, and just and equitable to the extent the deciding principle allows; or	22 23 24
	(b) if there is no apparent deciding principle for the pre-adjustment order entitlements, be just and equitable.	25 26
‘385	Body corporate committee to deal with motion if motion submitted to it	27 28
‘(1)	This section applies if a motion under section 379 is submitted to the committee for the body corporate for an existing scheme.	29 30 31

-
- ‘(2) The committee must, within 2 months after receiving the motion—
- (a) identify the pre-adjustment order entitlements for the existing scheme; and
 - (b) give written notice to each owner of a lot included in the scheme—
 - (i) stating that a motion has been submitted to the committee under section 379 proposing the adjustment of the contribution schedule for the scheme to reflect the pre-adjustment order entitlements for the scheme, subject to sections 381 to 384; and
 - (ii) stating the committee’s proposed adjustment of the contribution schedule for the scheme; and
 - (iii) inviting the owner to make submissions in relation to what (if any) changes to the pre-adjustment order entitlements for the scheme should be made under sections 381 to 384, within a stated period (the *submission period*) of at least 28 days after receiving the notice.
- ‘(3) If section 381 applies to the existing scheme, the committee must obtain a valuation by a registered valuer stating the respective market values of the lots, and attach a copy of the valuation to each notice given under subsection (2)(b).
- ‘(4) The committee must, after having regard to any submissions made by an owner of a lot within the submission period, decide what (if any) changes to the pre-adjustment order entitlements for the existing scheme should be made under sections 381 to 384.
- ‘(5) The committee must, within 7 days after it makes its decision under subsection (4), give each owner of a lot included in the existing scheme written notice of the committee’s decision.
- ‘(6) The body corporate must, within 3 months after the committee makes its decision under subsection (4), lodge a request to record a new community management statement
-

[s 41]

- incorporating a change to the contribution schedule lot entitlements for the lots included in the existing scheme to—
- (a) if the committee decides that no changes to the pre-adjustment order entitlements for the scheme should be made under sections 381 to 384 (including because none of sections 381 to 384 apply)—the pre-adjustment order entitlements; or
 - (b) if the committee decides the changes to the pre-adjustment order entitlements for the scheme that should be made under sections 381 to 384—the pre-adjustment order entitlements subject to the changes under sections 381 to 384 decided by the committee.

Maximum penalty—100 penalty units.

Note—

Under section 46(10), a change to a lot entitlement takes effect on the recording of the new community management statement incorporating the change.

- ‘(7) Subsection (6)—
- (a) applies despite section 47A; but
 - (b) does not apply if—
 - (i) an owner of a lot included in the existing scheme applies for an order of a specialist adjudicator or QCAT under subsection (8); and
 - (ii) a specialist adjudicator or QCAT makes an order for an adjustment of the contribution schedule for the scheme before the end of the 3-month period mentioned in subsection (6); and
 - (iii) the order provides for a change to the contribution schedule lot entitlements for the lots included in the scheme that is different to the change mentioned in subsection (6).
- ‘(8) An owner of a lot included in the existing scheme may, within 28 days after receiving notice of the committee’s decision under subsection (5), apply—

-
- (a) under chapter 6, for an order of a specialist adjudicator for an adjustment of the contribution schedule for the scheme to reflect the pre-adjustment order entitlements for the scheme, subject to changes under sections 381 to 384; or
- (b) as provided under the QCAT Act, for an order of QCAT, exercising the tribunal’s original jurisdiction, for an adjustment of the contribution schedule for the scheme to reflect the pre-adjustment order entitlements for the scheme, subject to changes under sections 381 to 384.
- ‘386 Body corporate to call general meeting etc. if motion submitted to it**
- ‘(1) This section applies if a motion under section 379 is submitted to the body corporate for an existing scheme.
- ‘(2) Within 2 months after receiving the motion, the body corporate must—
- (a) identify the pre-adjustment order entitlements for the existing scheme; and
- (b) if section 381 applies to the scheme, obtain a valuation by a registered valuer stating the respective market values of lots included in the scheme; and
- (c) call a general meeting of its members to decide what (if any) changes to the pre-adjustment order entitlements for the scheme should be made under sections 381 to 384.
- ‘(3) The notice of the general meeting must be accompanied by written evidence of the pre-adjustment order entitlements for the existing scheme and, if a valuation is obtained under subsection (2)(b), the valuation.
- ‘(4) The general meeting must be held within 28 days after it is called.

