



Queensland

*Building Units and Group Titles Act 1980*

# **Building Units and Group Titles Regulation 2008**

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Queensland

# Building Units and Group Titles Regulation 2008

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# Building Units and Group Titles Regulation 2008

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Building Units and Group Titles Regulation 2008*.

### 2 Commencement

This regulation commences 1 September 2008.

### 3 Definitions

In this regulation—

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

***approved form*** means a form approved by the chief executive under section 4(1).

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

***notice of conversion*** means a notice of conversion under section 12 of the Act.

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

***plan of amalgamation*** means a plan of amalgamation under section 11 of the Act.

***plan of resubdivision*** means a plan of resubdivision under section 10 of the Act.

***registrar*** means the registrar of titles under the *Land Title Act 1994*.

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

## Part 2                      Forms and registration requirements

### 4                      Forms

- (1) The chief executive may approve forms to be used under the Act.
- (2) For a provision of the Act mentioning a prescribed form, the prescribed form is the approved form.

### 5                      Requirements for registration of relevant documents

- (1) A relevant document must be—
  - (a) in the approved form; and
  - (b) in conformity with directions of the registrar about the required format for a relevant document.
- (2) In this section—

*relevant document* means—

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

### 6                      Notification of registration of plans by registrar

- (1) The registrar must make appropriate notification of the registration of a plan of amalgamation, plan of resubdivision or notice of conversion—
  - (a) on the certificates of title for each lot the subject of the original plan for the plan of amalgamation, plan of





[s 8]

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(2) Schedule 1 applies to the nomination and election.

## **8 Nominations at second or subsequent annual general meetings**

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

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

## **Part 4 Miscellaneous**

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

For section 37(2)(g)(i) of the Act, the prescribed amount, for the cost of improvements made to common property, is the amount worked out by using the formula—

$$\text{\$PA} = 2,000 \times L$$

where—

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

*PA* means the prescribed amount in dollars.

### **10 Retaining records—Act, s 38D(1)(b)**

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

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

of account is adopted by a general meeting of the body corporate.

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

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

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

For section 47(1) of the Act, the prescribed amount is \$200.

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

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

**14 Classes of order—Act, s 117(a)(ii)**

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

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

## Part 5 Fees

### 15 Fees

- (1) The fees payable under the Act to the registrar are stated in schedule 3, part 1.
- (2) The fees payable under the Act to the referee or tribunal are stated in schedule 3, part 2.
- (3) The fees payable under the Act to a body corporate are stated in schedule 3, part 3.

### 16 Remission of referee's fees

- (1) The referee may excuse a person from paying a fee, or part of a fee, payable to the referee.
- (2) However, the referee may act under subsection (1) only if the referee is satisfied the person is suffering extreme financial hardship.

### 16A Modification of referee's power to remit fees for period ending on 31 December 2020

- (1) Despite section 16(2), the referee may, during the relevant period, act under section 16(1) to excuse a person from paying all or part of a fee payable to the referee if satisfied the person is suffering financial hardship.
- (2) This section expires on 31 December 2020.
- (3) In this section—  
*relevant period* means the period starting on the commencement and ending on 31 December 2020.

## Part 6 Repeal

### 17 Repeal

The Building Units and Group Titles Regulation 1998, SL No. 189 is repealed.

## Part 7 Transitional provision

### 18 Transitional provision for forms approved under repealed regulation

- (1) This section applies to any forms that have been approved under section 3 of the repealed regulation.
- (2) The forms are taken to be forms approved under section 4 of this regulation.
- (3) In this section—

*repealed regulation* means the *Building Units and Group Titles Regulation 1998*.

# **Schedule 1      Nomination and election of committee at first annual general meeting and other particular meetings**

section 7(2)

## **Part 1                      Nominations**

### **1           Preliminary decisions**

The meeting must decide—

- (a) if there are more than 3 proprietors, the number of other members required to make up a committee as required by section 42(4) of the Act; and

*Note—*

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

- (b) if the election of the committee will be by open ballot.

*Note—*

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

### **2           Chairperson to call for nominations**

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

### **3           Consent for effective nominations**

A nomination under section 2 has no effect unless—

- 
- (a) the nominee's written consent is given to the chairperson before, or at, the meeting; or
  - (b) the nominee's verbal consent is given to the chairperson at the meeting.

