



Queensland

*South Bank Corporation Act 1989*

# **South Bank Corporation (Modified Building Units and Group Titles) Regulation 2014**

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## **Reprint note**

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Queensland

# South Bank Corporation (Modified Building Units and Group Titles) Regulation 2014

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# **South Bank Corporation (Modified Building Units and Group Titles) Regulation 2014**

## **1 Short title**

This regulation may be cited as the *South Bank Corporation (Modified Building Units and Group Titles) Regulation 2014*.

## **2 Application of sch 1**

The provisions of schedule 1 apply to land that is subdivided under section 47 of the Act.

## **4 Repeal**

The South Bank Corporation (Modified Building Units and Group Titles) Regulation 2003, SL No. 152 is repealed.

## Schedule 1      Modified Building Units and Group Titles Regulation

section 2

### Notes to schedule 1

- 1 The provisions set out in this schedule are, subject to note 2, the provisions of the repealed *Building Units and Group Titles Regulation 1980* (the **applied regulation**) as it was in force at the making of the repealed *South Bank Corporation (Modified Building Units and Group Titles) Regulation 1992*.
- 2 Various provisions of the applied regulation have been omitted or appear in a modified form in this schedule. Other provisions have been inserted.
- 3 Notes have been included at the end of various provisions in the schedule to indicate the source of the provisions. The following rules have been followed in the inclusion of notes—
  - (a) if a provision of the applied regulation has not been amended (other than in a way in which a regulation is authorised to be reprinted by the *Reprints Act 1992*, section 7)—no note is included;
  - (b) if a provision of the applied regulation has been omitted—instead of that provision, the following note appears—
    - (i) if the provision was omitted when the applied regulation was first applied under the Act—the note ‘(not applied)’;
    - (ii) if the provision was omitted at a later time—the note ‘(omitted)’;
  - (c) if an additional provision has been inserted or a provision has been replaced—the note ‘(new)’ appears;
  - (d) if a provision has been otherwise amended (other than in a way in which a regulation is authorised to be reprinted

by the *Reprints Act 1992*, section 7)—the note ‘(amended)’ appears.

- 4 The notes mentioned in note 3(a) to (d) do not form part of the provisions of this schedule.

## Part 1 Preliminary

### 1 Short title

(not applied)

### 1A Definitions

In this schedule—

***approved form*** means a form approved under section 133A of the modified Act.

***modified Act*** means the modified Building Units and Group Titles Act.

*Note—*

See sections 5 and 6 of the Act.

***plan*** means any of the following plans—

- (a) leasehold building units plan;
- (b) leasehold plan of amalgamation;
- (c) leasehold plan of resubdivision.

***registrar*** means the registrar of titles.

***schedule of lot entitlements*** means the schedule mentioned in section 19(1) of the modified Act.

(new)

### 2 Interpretation

(not applied)

**5 Repeals**

(not applied)

**6 Transitional**

(not applied)

**Part 2 Plans**

**7 Registers of plans**

- (1) The registrar must keep a register of leasehold building units plans.
- (2) The registrar must record in the register the following particulars of each leasehold building units plan and leasehold plan of amalgamation or resubdivision lodged in the land registry—
  - (a) the number of the plan;
  - (b) the number of lots comprised in the plan;
  - (c) the name of—
    - (i) if the plan does not relate to a stratum parcel—the building; or
    - (ii) if the plan relates to a stratum parcel—the stratum parcel;
  - (d) the name of the relevant local government;
  - (e) the name of the party lodging the plan.

(amended)

**8 Requirements for registration**

- (1) A plan lodged for registration in the land registry must—
  - (a) be in the approved form; and
  - (b) be printed on paper that is—

- (i) A3; and
    - (ii) of a density of at least 130gsm; and
  - (c) comply with any relevant direction of the registrar.
- (2) A notice of conversion, schedule of lot entitlements or other document lodged for registration in the land registry must—
  - (a) be in the approved form; and
  - (b) be printed on paper that is—
    - (i) A4; and
    - (ii) white bond of a density of at least 80gsm; and
    - (iii) free from discolouration and blemishes; and
  - (c) comply with the following requirements—
    - (i) have clear margins no smaller than 10mm on all sides;
    - (ii) have a clear space no smaller than 90mm wide and 65mm deep at the top right-hand corner of the relevant form for a duty imprint;
    - (iii) be completed on 1 side only, either—
      - (A) printed with type size no smaller than 1.8mm (10 point); or
      - (B) in a way that is permanent and that can be photocopied to produce a copy satisfactory to the registrar;
    - (iv) have all pages of the relevant form and all attachments securely bound together in a way approved by the registrar; and
  - (d) comply with any relevant direction of the registrar.
- (3) Subject to subsection (4), an alteration on a document may only be made by—
  - (a) striking through the printing or writing to be altered so the original printing or writing is still legible; and
  - (b) having each party to the document and each witness initial the alteration to the document.

