

# BUILDING UNITS AND GROUP TITLES ACT AMENDMENT ACT

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Queensland



ANNO TRICESIMO NONO

ELIZABETHAE SECUNDAE REGINAE

No. 87 of 1990

An Act to amend the Building Units and Group Titles Act  
1980-1988 in certain particulars and for related purposes

[ASSENTED TO 6TH DECEMBER, 1990]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title.** This Act may be cited as the *Building Units and Group Titles Act Amendment Act 1990*.

**2. Commencement.** (1) Section 1 and this section are to commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) The remaining provisions, or such of them as are specified, commence on a day or on days appointed by Proclamation.

**3. Citation.** (1) In this Act the *Building Units and Group Titles Act 1980-1988* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Building Units and Group Titles Act 1980-1990*.

**4. Declaration as to commencement of Act.** It is declared that specified provisions of the *Building Units and Group Titles Act Amendment Act 1988* (other than sections 1 and 2) were always able to commence on a day or days appointed by Proclamation.

**5. Amendment of s. 7. Interpretation.** Section 7 of the Principal Act is amended by—

(a) omitting the definition “Crown Law Officer”;

(b) inserting after the definition “lot entitlement” the following definition:—

““Minister” includes a Minister of the Crown who is temporarily performing the duties of the Minister.”;

(c) omitting the definition “special resolution” and substituting the following definition:—

““special resolution” means a resolution which is—

(a) passed at a duly convened general meeting of a body corporate by the proprietors;

where—

(b) the proprietors who vote against the motion proposed as a special resolution do not together—

(i) constitute more than 25 per centum of the total number of proprietors;

and

(ii) hold more than 25 per centum of the aggregate lot entitlement.

For the purpose of determining the number of proprietors pursuant to (b) (i), each lot has one proprietor.”.

**6. Amendment of s. 9. Registration of plan.** Section 9 of the Principal Act is amended by—

(a) in subsection (3), omitting the words “Crown Law Officer” and substituting the word “Minister”;

(b) omitting subsection (6);

(c) in subsection (8)—

(i) in provision (a), omitting the expression “1978” and substituting the expression “1987”;

(ii) omitting the word “and” appearing at the end of provision (a);

(iii) inserting after provision (a), the following provision:—

“(ab) of a licensed surveyor registered under the *Surveyors Act 1977-1987* containing the particulars prescribed; and”.

**7. Amendment of s. 19. Lot entitlement.** Section 19 of the Principal Act is amended in subsection (2) by omitting the words “value of that lot bears to the sum of the unimproved” where they occur a second time.

**8. Amendment of s. 21. Acquisition of additional common property.** Section 21 of the Principal Act is amended in subsection (1) by omitting provision (a) including the word “or” appearing at the end thereof and substituting the following provision:—

“(a) a grant or transfer of land, not being a lot within the parcel, which abuts on the parcel; or”.

**9. Amendment of s. 27. Constitution of bodies corporate.** Section 27 of the Principal Act is amended in subsection (1) by omitting the expression “9 (14)” and substituting the expression “9 (14)”.

**10. Amendment of s. 29. First annual general meeting of body corporate.** Section 29 of the Principal Act is amended by—

(a) in subsection (1), omitting the expression “\$1000” and substituting the words “50 penalty units”;

(b) in subsection (4), omitting the expression “\$1000” and substituting the words “50 penalty units”.

**11. Amendment of s. 29A. Meetings, other than first annual general meeting, of body corporate.** Section 29A of the Principal Act is amended by adding after subsection (2), the following subsection:—

“(3) Part 2 of the Second Schedule applies to and in respect of a meeting of a body corporate, which is not the first annual general meeting, and voting at that meeting.”.