#### **4 Sole nominees for election as chairperson, secretary or treasurer**

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

#### **5 Multiple nominees for election as chairperson, secretary or treasurer**

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

#### **6 Required number of nominees for election as other committee members**

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

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

If the number of nominees for election as other committee members is more than the number of other committee

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

## **Part 2                      Elections**

### **8                      Elections must be separate**

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

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

### **9                      Pre-ballot**

Before each ballot the chairperson must—

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



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**10 Opening envelopes**

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

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

**11 Counting ballot**

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

**12 Properly completed ballot papers**

- (1) A ballot paper for an open ballot is properly completed if—
  - (a) it states—
    - (i) the name of the individual voting; and
    - (ii) the number of the lot entitling the individual to vote; and
    - (iii) the name of the proprietor of the lot; and
    - (iv) the capacity in which the individual is voting; and
    - (v) the name of 1 nominee for each of the members of the committee required to be elected and to which the ballot relates; and
  - (b) the signature of the individual appears on the paper; and
  - (c) the individual gives the paper to the chairperson.

- (2) A ballot paper for a secret ballot is properly completed if—
- (a) it states the name of 1 nominee for each of the members of the committee required to be elected and to which the ballot relates; and
  - (b) it is put into a ballot paper envelope and the envelope is sealed; and
  - (c) the ballot paper envelope mentioned in paragraph (b) is—
    - (i) if separate from a particulars envelope—put into a properly completed particulars envelope; or
    - (ii) if attached to a particulars envelope—still attached to a properly completed particulars envelope; and
  - (d) the properly completed particulars envelope is sealed and given to the chairperson.

### **13 Properly completed particulars envelope**

A particulars envelope is properly completed if—

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

### **14 Result of ballot**

- (1) For an election—

- (a) of chairperson—the individual who receives the highest number of votes is elected as chairperson; or
  - (b) of secretary—the individual who receives the highest number of votes is elected as secretary; or
  - (c) of treasurer—the individual who receives the highest number of votes is elected as treasurer; or
  - (d) as other committee members—the individuals who receive the highest number of votes, in descending order, up to the number of persons required to be elected, are elected as the other committee members.
- (2) However, if 2 or more individuals receive the same number of votes and the number of individuals who would, under subsection (1)(a), (b), (c) or (d) be elected, is higher than the number required to be elected, the result of the election must be decided by chance in the way the meeting decides.

## **Schedule 2      Nomination and election of committee at second and subsequent annual general meetings**

section 8(2)

### **Part 1                      Nominations**

#### **1                      Secretary to give notices calling for nominations**

- (1) The secretary must give a written notice to each proprietor inviting the proprietor to nominate individuals for election as chairperson, secretary, treasurer and other committee members of the body corporate.
- (2) The notice must be given 35 days before the anniversary of the first annual general meeting.

#### **2                      Properly completed nominations**

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

- (a) it is in writing; and
- (b) it states—
  - (i) the name of the proprietor making the nomination, or on whose behalf the nomination is being made; and
  - (ii) the name of the nominee; and
  - (iii) whether the nominee is—
    - (A) a proprietor; or
    - (B) a company nominee; or

- (C) neither a proprietor nor a company nominee;  
and
- (c) it is signed by—
  - (i) the proprietor making the nomination or the individual making the nomination on the proprietor's behalf; and
  - (ii) the nominee.

### **3 Absence of nominees**

Schedule 1 applies instead of this schedule—

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

### **4 Sole nominees for election as chairperson, secretary or treasurer**

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

### **5 Multiple nominees for election as chairperson, secretary or treasurer**

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

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

## **6 Required number of nominees for election as other committee members**

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

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

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

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

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

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

# **Part 2 Elections**

## **9 Elections must be separate**

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

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

## 10 Pre-ballot

- (1) Before each ballot the secretary must give to each proprietor—
  - (a) for an open ballot—
    - (i) a ballot paper; and
    - (ii) a ballot paper envelope addressed to the secretary;  
or
  - (b) for a secret ballot—
    - (i) a ballot paper; and
    - (ii) a ballot paper envelope; and
    - (iii) a particulars envelope addressed to the secretary.
- (2) If a ballot paper is not available for use for any reason, a secretary must give a replacement ballot paper to the proprietor or the individual voting on the proprietor's behalf.
- (3) A secretary who gives a replacement ballot paper under subsection (2) must—
  - (a) make a written record of—
    - (i) the reason the ballot paper is not available for use;  
and
    - (ii) the individual to whom the replacement paper is given; and
    - (iii) when the replacement paper is given; and
  - (b) show the record to the chairperson before the votes are counted.