- (4) An alteration on a plan must be initialled by—
  - (a) the surveyor who prepared the plan; and
  - (b) for an alteration that affects the boundary of a lot—
    - (i) if the appropriate authority is the corporation—the corporation manager; or
    - (ii) if the appropriate authority is the council—the council’s chief executive officer.
- (5) In this section—

***relevant direction***, of the registrar for a plan or other document, means a direction of the registrar under the *Land Title Act 1994*, section 10(1)(b) that is relevant to the plan or document.

(amended)

## 9 Further requirements for registration

A plan or notice of conversion lodged for registration in the land registry must—

- (a) show the name and postal address of the registered proprietor of the land and the name and address of the person who lodged the plan; and
- (b) be lodged by hand; and
- (c) be accompanied by—
  - (i) for a leasehold building units plan—the certificate of title, if any, for the relevant parcel; and
  - (ii) for a leasehold plan of amalgamation or resubdivision—the certificate of title, if any, for the leasehold estate in each lot comprised in the plan; and
  - (iii) for a notice of conversion—the certificate of title, if any, for the leasehold estate in each lot comprised in the notice.

(amended)

## **10 Manner of registration**

When registering a leasehold plan of amalgamation or resubdivision or a notice of conversion, the registrar must—

- (a) endorse on the original leasehold building units plan and on the certificates of title for the leasehold estate in the lots the subject of the amalgamation, resubdivision or conversion, a notification of the amalgamation, resubdivision or conversion and sign the endorsement; and
- (b) indicate by appropriate charting on the diagram on the original leasehold building units plan illustrating the lots or common property or lots and common property the subject of the amalgamation, resubdivision or conversion, that the lots or common property or lots and common property have been amalgamated, resubdivided or converted; and
- (c) for an amalgamation—amend the schedule of lot entitlements endorsed on the original leasehold building units plan by striking out the reference in the schedule to the lots that have been amalgamated and their entitlements and recording on the schedule the amalgamated lot and its entitlement.

(amended)

## **Part 3 Instruments**

### **11 Instruments to comply with certain requirements**

(not applied)

### **12 Certificate by local authority**

(not applied)

**12B Certificate of cadastral surveyor—modified Act, s 9**

A certificate of a cadastral surveyor mentioned in section 9(1A)(b)(ii) of the modified Act must be in the approved form.

(new)

**12C Certificate of lessees approving subdivision—modified Act, s 9**

(2) For section 9(1A)(b)(iv)(A) of the modified Act, the prescribed persons are—

- (a) if there are no more than 3 leases—all of the lessees; or
- (b) if there are more than 3 leases—
  - (i) the person elected as chairperson at the meeting mentioned in section 9(1A)(b)(iii) of the modified Act; and
  - (ii) 2 other lessees who are not joint lessees under the same lease.

(new)

**13 Certificate of body corporate**

A certificate of the body corporate mentioned in section 21(2)(b), 22(8) or 23(5) of the modified Act must be in the approved form.

(amended)

**14 Notification of extinguishment**

(not applied)

**15 Notification of change of by-laws**

(omitted)

**16 Notice of change of address**

(omitted)

**16A Notice of change of name**

A body corporate that, under section 9(4) of the modified Act, is changing the name of a building or stratum parcel endorsed on a leasehold building units plan, must give the registrar a request in the approved form.

(amended)

**17 Manner of registration of certain dealings**

- (1) For registration of a sublease, transfer of lease or surrender of sublease as mentioned in section 22(11) of the modified Act, the registrar must endorse and sign a memorial of the sublease, transfer of lease or surrender of sublease on a sheet annexed to the first sheet of the registered leasehold building units plan.
- (2) For registration of an instrument creating or surrendering an easement under section 23(7) of the modified Act, the registrar must endorse and sign a memorial of the instrument on a sheet annexed to the first sheet of the registered leasehold building units plan.

(amended)

**18 Production of certain certificates of title not necessary**

(not applied)

**19 Manner of entry of notification of extinguishment on plan**

(not applied)

**19A Statement by original lessee**

For section 49(1) of the modified Act, the prescribed form for a statement is the approved form.