[s 41]

‘387	Decision at general meeting for motion submitted to body corporate	1 2
‘(1)	This section applies in relation to a general meeting of the body corporate for an existing scheme called under section 386.	3 4 5
‘(2)	At the general meeting, the body corporate must decide what (if any) changes to the pre-adjustment order entitlements for the existing scheme should be made under sections 381 to 384.	6 7 8 9
‘(3)	The body corporate must, within 7 days after the general meeting, give each owner of a lot included in the existing scheme written notice of the body corporate’s decision under subsection (2).	10 11 12 13
	<i>Note—</i>	14
	The applicable regulation module also provides for a copy of the minutes of a general meeting of a community titles scheme to be given to each owner of a lot included in the scheme.	15 16 17
‘(4)	The body corporate must, within 3 months after the general meeting, lodge a request to record a new community management statement incorporating a change to the contribution schedule lot entitlements for the lots included in the existing scheme to—	18 19 20 21 22
	(a) if the body corporate decides that no changes to the pre-adjustment order entitlements for the scheme should be made under sections 381 to 384 (including because none of sections 381 to 384 apply)—the pre-adjustment order entitlements; or	23 24 25 26 27
	(b) if the body corporate decides the changes to the pre-adjustment order entitlements for the scheme that should be made under sections 381 to 384—the pre-adjustment order entitlements, subject to the changes under sections 381 to 384 decided by the body corporate.	28 29 30 31 32 33
	Maximum penalty—100 penalty units.	34

-
- Note—* 1
- Under section 46(10), a change to a lot entitlement takes effect on the 2
recording of the new community management statement incorporating 3
the change. 4
- ‘(5) Subsection (4)— 5
- (a) applies despite section 47A; but 6
- (b) does not apply if— 7
- (i) an owner of a lot included in the existing scheme 8
applies for an order of a specialist adjudicator or 9
QCAT under subsection (6); and 10
- (ii) a specialist adjudicator or QCAT makes an order 11
for an adjustment of the contribution schedule for 12
the scheme before the end of the 3-month period 13
mentioned in subsection (4); and 14
- (iii) the order provides for a change to the contribution 15
schedule lot entitlements for the lots included in 16
the scheme that is different to the change 17
mentioned in subsection (4). 18
- ‘(6) An owner of a lot included in the existing scheme may, within 19
28 days after receiving notice of the body corporate’s decision 20
under subsection (3), apply— 21
- (a) under chapter 6, for an order of a specialist adjudicator 22
for an adjustment of the contribution schedule for the 23
scheme to reflect the pre-adjustment order entitlements 24
for the scheme, subject to changes under sections 381 to 25
384; or 26
- (b) as provided under the QCAT Act, for an order of QCAT, 27
exercising the tribunal’s original jurisdiction, for an 28
adjustment of the contribution schedule lot for the 29
scheme to reflect the pre-adjustment order entitlements 30
for the scheme, subject to changes under sections 381 to 31
384. 32

[s 41]

‘388	QCAT or specialist adjudicator deciding adjustment	1
‘(1)	This section applies in relation to an application under section 385(8) or 387(6) for an order of a specialist adjudicator or QCAT made by an owner of a lot included in an existing scheme.	2 3 4 5
‘(2)	Despite any other law or statutory instrument, the respondent to the application is the body corporate.	6 7
	<i>Note—</i>	8
	The body corporate must be given notice of the application under—	9
	(a) for an application to a specialist adjudicator under chapter 6—section 243; or	10 11
	(b) for an application to QCAT as provided under the QCAT Act—the QCAT Act, section 37.	12 13
‘(3)	If the owner applies under chapter 6 for an order of a specialist adjudicator—	14 15
	(a) at the election of another owner of a lot in the existing scheme, the other owner may be joined as a respondent to the application; and	16 17 18
	(b) each party to the application is responsible for the party’s own costs of the application.	19 20
‘(4)	An owner of a lot included in the existing scheme who elects, under subsection (3)(a), to become a respondent to the application must give written notice of the election to the body corporate.	21 22 23 24
‘(5)	If the specialist adjudicator or QCAT orders an adjustment of the contribution schedule for the existing scheme, the adjusted contribution schedule lot entitlements for the lots included in the scheme must—	25 26 27 28
	(a) be consistent with the deciding principle for the pre-adjustment order entitlements for the scheme, and be just and equitable to the extent the deciding principle allows; or	29 30 31 32
	(b) if there is no apparent deciding principle for the pre-adjustment order entitlements for the scheme, be just and equitable.	33 34 35

