



Queensland

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

Subordinate Legislation 2020 No. 250

made under the

Body Corporate and Community Management Act 1997

Building Units and Group Titles Act 1980

Collections Act 1966

COVID-19 Emergency Response Act 2020

Liquor Act 1992

Tourism Services Act 2003

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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.

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
- (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

- (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.

Part 6 **Amendment of regulations**

Division 1 **Amendment of Body Corporate and Community Management (Accommodation Module) Regulation 2008**

17 **Regulation amended**

This division amends the *Body Corporate and Community Management (Accommodation Module) Regulation 2008*.

18 **Insertion of new s 43A**

After section 43—

insert—

43A Further exception to restricted issues for committee—public health directions [SM, s 43A]

- (1) Despite section 42(1)(b), a decision to change rights, privileges or obligations of the owners of lots included in the community titles scheme is

not a decision on a restricted issue for the committee if—

- (a) the change is in relation to access to, or the use of, common property or body corporate assets; and
 - (b) the committee considers the change is reasonably necessary to ensure compliance with a public health direction; and
 - (c) the decision states it stops having effect on the earlier of the following—
 - (i) the day the public health direction stops having effect;
 - (ii) 31 December 2020.
- (2) This section expires on 31 December 2020.
- (3) In this section—

public health direction means a public health direction given under the *Public Health Act 2005*, section 362B.

Division 2 Amendment of Body Corporate and Community Management (Commercial Module) Regulation 2008

19 Regulation amended

This division amends the *Body Corporate and Community Management (Commercial Module) Regulation 2008*.

20 Insertion of new s 18A

After section 18—

insert—

**18A Exception to restricted issues for committee—
public health directions [SM, s 43A]**

- (1) Despite section 18(1)(a), a decision to change rights, privileges or obligations of the owners of lots included in the community titles scheme is not a decision on a restricted issue for the committee if—
 - (a) the change is in relation to access to, or the use of, common property or body corporate assets; and
 - (b) the committee considers the change is reasonably necessary to ensure compliance with a public health direction; and
 - (c) the decision states it stops having effect on the earlier of the following—
 - (i) the day the public health direction stops having effect;
 - (ii) 31 December 2020.
- (2) This section expires on 31 December 2020.
- (3) In this section—

public health direction means a public health direction given under the *Public Health Act 2005*, section 362B.

Division 3

**Amendment of Body Corporate and
Community Management
Regulation 2008**

21 Regulation amended

This division amends the *Body Corporate and Community Management Regulation 2008*.

22 Insertion of new s 3A

After section 3—

insert—

3A Waiver of fees for applications under the Act, s 246

- (1) This section applies in relation to an application made under section 246 of the Act.
- (2) The commissioner may waive all or part of the fee payable for the application under section 246(2) of the Act if satisfied payment of the fee would cause the applicant financial hardship.
- (3) Section 4 applies in relation to the application as if—
 - (a) the reference in section 4(1) to the fee prescribed for section 239(1)(c) of the Act were a reference to all or part of the fee prescribed for section 246(2) of the Act; and
 - (b) the reference in section 4(3) to section 239(3) of the Act were a reference to subsection (2).
- (4) This section expires on 31 December 2020.

Division 4 Amendment of Body Corporate and Community Management (Small Schemes Module) Regulation 2008

23 Regulation amended

This division amends the *Body Corporate and Community Management (Small Schemes Module) Regulation 2008*.

24 Insertion of new s 18A

After section 18—

insert—

**18A Exception to restricted issues for committee—
public health directions [SM, s 43A]**

- (1) Despite section 18(1)(b), a decision to change rights, privileges or obligations of the owners of lots included in the community titles scheme is not a decision on a restricted issue for the committee if—
 - (a) the change is in relation to access to, or the use of, common property or body corporate assets; and
 - (b) the committee considers the change is reasonably necessary to ensure compliance with a public health direction; and
 - (c) the decision states it stops having effect on the earlier of the following—
 - (i) the day the public health direction stops having effect;
 - (ii) 31 December 2020.
- (2) This section expires on 31 December 2020.
- (3) In this section—

public health direction means a public health direction given under the *Public Health Act 2005*, section 362B.