## **11 Ballot papers**

A ballot paper must state—

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

## **12 Opening envelopes**

A ballot paper envelope must be opened—

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

## **13 Counting ballot**

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



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**14 Properly completed ballot papers**

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

**15 Properly completed particulars envelope**

A particulars envelope is properly completed if—

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

**16 Result of ballot**

- (1) For an election—
  - (a) as chairperson—the individual who receives the highest number of votes is elected as chairperson; and
  - (b) as secretary—the individual who receives the highest number of votes is elected as secretary; and
  - (c) as treasurer—the individual who receives the highest number of votes is elected as treasurer; and
  - (d) as other committee members—the individuals who receive the highest number of votes, in descending order, up to the number of persons required to be elected, are elected as the other committee members.
- (2) However, if 2 or more individuals receive the same number of votes and the number of individuals who would, under subsection (1)(a), (b), (c) or (d) be elected, is higher than the number required to be elected, the result of the election must be decided by chance in the way the meeting decides.

## Schedule 3 Fees

section 15

### Part 1 Fees payable to the registrar

	\$
1 Lodging a plan or plan of amalgamation for registration (Act, s 9(16))	390.00
2 Additional fee for each lot in a plan or plan of amalgamation lodged for registration	29.00
3 Lodging for registration—	
(a) a notice of conversion (Act, s 9(16))	132.00
(b) a request to register an order, made under section 25(7A)(c) of the Act, directing an amendment of a building units plan	132.00
(c) a notification of proposed extinguishment of a plan under section 26(1)(a) of the Act	132.00
4 Furnishing copies of a registered plan or amendment of a registered plan (Act, s 14)	29.00
5 Lodging—	
(a) notification of an amendment of, addition to or repeal of by-laws (Act, s 30(3))	132.00
(b) a copy of a referee's order under section 112(1)(a) of the Act (Act, s 112(1)(b))	132.00
6 Application to—	
(a) reserve a name (Act, s 120(1))	95.00
(b) extend the period for which a name is reserved (Act, s 120(3))	95.00
7 Lodging another document under the Act	37.00

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## Part 2 Fees payable to the referee or tribunal

	\$
8 Application for an order mentioned in section 41(2) of the Act	85.30
9 Application for an order mentioned in section 77(1) of the Act—	
(a) if the applicant requests an interim order mentioned in section 76(2) of the Act	179.20
(b) otherwise	85.30
10 Issuing a summons under section 103(1) of the Act	85.30
11 Lodging a notice of appeal under section 106(1) of the Act	85.30
12 Making an inquiry mentioned in section 117 of the Act—	
(a) if the reply is collected from the referee	19.15
(b) if the reply is posted to the inquirer	22.30
(c) if the reply is sent by facsimile to the inquirer	28.75

## Part 3 Fees payable to a body corporate

	\$
13 Giving information under section 40(1)(a) of the Act	37.70
14 Making documents available for inspection under section 40(1)(b) of the Act—	
(a) if the applicant is a person mentioned in section 40(5) of the Act, definition <i>prescribed person</i> , paragraph (a)	19.15

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	\$
(b) if the applicant is a person mentioned in section 40(5) of the Act, definition <i>prescribed person</i> , paragraph (b)	37.70
15 Giving a certificate under section 40(1)(c) of the Act—	
(a) if the applicant asks to be given the certificate, and is given the certificate, within 24 hours after it is requested	102.40
(b) otherwise	75.45
16 Additional fee for sending a certificate mentioned in item 15 by facsimile	19.15
17 Giving a copy of the by-laws under section 40(1)(d) of the Act, for each page supplied	0.65