-
- ‘(6) To remove any doubt, it is declared that, if there is a deciding principle for the pre-adjustment order entitlements for the existing scheme, the specialist adjudicator or QCAT can not change the deciding principle for the lot entitlements. 1
2
3
4
- ‘(7) The only matters to which the specialist adjudicator or QCAT may have regard for deciding the application are— 5
6
- (a) if the pre-adjustment order entitlements for the existing scheme were decided on the equality principle, the matters to which the specialist adjudicator or QCAT may have regard under section 49; and 7
8
9
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- (b) whether any of sections 381 to 384 apply to the scheme and, if so, what adjustments should be made to the pre-adjustment order entitlements for the scheme under those sections. 11
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13
14
- ‘(8) If the specialist adjudicator or QCAT orders an adjustment of the contribution schedule for the existing scheme, the body corporate must, within 3 months after the order is made, lodge a request to record a new community management statement incorporating the adjustment. 15
16
17
18
19
- Maximum penalty—100 penalty units. 20
- Note—* 21
- Under section 46(10), a change to a lot entitlement takes effect on the recording of the new community management statement incorporating the change. 22
23
24
- ‘(9) Subsection (8) does not apply if— 25
- (a) the specialist adjudicator’s or QCAT’s order provides for a change to the contribution schedule lot entitlements for the lots included in the existing scheme that is the same as the change mentioned in section 385(6) or 387(4) (the *change*); and 26
27
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30
- (b) the body corporate lodges a request to record a new community management statement incorporating the change under section 385(6) or 387(4). 31
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[s 41]

‘389	Provision about new community management statement required under this division	1 2
‘(1)	This section applies if, under this division, the body corporate for an existing scheme is required to lodge a request to record a new community management statement incorporating a change to the contribution schedule lot entitlements for the lots included in the scheme.	3 4 5 6 7
‘(2)	If the difference between the new community management statement and existing community management statement for the existing scheme is limited to changes incorporating the changed contribution schedule lot entitlements—	8 9 10 11
	(a) section 54(2) does not apply to the new community management statement; and	12 13
	(b) despite section 60(1), the new community management statement may be recorded for the scheme without the endorsement on the statement of a community management statement notation of each relevant planning body for the scheme.	14 15 16 17 18
‘(3)	If subsection (2)(b) applies, the body corporate must, within 14 days after the new community management statement is recorded, give a copy of the statement to each relevant planning body for the existing scheme.	19 20 21 22
‘(4)	If the body corporate does not lodge a request as required under this division, an owner of a lot included in the existing scheme may apply to QCAT for an order requiring the body corporate to lodge the request within a stated period.	23 24 25 26
	<i>Note—</i>	27
	The QCAT Act provides for the consequences of contravening an order of QCAT. See the following provisions of that Act—	28 29
	• section 132 (which provides for enforcing non-monetary decisions of QCAT in a court)	30 31
	• section 213 (which creates an offence for contravening a decision of QCAT)	32 33
	• section 218 (which provides that contravening a decision of QCAT may constitute contempt of the tribunal).	34 35

‘390	Body corporate responsible for particular costs under this division	1 2
‘(1)	The body corporate for an existing scheme is responsible for the costs associated with dealing with a motion under section 379, including—	3 4 5
	(a) the costs of obtaining a valuation under section 385(3) or 386(2)(b); and	6 7
	(b) the costs of preparing and recording the new community management statement under 385(6) or 387(4).	8 9
‘(2)	However, subsection (1) does not apply to costs associated with an application under section 385(8) or 387(6) for an order of a specialist adjudicator or QCAT made by an owner of a lot included in the existing scheme.	10 11 12 13
‘Division 5	Other provisions	14
‘391	Other adjustments of lot entitlement schedules for schemes	15 16
	‘To remove any doubt, it is declared that sections 47A to 48 also apply in relation to a community titles scheme established before the commencement.	17 18 19
‘392	Continuing contravention notice given by body corporate before scheme becomes a specified two-lot scheme	20 21 22
‘(1)	This section applies if—	23
	(a) before the commencement, the body corporate for a community titles scheme gave a continuing contravention notice under section 182 to a person; and	24 25 26
	(b) after the commencement, the community titles scheme becomes a specified two-lot scheme.	27 28
‘(2)	The continuing contravention notice continues in effect, and this Act continues to apply in relation to it, despite section 181A.	29 30 31