Division 5 **Amendment of Body Corporate and
Community Management (Standard
Module) Regulation 2008**

25 **Regulation amended**

This division amends the *Body Corporate and Community Management (Standard Module) Regulation 2008*.

26 Insertion of new s 43A

After section 43—

insert—

43A Further exception to restricted issues for committee—public health directions

- (1) Despite section 42(1)(b), a decision to change rights, privileges or obligations of the owners of lots included in the community titles scheme is not a decision on a restricted issue for the committee if—
 - (a) the change is in relation to access to, or the use of, common property or body corporate assets; and
 - (b) the committee considers the change is reasonably necessary to ensure compliance with a public health direction; and
 - (c) the decision states it stops having effect on the earlier of the following—
 - (i) the day the public health direction stops having effect;
 - (ii) 31 December 2020.
- (2) This section expires on 31 December 2020.
- (3) In this section—

public health direction means a public health direction given under the *Public Health Act 2005*, section 362B.

Division 6 Amendment of Building Units and Group Titles Regulation 2008

27 Regulation amended

This division amends the *Building Units and Group Titles Regulation 2008*.

28 Insertion of new s 16A

After section 16—

insert—

16A Modification of referee’s power to remit fees for period ending on 31 December 2020

- (1) Despite section 16(2), the referee may, during the relevant period, act under section 16(1) to excuse a person from paying all or part of a fee payable to the referee if satisfied the person is suffering financial hardship.
- (2) This section expires on 31 December 2020.
- (3) In this section—

relevant period means the period starting on the commencement and ending on 31 December 2020.

Division 7 Amendment of Liquor Regulation 2002

29 Regulation amended

This division amends the *Liquor Regulation 2002*.

30 Insertion of new ss 37 and 37AA

After section 36P—

insert—

37 Exemption for particular applications made between 1 February 2020 and 31 July 2020

- (1) This section applies in relation to any of the following applications made between 1 February 2020 and 31 July 2020, both dates inclusive—
 - (a) an application for an extended trading hours approval made under section 85(1) of the Act;
 - (b) an application for an extended hours permit made under section 110(1) of the Act;
 - (c) an application for the commissioner’s approval mentioned in section 154(1) of the Act.
- (2) Despite section 36D, no fee is payable for the application.
- (3) This section expires on 31 December 2020.

37AA Commissioner must refund particular fees

- (1) This section applies if, before the commencement, the applicant for an application in relation to which section 37 applies paid a fee for the application.
- (2) The commissioner must refund the fee to the applicant.
- (3) This section expires on 31 December 2020.

Division 8 Amendment of Tourism Services Regulation 2003

31 Regulation amended

This division amends the *Tourism Services Regulation 2003*.

32 Insertion of new ss 3A and 3B

After section 3—

insert—

3A Fee exemption or reduction for particular applications for renewal of registration

- (1) This section applies in relation to an application for renewal of a registrant's registration made under section 22(1) of the Act if the registration expires between 1 February 2020 and 31 January 2021, both dates inclusive.
- (2) Despite section 3—
 - (a) if the application is for registration for a term of 1 year—no registration renewal fee is payable for the application; and
 - (b) if the application is for registration for a term of 3 years—the registration renewal fee payable for the application is \$1,574.
- (3) This section expires on 31 March 2021.

3B Commissioner must refund particular amounts

- (1) This section applies if, before the commencement, a person paid a registration renewal fee for an application in relation to which section 3A applies.
- (2) If the application is for registration for a term of 1 year, the commissioner must refund the registration renewal fee to the person.
- (3) If the application is for registration for a term of 3 years, the commissioner must refund to the person the amount that is the difference between the registration renewal fee paid by the person and the registration renewal fee payable under section 3A for the application.

(4) This section expires on 31 March 2021.

ENDNOTES

- 1 Made by the Governor in Council on 2 October 2020.
- 2 Notified on the Queensland legislation website on 2 October 2020.
- 3 The administering agency is the Department of Justice and Attorney-General.

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