(amended)

## **Part 4 Elections**

### **20 Procedure at first annual general meeting etc.**

- (1) This section applies to the nomination and election of a chairperson, secretary and treasurer of a body corporate, and other members of a committee, at any of the following meetings of the body corporate—
  - (a) the first annual general meeting;
  - (b) an extraordinary general meeting convened under section 42(5) of the modified Act;
  - (c) a meeting convened for the purpose mentioned in section 43(2A) of the modified Act;
  - (d) the annual general meeting if, because of a resolution of the body corporate under section 41(1) of the modified Act, or a referee's order under section 41(4) or (4A) of the modified Act—
    - (i) a provision of schedule 2, part 2 of the modified Act does not apply to the body corporate; and
    - (ii) schedule 4, section 10(f) of the modified Act does not fully apply to the body corporate.
- (2) The nomination and election must be under the following rules—
  - 1 The meeting must decide—
    - (a) if there are more than 3 lessees and subject to section 42(4) of the modified Act—the number of persons who are to be committee members; and
    - (b) for section 42(15) of the modified Act—whether the election is to be an open election or by secret ballot.
  - 2 The chairperson of the meeting must call upon those persons present and entitled to nominate candidates to

nominate candidates for election as chairperson, secretary and treasurer of the body corporate and other members of the committee.

*Note—*

For entitlement to nominate a candidate, see schedule 2, part 1, section 4 of the modified Act.

- 3 A nomination is ineffective unless supported by the consent of the nominee to the nomination, given—
  - (a) in writing to the chairperson at the meeting; or
  - (b) orally, if the nominee is present at the meeting.
- 4 (1) The election of the chairperson, secretary and treasurer of the body corporate, and the other members of the committee, must be conducted separately.
- (2) When there are no further nominations for each election, the chairperson—
  - (a) if there is only 1 nomination for any 1 or more of the offices of chairperson, secretary or treasurer—must declare the candidate is elected as the chairperson, secretary or treasurer, as applicable; and
  - (b) if the number of candidates for other members of the committee equals the number of other members of the committee decided under section 42(4) of the modified Act—must declare the candidates are elected as the other members of the committee; and
  - (c) if there is more than 1 candidate for any 1 or more of the offices of the chairperson, secretary or treasurer—must direct a ballot be held for the offices for which there is more than 1 candidate; and
  - (d) if the number of candidates for other members of the committee is more than the number of other members of the committee decided under section 42(4) of the modified Act—must direct a ballot be held.

- 5 For each ballot held, the chairperson must—

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- (a) announce the names of the candidates and, for each candidate, whether the candidate is a lessee or, if not, by whom the candidate was nominated; and
  - (b) if the election is—
    - (i) an open election—give to each person present and entitled to vote a blank paper for each lot entitling that person to vote, for use as a ballot paper; or
    - (ii) by secret ballot—give to each person present and entitled to vote a blank paper for each lot entitling the person to vote, and a ballot paper envelope and particulars envelope that comply with section 21B.
- 6 A person who is entitled to vote must complete a valid ballot paper by—
  - (a) for the election of the chairperson, secretary or treasurer—writing on the ballot paper the name of a candidate; or
  - (b) for the election of the other members of the committee—writing on the ballot paper the names of candidates, equal in number to the number of other members of the committee decided under section 42(4) of the modified Act, so that no name is repeated; or
  - (c) if the election is an open election—
    - (i) indicating on the ballot paper the number of the lot entitling the person to vote and whether the person votes in the capacity of lessee, first mortgagee, proxy, nominee or trustee; and
    - (ii) signing the ballot paper; and
    - (iii) returning the ballot paper to the chairperson; or
  - (d) if the election is by secret ballot—

- (i) completing the ballot paper in accordance with section 21B; and
  - (ii) returning the ballot paper to the chairperson.
- 7 The chairperson, or a person appointed by the chairperson, must count the votes recorded on valid ballot papers in favour of each candidate.
- 8 Subject to rule 9, for the election of the other members of the committee, the candidates, being equal in number to the number of other members of the committee decided under section 42(4) of the modified Act, who receive the highest numbers of votes must be declared elected to the committee.
- 9 (1) This rule applies if—
  - (a) the number of votes recorded in favour of a candidate is the lowest of the numbers of votes mentioned in rule 8; and
  - (b) the number of votes equals the number of votes recorded in favour of another candidate; and
  - (c) if the candidates mentioned in paragraphs (a) and (b) were to be declared elected, the number of persons elected would exceed the number of persons required to be elected.
- (2) The election, as between those candidates, must be decided by lot.
- (amended)

## **21 Nomination procedures for second or subsequent annual general meeting**

- (1) This section applies to the nomination of a chairperson, secretary and treasurer of a body corporate, and other committee members, at an annual general meeting of the body corporate other than an annual general meeting mentioned in section 20(1).
- (2) However, this section does not apply to a body corporate, to which, because of a resolution of the body corporate under

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section 41(1) of the modified Act, or a referee's order under section 41(4) or (4A) of the modified Act—

- (a) a provision of schedule 2, part 2 of the modified Act does not apply; or
- (b) schedule 4, section 10(f) of the modified Act does not fully apply.

