



Queensland

Body Corporate and Community Management Act 1997
Building Units and Group Titles Act 1980
Collections Act 1966
COVID-19 Emergency Response Act 2020

Justice Legislation (COVID-19 Emergency Response— Community Titles Schemes and Other Matters) Regulation 2020

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Justice Legislation (COVID-19 Emergency Response—Community Titles Schemes and Other Matters) Regulation 2020

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Justice Legislation (COVID-19 Emergency Response—Community Titles Schemes and Other Matters) Regulation 2020

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Justice Legislation (COVID-19 Emergency Response—Community Titles Schemes and Other Matters) Regulation 2020*.

2 Commencement

- (1) The following provisions are taken to have commenced on 19 March 2020—
 - (a) sections 3 and 4;
 - (b) part 2, division 1.
- (2) The following provisions are taken to have commenced on 1 February 2020—
 - (a) section 29;
 - (b) section 30, to the extent it inserts new section 37;
 - (c) section 31;
 - (d) section 32, to the extent it inserts new section 3A.

3 Declaration

This regulation is made under the *COVID-19 Emergency Response Act 2020*, sections 8, 9 and 13.

4 Definitions

In this regulation—

body corporate means—

- (a) the body corporate under the *Body Corporate and Community Management Act 1997* for a community titles scheme; or
- (b) the body corporate constituted, under the *Building Units and Group Titles Act 1980*, by the proprietors of the lots in a building units plan or group titles plan that is a registered plan.

body corporate law means each of the following laws—

- (a) the *Body Corporate and Community Management Act 1997*;
- (b) the *Body Corporate and Community Management Regulation 2008*;
- (c) a regulation module under the *Body Corporate and Community Management Act 1997*;
- (d) the *Building Units and Group Titles Act 1980*;
- (e) the *Building Units and Group Titles Regulation 2008*.

body corporate meeting, for part 2, see section 5(1).

committee means—

- (a) for a body corporate for a community titles scheme—the committee for the body corporate under the *Body Corporate and Community Management Act 1997*; or
- (b) for a body corporate for a building units plan or group titles plan—the committee for the body corporate under the *Building Units and Group Titles Act 1980*.

committee meeting, for part 2, see section 5(1).

entitlement means an entitlement under—

- (a) a body corporate law; or
- (b) in relation to a community titles scheme—
 - (i) the community management statement or by-laws for the scheme; or

- (ii) a resolution or other decision of the body corporate, or the committee for the body corporate, for the scheme; or
- (c) in relation to a building units plan or group titles plan—
 - (i) the by-laws for the plan; or
 - (ii) a resolution or other decision of the body corporate, or the committee for the body corporate, for the plan.

notice means written notice.

public health direction see the *Public Health Act 2005*, section 362B(1).

remotely, for a person attending a body corporate meeting or committee meeting, see section 7(4).

requirement means a requirement under—

- (a) a body corporate law; or
- (b) in relation to a community titles scheme—
 - (i) the community management statement or by-laws for the scheme; or
 - (ii) a resolution or other decision of the body corporate, or the committee for the body corporate, for the scheme; or
- (c) in relation to a building units plan or group titles plan—
 - (i) the by-laws for the plan; or
 - (ii) a resolution or other decision of the body corporate, or the committee for the body corporate, for the plan.

Part 2 **Modification of Body Corporate and Community Management Act 1997 and Building Units and Group Titles Act 1980**

Division 1 **Holding body corporate meetings and committee meetings**

5 **Application of division**

- (1) This division applies for a general meeting of a body corporate (a *body corporate meeting*) or a meeting of the committee for a body corporate (a *committee meeting*) held during the period that—
 - (a) started on 19 March 2020; and
 - (b) ends when the COVID-19 emergency period ends.
- (2) Also, this division applies despite—
 - (a) a body corporate law; or
 - (b) in relation to a community titles scheme—
 - (i) the community management statement or by-laws for the scheme; or
 - (ii) a resolution or other decision of the body corporate, or the committee for the body corporate, for the scheme; or
 - (c) in relation to a building units plan or group titles plan—
 - (i) the by-laws for the plan; or
 - (ii) a resolution or other decision of the body corporate, or the committee for the body corporate, for the plan.