[s 41]

‘(3) In this section—	1
<i>commencement</i> means the commencement of this section.	2
‘393 Future contravention notice given by body corporate before scheme becomes a specified two-lot scheme	3
	4
‘(1) This section applies if—	5
(a) before the commencement, the body corporate for a community titles scheme gave a future contravention notice under section 183 to a person; and	6
	7
	8
(b) after the commencement, the community titles scheme becomes a specified two-lot scheme.	9
	10
‘(2) The future contravention notice continues in effect, and this Act continues to apply in relation to it, despite section 181A.	11
	12
‘(3) In this section—	13
<i>commencement</i> means the commencement of this section.	14
‘394 Application of s 206	15
‘(1) This section applies in relation to the sale of a lot included in a community titles scheme—	16
	17
(a) if a contract for the sale of the lot to the person who proposes to buy the lot (the <i>buyer</i>) has not been entered into before the commencement; and	18
	19
	20
(b) whether or not the person who proposes to sell the lot (the <i>seller</i>) to the buyer has complied with previous section 206 in relation to the sale.	21
	22
	23
‘(2) The seller must give the buyer a disclosure statement complying with current section 206 before the buyer enters into a contract to buy the lot.	24
	25
	26
‘(3) If the seller has, before the commencement, given the buyer a disclosure statement under previous section 206, the seller complies with current section 206 in relation to the buyer if—	27
	28
	29

-
- (a) the seller gives the buyer a new disclosure statement that complies with current section 206; or 1
2
- (b) the seller gives the buyer a written notice that— 3
- (i) states the matters mentioned in current section 206(2)(b); and 4
5
- (ii) is accompanied by a copy of the community management statement for the community titles scheme. 6
7
8
- ‘(4) In this section— 9
- current section 206* means section 206 as in force immediately after the commencement. 10
11
- previous section 206* means section 206 as in force from time to time before the commencement. 12
13

‘395 Application of s 213 14

- ‘(1) This section applies in relation to the sale of a lot intended to come into existence as a lot included in a community titles scheme when the scheme is established— 15
16
17
- (a) if a contract for the sale of the lot to the person who proposes to buy the lot (the *buyer*) has not been entered into before the commencement; and 18
19
20
- (b) whether or not the person who proposes to sell the lot (the *seller*) to the buyer has complied with previous section 213 in relation to the sale. 21
22
23
- ‘(2) The seller must give the buyer a disclosure statement complying with current section 213 before the buyer enters into a contract to buy the lot. 24
25
26
- ‘(3) If the seller has, before the commencement, given the buyer a disclosure statement under previous section 213, the seller complies with current section 213 in relation to the buyer if— 27
28
29
- (a) the seller gives the buyer a new disclosure statement that complies with current section 213; or 30
31

[s 42]

(b) the seller gives the buyer a written notice that states the matters mentioned in current section 213(2)(a). 1
2

‘(4) In this section— 3

current section 213 means section 213 as in force immediately after the commencement. 4
5

previous section 213 means section 213 as in force from time to time before the commencement. 6
7

‘396 Amendment of QCAT legislation 8

‘(1) The amendment of QCAT legislation by the *Body Corporate and Community Management and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the legislation or to repeal it. 9
10
11
12
13

‘(2) In this section— 14

QCAT legislation means— 15

(a) the *Queensland Civil and Administrative Tribunal Regulation 2009*; or 16
17

(b) the *Queensland Civil and Administrative Tribunal Rules 2009*’. 18
19

Clause 42 Amendment of sch 5 (Adjudicator’s orders) 20

Schedule 5— 21

insert— 22

‘8A An order declaring that a decision purportedly made by a lot owner agreement was at all times void. 23
24

9A An order declaring that a decision purportedly made by a lot owner agreement is a valid decision of the body corporate. 25
26

24 If satisfied a decision to pass or not pass a motion at a general meeting of the body corporate was unreasonable—an order declaring that a motion was invalid or giving effect to the motion as proposed, or a variation of the motion as proposed. 27
28
29
30

-
- 25 If satisfied that a decision made by a lot owner agreement was unreasonable—an order— 1
2
(a) declaring that the decision was at all times void; or 3
(b) giving effect to a variation of the lot owner agreement. 4
- 26 If satisfied that an owner of a lot included in a specified two-lot scheme was unreasonable in not entering into a lot owner agreement following a request from the owner of the other lot—an order— 5
6
7
8
(a) giving effect to the decision proposed by the owner of the other lot; or 9
10
(b) giving effect to a variation of the decision proposed by the owner of the other lot.’. 11
12