**12. Amendment of s. 30. By-laws.** Section 30 of the Principal Act is amended by—

(a) adding at the end of subsection (3), the following words:—

“The Registrar of Titles shall not record a notification on the registered plan in relation to an amendment of, addition to or repeal of the by-laws made more than 3 months prior to the lodgement of the notification.”;

(b) omitting subsections (7), (8) and (9) and substituting the following subsections:—

“(7) With the written consent of the proprietor or proprietors of the lot or lots concerned, a body corporate may, pursuant to a resolution without dissent make a by-law—

(a) conferring on the proprietor of a lot specified in the by-law, or on the proprietors of the several lots so specified—

(i) the exclusive use and enjoyment of;

or

(ii) special privileges in respect of;

the whole or any part of the common property, upon conditions (including the payment of money at specified times or as required by the body corporate, by the proprietor or proprietors of the lot or several lots) specified in the by-law;

or

(b) amending, adding to or repealing a by-law made in accordance with this subsection.

(7A) A by-law referred to in subsection (7) shall either provide that—

(a) the body corporate shall continue to be responsible to carry out its duties pursuant to section 37 (1) (b) and (c), at its own expense;

or

(b) the proprietor or proprietors of the lot or lots concerned shall be responsible for, at the proprietor's or proprietors' expense, the performance of the duties of the body corporate referred to in provision (a);

and in the case of a by-law that confers rights or privileges on more than one proprietor, any money payable by virtue of the by-law by the proprietors concerned—

(c) to the body corporate;

or

(d) to any person for or towards the maintenance or upkeep of any common property,

shall, except to the extent that the by-law otherwise provides, be payable by the proprietors concerned proportionately according to the relevant proportions of their respective lot entitlements.

If a by-law does not provide as required by section (7A) (a) or (b), the proprietor or proprietors shall be responsible at his or their own expense, for the duties of the body corporate referred to in subsection 7A(a).

(7B) A by-law made pursuant to subsection (7)—

- (a) need not identify or define the common property the subject of the grant of exclusive use and enjoyment or special privileges provided that the by-law prescribes a method of identifying or defining the common property;
- (b) may authorize a person (including the original proprietor or his agent) to identify or define the common property and to allocate such identified or defined area of common property to the respective proprietors of each lot who are entitled by the by-law to the grant of exclusive use and enjoyment or special privileges;
- (c) may authorize the transposition of an identified or defined area of common property from one proprietor of a lot to another proprietor of a lot at any time and from time to time on receipt of written notice to the body corporate from both such proprietors.

The notification on the registered plan referred to in the next paragraph shall be given forthwith by the body corporate on receipt of a written request from the person referred to in subsection (7B) (b) or the proprietors referred to in subsection (7B) (c).

Neither the allocation of identified or defined common property nor any variation or transposition in relation thereto (which occurs after the commencement of the *Building Units and Group Titles Act Amendment Act 1990*, other than sections 1 and 2) has any force or effect until the Registrar of Titles has, pursuant to a notification in the prescribed form lodged in his office by the body corporate, recorded the notification on the registered plan.

The Registrar of Titles shall not record a notification on the registered plan in relation to an allocation of identified or defined common property or any variation or transposition in relation thereto (not being an allocation of identified or defined common property or any variation or transposition in relation thereto which occurred prior to the commencement of the *Building Units and Group Titles Act Amendment Act 1990*, other than sections 1 and 2) which occurred more than 3 months prior to the lodgement of the notification.

(8) A by-law referred to in subsection (7) shall, while it remains in force, enure as appurtenant to, and for the benefit

of, and (subject to section 40 (4)) is binding upon, the proprietor or proprietors for the time being of the lot or lots specified in the by-law.

(9) To the extent to which such a by-law makes a proprietor directly responsible for the duties of the body corporate referred to in subsection 7A(a), it discharges the body corporate from the performance of those duties.

(9A) Where a person becomes a proprietor of a lot at a time when, pursuant to a by-law, another person is liable to pay money to the body corporate, the person who so becomes proprietor is, subject to section 40 (4), jointly and severally liable with the other person to pay the money to the body corporate.”