6 Suspension of requirements and entitlements related to body corporate meetings and committee meetings

- (1) This section applies if the committee for a body corporate reasonably believes that a public health direction would be contravened if—
 - (a) a requirement related to holding a body corporate meeting or committee meeting were complied with, including, for example, a requirement for the meeting to be held at a place; or
 - (b) a person were to exercise an entitlement related to holding a body corporate meeting or committee meeting, including, for example, an entitlement to be present at the meeting by physically attending a place.
- (2) To the extent that is reasonably necessary to ensure the meeting is held in a way that does not contravene a public health direction—
 - (a) the requirement or entitlement is suspended; and
 - (b) the committee must modify the way the meeting is to be held.

Examples of modified ways to hold the meeting—

- limiting the number of people who may physically attend the place where the meeting is being held
 - allowing a person to attend the meeting and vote by an audio link or audiovisual link
 - holding the meeting on the papers without attendees meeting in person or by a remote link
- (3) The committee may do anything that is reasonably necessary to ensure the meeting is held in a way that does not contravene a public health direction.
 - (4) This section applies subject to sections 7 and 8.

7 **Attending body corporate meeting or committee meeting remotely**

- (1) This section applies for a body corporate meeting or committee meeting, regardless of whether the committee for the body corporate modifies under section 6 the way the meeting is to be held.
- (2) The committee may make arrangements to enable persons who are entitled to attend the meeting to do so remotely.
- (3) The committee must take all reasonable steps to ensure an arrangement made under subsection (2) can be used by each person who is entitled to attend the meeting.
- (4) A person attends the meeting *remotely* if, while the meeting is being held, the person—
 - (a) is not physically present at the place where the person chairing the meeting is physically present; and
 - (b) receives reasonably contemporaneous and continuous audio or audiovisual communication of the business of the meeting being conducted, including audio or audiovisual communication of—
 - (i) the person who is chairing the meeting; and
 - (ii) another person who is addressing the meeting; and
 - (c) is able to clearly and reasonably contemporaneously communicate an oral or written vote on an open motion to the meeting, or to choose members of the committee, in any way.

Examples of ways of communicating a vote on a motion to the meeting—

- using a telephone or audiovisual communication software on a computer device
 - sending an email or text message to an email address or mobile phone number being used to receive votes during the meeting
- (5) A person who attends the meeting remotely is taken to be present personally at the meeting.

- (6) This section does not limit, for a body corporate meeting—
- (a) the obligations of the secretary of the body corporate, under a body corporate law, to—
 - (i) prepare and distribute a voting paper for the open motions to be decided at the meeting; and
 - (ii) receive completed voting papers and act on them; or
 - (b) a person's entitlement under a body corporate law (other than an entitlement suspended under section 6(2)(a)) to attend the meeting, or vote, in another way including, for example, by proxy or written or electronic voting paper.

8 Facilitating electronic voting for meeting

- (1) This section applies for a body corporate meeting or committee meeting, regardless of whether the committee for the body corporate modifies under section 6 the way the meeting is to be held.
- (2) The committee may make arrangements to allow a person who is entitled to vote at the meeting to cast an electronic vote—
 - (a) on an open motion during the meeting; or
 - (b) using an electronic form of the voting paper for the meeting; or
 - (c) on a motion to be decided by secret ballot; or
 - (d) on a ballot, including a secret ballot, conducted to choose a member of the committee.
- (3) The committee must take all reasonable steps to ensure an arrangement made under subsection (2) can be used by each person who is entitled to vote at the meeting.
- (4) The arrangements made by the committee—

