

Body Corporate and Community Management and Other Legislation Amendment Regulation 2023

Explanatory notes for SL 2023 No. 177

made under the

Body Corporate and Community Management Act 1997
Building Units and Group Titles Act 1980

General Outline

Short title

*Body Corporate and Community Management and Other Legislation Amendment
Regulation 2023*

Authorising law

Section 322 of the *Body Corporate and Community Management Act 1997*
Section 134 of the *Building Units and Group Titles Act 1980*

Policy objectives and the reasons for them

The objective of the *Body Corporate and Community Management and Other Legislation Amendment Regulation 2023* (the Amendment Regulation) is to increase the fees payable for dispute resolution applications made under the *Body Corporate and Community Management Act 1997* (BCCM Act) and the *Building Units and Group Titles Act 1980* (BUGT Act).

The Office of the Commissioner for Body Corporate and Community Management (BCCM Office) provides information and education services and dispute resolution services to those who live, invest or work in community titles schemes established under the BCCM Act and developments to which the BUGT Act applies.

The BCCM Act provides for the establishment, operation and management of community titles schemes in Queensland, and the majority of community titles type schemes are governed by this legislation. Under the BCCM Act, the BCCM Office provides a dispute resolution service comprising conciliation, and if necessary, adjudication for parties to certain disputes in community titles schemes.

The BCCM Act's predecessor, the BUGT Act, continues to apply to certain developments established under specialised planning laws (known as 'specified Acts'). The BUGT Act provides a framework for governance of parts of these developments, and for certain disputes to be determined by a 'referee'. BCCM Act adjudicators located in the BCCM Office are administratively appointed as referees for disputes under the BUGT Act. Since 1 December 2022, the BCCM Office also provides an information and education service to assist proprietors to understand rights, responsibilities, and dispute resolution options under the BUGT Act.

The community living sector that utilises the services of the BCCM Office is consistently increasing in size. As at October 2023, there were 52,296 community titles schemes in Queensland containing 530,987 lots (units), up from 48,619 schemes containing 482,021 lots approximately five years prior (September 2018 data). The sector is expected to continue to grow with predicted population growth and Government support for an increase in density living.

The nature of body corporate disputes is also becoming more complex, not only due to the increasing size and complexity of schemes themselves, but also as a result of legislative changes that expand protections for owners.

Amendments to the BUGT Act that commenced on 1 December 2022 made by the *Building Units and Group Titles and Other Legislation Amendment Act 2022* have also resulted in the BCCM Office extending its education and information service for those living, working and investing in plans established under the BUGT Act. The referral pathway provided by the information service may contribute to an increase in the number of BUGT Act dispute resolution applications received.

The delivery of services by the BCCM Office attracts significant costs, which are subsidised by the Queensland Government. Dispute resolution applications fees are not set on a full cost recovery basis as the dispute resolution services provided by the BCCM Office are designed to be inexpensive and informal in nature.

The above-mentioned factors, including the recent reforms to the BUGT Act, have led to increased costs associated with operating the BCCM Office's information and education services and dispute resolution services. The amendment regulation seeks to increase dispute resolution fees to provide a small offset to these costs.

Achievement of policy objectives

The Amendment Regulation will achieve the policy objective by increasing the fees payable for dispute resolution applications under the BCCM Act and BUGT Act by 20%. The amendments will commence on 29 January 2024.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objective of the authorising Acts.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Amendment Regulation will not significantly increase the financial burden on the community. The fee increase is modest and is not expected to deter accessibility to the dispute resolution process for applicants. Under both the BCCM Act and BUGT Act, individuals can apply for a waiver of their fees in instances of financial hardship.

There are no additional costs associated with implementing the Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is generally consistent with fundamental legislative principles.

Consultation

The Community Titles Legislation Working Group (Working Group), established by the Government to provide advice to the Department of Justice and Attorney-General (DJAG) on important community titles sector issues, was consulted about dispute resolution generally. The Chair of the Working Group also invited submissions from other relevant stakeholders.

During consultation on dispute resolution, some members of the Working Group and other stakeholders raised concerns about the timeliness of dispute resolution by the BCCM Office, with some stakeholders suggesting increased funding for BCCM Office dispute resolution services, including via increases in dispute resolution fees.

The Office of Best Practice Regulation was notified of the proposal in the Amendment Regulation. DJAG has assessed the amendments in accordance with the *Queensland Government Better Regulation Policy* as being unlikely to result in significant adverse impacts. The Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, and the Acting Director-General of DJAG are satisfied that the regulatory review requirements have been met and have approved the Impact Analysis Statement for publication.