**13. Amendment of s. 33. Power of body corporate to carry out work.** Section 33 of the Principal Act is amended in subsection (3) by omitting the expression “(40)” and substituting the expression “40”.

**14. Repeal of provision of 1988 amendment.** Section 25 of the *Building Units and Group Titles Act Amendment Act 1988* is amended in section 37 as inserted in the Principal Act by omitting subsection (2) (c).

**15. Amendment of s. 37. Duties and powers of body corporate regarding property etc.** Section 37 of the Principal Act is amended by—

(a) in subsection (2) (f), inserting after the words “Crown land” the words “, road or reserve”;

(b) adding after subsection (3), the following subsection:—

“(4) Any Crown land, road or reserve referred to in subsection (2) (f) is additional common property.”.

**16. Amendment of s. 38A. Body corporate to determine contributions by proprietors.** Section 38A of the Principal Act is amended by—

(a) in subsection (1), omitting the words “necessary in its opinion” and substituting the words “which are reasonable and necessary”;

(b) in subsection (2), omitting the words “necessary in its opinion” and substituting the words “which are reasonable and necessary”.

**17. Amendment of s. 42. Constitution of committees.** Section 42 of the Principal Act is amended by adding after subsection (14), the following subsection:—

“(15) The election of the members of a committee and the chairman, secretary and treasurer of a body corporate shall be by secret ballot unless the body corporate resolves otherwise.”.

**18. Amendment of s. 43. Vacation of office of member of committee.** Section 43 of the Principal Act is amended in subsection (1) by—

(a) in provision (f), omitting the word “council” and substituting the word “committee”;

(b) in provision (j), omitting the words “, pursuant to a special” and substituting the words “in general meeting pursuant to a”.

**19. Amendment of s. 50A. Certain voting by proxy etc. restricted.** Section 50A of the Principal Act is amended in subsection (1) by—

(a) inserting after the words “another person” the words “(other than a person who is his co-proprietor or co-mortgagee)”;

(b) inserting after the word “corporation” the words “(other than a corporation where the company nominee is the majority shareholder or all of the shares are held by the family of the nominee or by the nominee and his family)”;

(c) adding after the words “proposed prescribed arrangement.” the words “For the purposes of this subsection “family” means the spouse, parent, brother, sister or child of the company nominee.”.

**20. Amendment of s. 51. Duties of proprietors and other occupiers of lots.** Section 51 of the Principal Act is amended in subsection (1) (b) by inserting after the word “used” the word “or”.

**21. Amendment of s. 113. Penalty for contravention of certain orders.** Section 113 of the Principal Act is amended by—

(a) in subsection (1), omitting the words “Four penalty units” and “One penalty unit” and substituting the words “Eight penalty units” and “two penalty units” respectively;

(b) in subsection (2), omitting the expression “\$500” and substituting the words “the maximum amount for which a personal action may be commenced from time to time in a Magistrates Court whether on a balance of account or after an admitted set-off or otherwise”.

(c) in subsection (3), omitting the words “Penalty: \$500” and substituting the words “Penalty: 20 penalty units”.

**22. Amendment of Second Schedule.** The Principal Act is amended in the Second Schedule in Part 2 by—

(a) in clause 1 (6) (a) (ii), omitting the words “section 29 (7) by reason of there not being a committee, a form of motion for the election of a committee” and substituting the words “the proviso to section 43 (2) (b) for the purpose of appointment of members of a committee, a form of motion for election of those members”;

(b) in clause 1 (6) (c) (iii) (B), omitting the words “by writing” and substituting the words “in writing”;

(c) in clause 2 (6) (d), omitting the expression “(1) (4)” and substituting the expression “1 (4)”;

(d) in clause 3 (1), omitting the word “council” and substituting the word “committee”;

(e) in clause 11, omitting subclause (3A).