Clause 43 Amendment of sch 6 (Dictionary) 13

- (1) Schedule 6, definitions *continuing contravention notice*, *contravention notice* and *future contravention notice*— 14
15
omit. 16
- (2) Schedule 6— 17
insert— 18
‘adjustment order, for chapter 8, part 9, division 4, see section 19
378. 20
changed entitlements, for chapter 8, part 9, division 4, see 21
section 378. 22
continuing contravention notice means a continuing 23
contravention notice under section 182 or 183C. 24
contravention notice means a continuing contravention notice 25
or a future contravention notice. 26
contribution schedule principle means a principle under 27
section 46 applicable to deciding the contribution schedule lot 28
entitlements for the lots included in a community titles 29
scheme. 30

[s 43]

- deciding principle***, for lot entitlements, means the principle on which the lot entitlements were decided, whether or not the principle is or has been identified as an applicable principle for deciding the lot entitlements under this Act as in force from time to time. 1
2
3
4
5
- equality principle***, in relation to contribution schedule lot entitlements, see section 46A(1). 6
7
- existing scheme***, for chapter 8, part 9, division 4, see section 378. 8
9
- future contravention notice*** means a future contravention notice under section 183 or 183D. 10
11
- lot owner agreement*** see section 111E. 12
- market value principle***, in relation to interest schedule lot entitlements, see section 46B(1). 13
14
- material change***— 15
- 1 A *material change*, for a community titles scheme, is a change that has, or may have, a significant effect on the contribution schedule lot entitlements for the lots included in the scheme, including, for example— 16
17
18
19
- (a) the addition of 1 or more lots, other than by a subdivision not involving the addition of a subsidiary scheme; or 20
21
22
- (b) the removal of 1 or more lots, other than by an amalgamation. 23
24
- 2 However, if a community titles scheme is intended to be developed progressively, a change arising from development proposed in the community management statement for the scheme is not a *material change* for the scheme. 25
26
27
28
29
- pre-adjustment order entitlements***, for chapter 8, part 9, division 4, see section 378. 30
31
- pre-commencement adjustment action*** see section 376(1). 32
- relativity principle***, in relation to contribution schedule lot entitlements, see section 46A(2) and (3). 33
34

-
- relevant decision*, for chapter 8, part 9, division 4, see section 378. 1
2
- specified two-lot scheme* see section 111C. 3
- specified two-lot schemes module* means a regulation module 4
under this Act that may apply to only specified two-lot 5
schemes within the meaning of section 111C(1) or (2).’ 6
- (3) Schedule 6, definition *commencement*— 7
insert— 8
‘(c) for chapter 8, part 9, see section 374.’ 9
- (4) Schedule 6, definition *complex dispute*, paragraph (a), ‘48’— 10
omit, insert— 11
‘47B(3)(a), 48(1)(a), 385(8)(a) or 387(6)(a)’ 12
- (5) Schedule 6, definition *respondent*, paragraph (a)— 13
omit, insert— 14
‘(a) for an application for an order mentioned in section 15
47B(3)(a), 48(1)(a), 385(8)(a) or 387(6)(a)— 16
- (i) the body corporate for the community titles 17
scheme to which the application relates; and 18
- (ii) each owner of a lot who is joined as a respondent 19
to the application under section 47B(5)(a), 48(3)(a) 20
or 388(3)(a); or’. 21

Part 3 **Amendment of Queensland** 22
Civil and Administrative 23
Tribunal Regulation 2009 24

- Clause 44** **Regulation amended** 25
This part amends the *Queensland Civil and Administrative* 26
Tribunal Regulation 2009. 27

[s 45]

Clause 45	Amendment of sch 1 (Enabling Acts and provisions)	1
	Schedule 1, part 1, entry for <i>Body Corporate and Community Management Act 1997</i> , from ‘section’—	2
	<i>omit, insert—</i>	3
	‘section 47B(3)(b), 48(1)(b), 133(2)(b), 149A(b), 149B(2)(b), 178(2)(b), 304, 385(8)(b), 387(6)(b) or 389(4)’.	4
		5
		6
Part 4	Amendment of Queensland Civil and Administrative Tribunal Rules 2009	7
		8
		9
Clause 46	Rules amended	10
	This part amends the <i>Queensland Civil and Administrative Tribunal Rules 2009</i> .	11
		12
Clause 47	Amendment of r 44 (General requirement for responses other than minor debt claim)	13
	Rule 44(6), definition <i>prescribed application</i> , paragraph (d), from ‘section’—	14
	<i>omit, insert—</i>	15
	‘section 47B, 48, 133, 149A, 149B, 178, 304, 385, 387 or 389.’.	16
		17
		18
		19