- (a) must not allow a person to vote on a motion or in a ballot if the person—
 - (i) is not entitled to vote on the motion or in the ballot; or
 - (ii) has already voted on the motion or in the ballot; and
 - (b) for casting a vote in a secret ballot—must provide for a person’s vote to be counted in a way that does not allow the person’s identity to be associated with the vote; and
 - (c) must ensure an electronic vote is cast in a way that complies with—
 - (i) a requirement under the *Electronic Transactions (Queensland) Act 2001* about how a document must be signed or sent electronically; and
 - (ii) for a vote cast using an electronic form of a voting paper or ballot paper that is accompanied by instructions—the accompanying instructions, to the extent the instructions are consistent with a requirement mentioned in subparagraph (i).
- (5) This section does not limit a person’s entitlement under a body corporate law to vote in another way that does not involve the person physically attending a place where the meeting is being held, including, for example—
- (a) by proxy; or
 - (b) by written or electronic voting paper.

9 Compliance with particular requirements in relation to meeting

- (1) This section applies if—
 - (a) a body corporate law requires a person to do any of the following in relation to a body corporate meeting or committee meeting—

- (i) have a document available for inspection at the meeting;
 - (ii) allow the voting tally sheet kept for the meeting to be inspected at the meeting;
 - (iii) do something in open view of the meeting; and
 - (b) the person required to do the thing and another person who is attending the meeting are not physically present in the same place.
- (2) The person is taken to comply with the requirement in relation to the meeting if the person, another person or the committee for the body corporate takes reasonable steps to comply with the requirement in another way.

Examples of other ways of complying with a requirement that relates to inspecting a document at the meeting—

- making the document available to be accessed electronically during the meeting by another person who is attending the meeting
- emailing a copy of the document to another person who is attending the meeting, either during the meeting or as soon as practicable after the meeting

Examples of other ways of complying with a requirement to do something in open view of the meeting—

- doing the thing in a way that a person who is attending the meeting and physically present at another place can view the thing being done using audiovisual communication technology
- making a video recording of the person doing the thing during the meeting so the recording can be viewed after the meeting

10 Committee must give notice about particular matters to persons entitled to attend meeting

- (1) This section applies if the committee, for a body corporate meeting or committee meeting—
 - (a) modifies, under section 6, the way the meeting is held to ensure the meeting is held in a way that does not contravene a public health direction; or

- (b) makes arrangements, under section 7, to enable a person who is entitled to attend the meeting to do so remotely; or
 - (c) makes arrangements, under section 8, to enable a person who is entitled to vote on a motion or in a ballot at the meeting to do so electronically.
- (2) The committee must give notice about the modified way the meeting is to be held, or the arrangements made, to each person who is entitled, under a body corporate law, to be given notice of the meeting.
- (3) A notice given under subsection (2) must be given with the notice of the meeting that is required to be given under a body corporate law or, if that notice has been given, as soon as practicable before the meeting is held.

11 Committee not authorised to exceed spending limit

Nothing in this division authorises the committee for a body corporate to spend more than the committee is permitted to spend under a body corporate law.

Division 2 Other matters

12 Requirement for body corporate to make records available for inspection by interested person

- (1) A requirement under a relevant provision for a body corporate to comply with a request from an interested person to inspect the body corporate's records is taken to be satisfied, during the COVID-19 emergency period, if the body corporate—
- (a) provides the person electronic access to the records to inspect them; or
 - (b) gives the interested person a copy of the records.
- (2) However, despite the relevant provision, the body corporate is not required to give electronic access to, or a copy of, a record

to the interested person unless the person pays the relevant fee for being given the access or copy.

