

Body Corporate and Community Management Legislation Amendment Regulation 2021

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, The Honourable Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Body Corporate and Community Management Legislation Amendment Regulation 2021* made under the *Body Corporate and Community Management Act 1997*.

In my opinion, the *Body Corporate and Community Management Legislation Amendment Regulation 2021*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The primary object of the *Body Corporate and Community Management Act 1997* (BCCM Act) is to provide flexible and contemporary communally based arrangements for the use of freehold land in Queensland. For the achievement of this object, the BCCM Act provides for the establishment, operation and management of community titles schemes.

Five regulation modules have been made under the BCCM Act to provide a flexible set of rules to accommodate the management and administrative needs of the different types of community titles schemes, including procedures and requirements for general meetings and voting on motions. A community titles scheme is subject to one of the five regulation modules that is relevant to the use and characteristics of the scheme.

The following four regulation modules for the BCCM Act were remade on 29 September 2020 and will commence on 1 March 2021:

- the *Body Corporate and Community Management (Accommodation Module) Regulation 2020* (new Accommodation Module);
- the *Body Corporate and Community Management (Commercial Module) Regulation 2020* (new Commercial Module);
- the *Body Corporate and Community Management (Small Schemes Module) Regulation 2020* (new Small Schemes Module); and
- the *Body Corporate and Community Management (Standard Module) Regulation 2020* (new Standard Module).

The *Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011* (Specified Two-lot Schemes Module) did not require remaking.

The policy objective of the *Body Corporate and Community Management Legislation Amendment Regulation 2021* (the Amendment Regulation) is to ensure that reforms being introduced in the new Accommodation, Commercial and Standard Modules to facilitate electronic voting on motions at general meetings will apply to all types of body corporate general meetings. The new Small Schemes Module and the Specified Two-lot Schemes Module did not include these particular reforms and therefore do not require amendment.

The new Accommodation, Commercial and Standard Module provisions to facilitate electronic voting on motions to be decided at body corporate general meetings set out that a system for receiving electronic votes may allow a voter who is in attendance at the meeting in person or by electronic means (for example, teleconferencing or videoconferencing) to cast a vote electronically at the meeting. This will allow the use of ‘live’ electronic voting on motions, for example using a smartphone or computer, should the body corporate decide it is appropriate for the circumstances of the scheme.

However, the relevant provisions of the new Accommodation, Commercial and Standard Modules use the words ‘annual general meeting’ when referring to the types of meetings at which voters may cast electronic votes, and when setting out requirements for receiving electronic votes for secret ballot motions.

A general meeting of the body corporate is either an annual general meeting or an extraordinary general meeting. The body corporate for a community titles scheme must call and hold an annual general meeting within three months after the end of each of the scheme’s financial years. At the annual general meeting, statutory motions required under the BCCM Act or regulation module, as well as those submitted by lot owners, are considered, budgets are agreed, a committee election is held, and financial and other information is disclosed, among other things.

A body corporate may hold an extraordinary general meeting at other times by resolution of the committee, when requested by a prescribed number of lot owners, or where otherwise required under the regulation module to fill committee vacancies.

To ensure that reforms being introduced in the new Accommodation, Commercial and Standard Modules to facilitate electronic voting on motions at general meetings will apply to all types of body corporate general meetings, the Amendment Regulation amends the Modules by changing the term “annual general meeting” to “general meeting” where required by removing the word “annual”.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The Amendment Regulation makes minor, technical amendments to ensure that reforms being introduced in the new Accommodation, Commercial and Standard Modules to facilitate electronic voting on motions at general meetings will apply to all types of body corporate general meetings. For this reason, the Amendment Regulation does not raise any human rights issues.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

As the Amendment Regulation does not raise any human rights issues, it does not limit any human rights and therefore, it is not necessary to consider section 13 of the *Human Rights Act 2019*.

Conclusion

I consider that the *Body Corporate and Community Management Legislation Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

SHANNON FENTIMAN MP
Attorney-General and Minister for Justice
Minister for Women and Minister for the
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