Schedule	Minor and consequential amendments of Body Corporate and Community Management Act 1997	1 2 3 4
	section 3	5
1	Section 10(2), editor's note—	6
	<i>omit, insert—</i>	7
	<i>'Note—</i>	8
	Common property for a community titles scheme is, effectively, freehold land forming part of the scheme land but not forming part of a lot included in the scheme.'	9 10 11
2	Section 10(6), editor's note—	12
	<i>omit, insert—</i>	13
	<i>'Note—</i>	14
	Schedule 1 contains examples of possible structures of community titles schemes.'	15 16
3	Section 26(2), editor's note—	17
	<i>omit, insert—</i>	18
	<i>'Note—</i>	19
	Schedule 1, part 5 gives an example of progressive subdivision to create subsidiary schemes.'	20 21
4	Section 27(3), editor's note—	22
	<i>omit, insert—</i>	23
	<i>'Note—</i>	24
	Schedule 1, part 6 gives an example of the operation of this section.'	25

Schedule

5	Section 28, editor's note—	1
	<i>omit, insert—</i>	2
	<i>Note—</i>	3
	Schedule 1, part 4 gives an example of the operation of this section.'	4
6	Section 31, editor's notes—	5
	<i>omit, insert—</i>	6
	<i>Notes—</i>	7
	1 If a lot included in the community titles scheme is itself a community titles scheme, the owner of the lot is the body corporate for the other scheme—see section 19.	8 9 10
	2 Schedule 1, parts 7 and 8 illustrate body corporate memberships.'	11
7	Section 47(2)(a), editor's note—	12
	<i>omit, insert—</i>	13
	<i>Note—</i>	14
	The regulation module applying to a community titles scheme might provide that a lot owner's contribution to some or all of the insurance required to be put in place by the body corporate is to be calculated on the basis of the lot's interest schedule lot entitlement.'	15 16 17 18 19
8	Section 63(3), editor's note—	20
	<i>omit, insert—</i>	21
	<i>Note—</i>	22
	For example, in addition to subsection (4), see section 50.'	23
9	Section 68(1), editor's note—	24
	<i>omit, insert—</i>	25
	<i>Note—</i>	26
	For other provisions about statutory easements, see the Land Title Act, part 6A, division 5.'	27 28

10	Section 97, editor’s note—	1
	<i>omit, insert—</i>	2
	‘ <i>Note—</i>	3
	But see part 2, division 2.’	4
11	Section 158, editor’s note—	5
	<i>omit, insert—</i>	6
	‘ <i>Note—</i>	7
	A body corporate is not permitted to carry on a business—see section 96.’	8 9
12	Section 186(2), after ‘section 185(2)’—	10
	<i>insert—</i>	11
	‘or (3)’.	12
13	Section 205B, heading, after ‘Act’—	13
	<i>insert—</i>	14
	‘2001’.	15
14	Section 238(2), ‘184 to 187’—	16
	<i>omit, insert—</i>	17
	‘183A and 184 to 186’.	18
15	Section 315(4), editor’s note—	19
	<i>omit, insert—</i>	20
	‘ <i>Note—</i>	21
	The <i>Acts Interpretation Act 1954</i> , section 39 also makes provision for service.’	22 23

Schedule

16	Section 362A, heading, ‘affect’—	1
	<i>omit, insert—</i>	2
	‘effect’.	3
17	Schedule 6, definition <i>improvement</i>, editor’s note—	4
	<i>omit, insert—</i>	5
	<i>Note—</i>	6
	Change includes addition—see the <i>Acts Interpretation Act 1954</i> , section 36, definition <i>change</i> .’.	7
		8
18	Schedule 6, definition <i>small scheme</i>, paragraph (d), ‘1997’—	9
	<i>omit, insert—</i>	10
	‘2008’.	11
		12
19	Schedule 6, definition <i>small scheme</i>, paragraph (d), editor’s note—	13
	<i>omit.</i>	14
		15