(3) In this section—

interested person means—

- (a) an interested person under the *Body Corporate and Community Management Act 1997*, section 205(6); or
- (b) a prescribed person under the *Building Units and Group Titles Act 1980*, section 40(5).

records, of a body corporate under the *Building Units and Group Titles Act 1980*, means the documents related to the body corporate mentioned in section 40(1)(b) of that Act.

relevant fee means—

- (a) for giving a copy of a body corporate record to an interested person under the *Body Corporate and Community Management Act 1997*—the fee that applies under that Act for giving the copy of the record; or
- (b) for giving electronic access to an interested person to inspect a body corporate record under the *Body Corporate and Community Management Act 1997*—the fee that applies under that Act for inspecting the record; or
- (c) for giving a copy of a body corporate record to an interested person under the *Building Units and Group Titles Act 1980*—the fee that applies under that Act for giving a copy of the by-laws of the body corporate under section 40(1)(d) of that Act; or
- (d) for giving an interested person electronic access to inspect a body corporate record under the *Building Units and Group Titles Act 1980*—the fee that applies under that Act for inspecting the record.

relevant provision means—

- (a) the *Body Corporate and Community Management Act 1997*, section 205; or

[s 13]

- (b) the *Building Units and Group Titles Act 1980*, section 40.

13 Requirement for commissioner to make applications and submissions available for inspection

- (1) The requirement under the *Body Corporate and Community Management Act 1997*, section 246 for the commissioner to allow an interested person to inspect a document is taken to be satisfied, during the COVID-19 emergency period, if the commissioner gives the interested person a copy of the document.
- (2) However, the commissioner is not required to give a copy of the document to the interested person unless the person pays the fee payable under the *Body Corporate and Community Management Act 1997*, section 246 for being given the copy.
- (3) In this section—
interested person see the *Body Corporate and Community Management Act 1997*, section 246(3).

Part 3 Modification of Collections Act 1966

14 Modification of requirements in relation to financial statements, audits and returns

- (1) This section applies if—
- (a) an entity must, under the *Collections Act 1966*, section 31(1), do a thing mentioned in section 31(1)(d), (e) or (f) of that Act on the close of a particular period that ends before 31 December 2020; or
- (b) an entity must, under the *Collections Act 1966*, section 32(1), lodge with the chief executive a return on the close of a particular period that ends before 31 December 2020.

- (2) However, this section does not apply if the Minister has required the entity to do the thing or lodge the return.
- (3) Before the period ends, the chief executive may extend the period for a period ending on or before 31 December 2020 if satisfied the extension is necessary for a purpose of the *COVID-19 Emergency Response Act 2020*.
- (4) The chief executive’s power to extend the period may be exercised—
 - (a) if the extension applies generally or to a particular class of entities—by publishing notice of the extension on the department’s website; or
 - (b) if the extension applies to a particular entity—by giving the entity notice of the extension.
- (5) Despite the *Collections Act 1966*, sections 31(1) and 32(1), if the chief executive extends the period under subsection (3), the entity must do the thing or lodge the return within the extended period.

Part 4 Expiry of regulation

15 Expiry

This regulation expires on 31 December 2020.

Part 5 Transitional provision

16 Body corporate meetings and committee meetings held before notification

- (1) This section applies for a general meeting of a body corporate (a *body corporate meeting*) or a meeting of the committee for a body corporate (a *committee meeting*) held during the period that—

- (a) started on 19 March 2020; and
 - (b) ends on the day this regulation is notified.
- (2) Sections 6(2)(b) and (4), 7(3), 8(3) and (4) and 10(3) do not apply in relation to the meeting.
- (3) For part 2, division 1, a person attended a body corporate meeting or committee meeting remotely if, while the meeting was held, the person—
- (a) was not physically present at the place where the person chairing the meeting was physically present; and
 - (b) was able to participate in the business of the meeting in a way that is generally consistent with the way mentioned in section 7(4)(b) and (c).
- (4) The committee is taken to have complied with section 10(2) if the committee took reasonable steps to give each person mentioned in that subsection notice about the matters mentioned in that subsection.
- (5) It does not matter if notice given under section 10 was not given in writing.