

Building Units and Group Titles Amendment Regulation 2022

Explanatory notes for SL 2022 No. 43

made under the

Building Units and Group Titles Act 1980

General Outline

Short title

Building Units and Group Titles Amendment Regulation 2022

Authorising law

Section 134 of the *Building Units and Group Titles Act 1980*.

Policy objectives and the reasons for them

The policy objective of the *Building Units and Group Titles Amendment Regulation 2022* (BUGT Amendment Regulation) is to provide referees under the *Building Units and Group Titles Act 1980* (BUGT Act) with increased flexibility to excuse a person from paying prescribed dispute resolution fees, where the person is experiencing financial hardship.

The BUGT Act provides for the resolution of disputes in relevant developments, including by orders of a referee. Previously, the *Building Units and Group Titles Regulation 2008* (BUGT Regulation) allowed the referee to excuse a person from paying a fee, if the referee was satisfied that the person was suffering 'extreme financial hardship'.

In response to the COVID-19 pandemic, the threshold for the referee to waive fees was changed, on a temporary basis, from 'extreme financial hardship' to 'financial hardship'. While this relaxation is scheduled to expire on the COVID-19 legislation expiry day, it is considered preferable to provide referees with increased flexibility to excuse a person from paying relevant fees on an ongoing basis. This will facilitate increased access to dispute resolution services for parties that are experiencing financial hardship.

Achievement of policy objectives

The BUGT Amendment Regulation will achieve the policy objective by making minor amendments to the BUGT Regulation. Specifically, section 16 of the BUGT Regulation (Remission of referee's fees) will be amended by omitting the term 'extreme', resulting in the referee being able to waive fees if satisfied that an applicant is experiencing financial hardship rather than the higher threshold of 'extreme financial hardship'.

The BUGT Amendment Regulation also contains a consequential amendment to omit section 16A (Modification of referee's power to remit fees for period ending on the COVID-19 legislation expiry day) from the BUGT Regulation. Section 16A (which operates on a temporary basis until the COVID-19 legislation expiry day) will not be required when the referee's power to remit fees is broadened on a permanent basis, pursuant to the BUGT Amendment Regulation.

Consistency with policy objectives of authorising law

One of the policy objectives of the BUGT Act is to establish dispute resolution arrangements to assist proprietors, bodies corporate and other parties involved in relevant developments resolve disputes. The dispute resolution services include the capacity for a party to make an application to a referee appointed under the BUGT Act seeking orders to resolve a dispute.

The objective of the BUGT Amendment Regulation is to provide referees with broader scope to waive prescribed dispute resolution fees, where an applicant is experiencing financial hardship. Reducing barriers to dispute resolution services for people experiencing financial hardship is consistent with the policy objectives of the BUGT Act.

Inconsistency with policy objectives of other legislation

The BUGT Amendment Regulation is not inconsistent with policy objectives of other legislation.

Benefits and costs of implementation

The BUGT Amendment Regulation will benefit parties to a dispute under the BUGT Act who are experiencing financial hardship, by providing the referee with broader scope to excuse a person from paying prescribed dispute resolution fees. Waiving dispute resolution fees involves a cost to Government in terms of foregone fees. However, the cost is minor and not material from a budgetary perspective.

Consistency with fundamental legislative principles

The BUGT Amendment Regulation is consistent with fundamental legislative principles. Specifically, facilitating access to dispute resolution services for people experiencing financial hardship is consistent with the principle that subordinate legislation have sufficient regard to the rights and liberties of individuals.

Consultation

The Office of Best Practice Regulation (OBPR) was consulted about regulatory impact assessment requirements for the BUGT Amendment Regulation. The OBPR noted that the BUGT Amendment Regulation will not add to the burden of regulation and is unlikely to result in significant adverse impacts. The OBPR advised that no further regulatory impact analysis is required under the *Queensland Government Guide to Better Regulation*.

As the BUGT Amendment Regulation is beneficial for parties experiencing financial hardship, no external consultation has been undertaken.