(3) The nomination must comply with the following rules—

1 The secretary must serve a notice on each lessee shown on the body corporate's roll, inviting the lessee to nominate candidates for the following positions—

- (a) chairperson;
- (b) secretary;
- (c) treasurer;
- (d) other member of the committee.

2 The notice must be served at least 14 days before the day on which nominations close.

*Note—*

See section 127(3) of the modified Act.

3 Nominations close 21 days before the anniversary of the first annual general meeting.

4 A nomination of a person for election as chairperson, secretary, treasurer or other member of a committee must—

- (a) state the full name of the person nominated; and
- (b) state whether the nominee is—
  - (i) an individual who is a lessee; or
  - (ii) a company nominee of a corporation that is a lessee; or
  - (iii) an individual who is not a lessee but who is nominated for election; and
- (c) state the full name of the person who made the nomination; and

- (d) be signed by the nominee and the person who made the nomination.
- 5 The secretary must not include in a ballot paper the name of a person whose name is included in a nomination that does not comply with rule 4.
- 6 If, for the position of chairperson, secretary or treasurer—
  - (a) no person is nominated—the chairperson at the annual general meeting must invite nominations for the relevant position and must conduct an election in the same way as an election under section 20; or
  - (b) only 1 person is nominated for a position—the chairperson at the annual general meeting must declare the person is elected; or
  - (c) more than 1 person is nominated for a position—a ballot must be conducted for the position.
- 7 If, for the position of another member of the committee—
  - (a) no person is nominated—the chairperson at the annual general meeting must invite nominations for the position and conduct an election in the same way as an election under section 20; or
  - (b) less than the number of persons required to be elected are nominated—the chairperson at the annual general meeting—
    - (i) must declare each person who has been nominated is elected; and
    - (ii) must invite nominations for the positions that have not been filled and conduct an election for those positions in the same way as an election under section 20; or
  - (c) more persons are nominated than are required to be elected—a ballot must be conducted for the position.

(amended)

## **21A Procedure on open ballot**

An open election by ballot must be conducted in compliance with the following rules—

- 1 The secretary must prepare ballot papers showing—
  - (a) the number of persons required to be elected; and
  - (b) the names of the candidates in alphabetical order; and
  - (c) for each candidate, whether the candidate is—
    - (i) an individual who is a lessee; or
    - (ii) a company nominee of a corporation that is a lessee; or
    - (iii) an individual who is not a proprietor but who is nominated for election by a lessee; and
  - (d) the name of the person who nominated the candidate.
- 2 The secretary must give each person shown on the roll a ballot paper and an envelope marked ‘Ballot Paper’ and addressed to the secretary.
- 3 A person who is entitled to vote must vote by—
  - (a) crossing out the names of candidates for whom the person does not wish to vote until the number of names remaining equals the number of persons required to be elected to each position; and
  - (b) signing the back of the ballot paper; and
  - (c) marking the number of the lot entitling the person to vote on the back of the ballot paper; and
  - (d) unless the ballot paper is completed at the annual general meeting—
    - (i) placing the ballot paper in the ballot paper envelope; and

- (ii) sealing the envelope and signing the back of the envelope; and
    - (iii) marking the number of the lot entitling the person to vote on the back of the envelope; and
  - (e) giving or sending the envelope to the secretary before or at the annual general meeting.
  - 4 A person who is entitled to vote but has not voted before the annual general meeting must be given a ballot paper by the secretary when the person asks for it, and the person must give the completed ballot to the secretary when required by the secretary to do so.
  - 5 A ballot paper envelope must not be opened until all votes cast have been given to the secretary.
- (amended)

## **21B Procedure on secret ballot**

An election by secret ballot must be conducted in compliance with the following rules—

- 1 The secretary must give to each person shown on the roll a ballot paper, a ballot paper envelope that complies with section 21A, rule 2, and another envelope (a *particulars envelope*).
- 2 A particulars envelope may be—
  - (a) a separate envelope; or
  - (b) a part of the ballot paper envelope that may be detached without opening the ballot paper envelope.
- 3 The voter must—
  - (a) complete the particulars envelope by inserting—
    - (i) the number of the lot; and
    - (ii) the name of the lessee of the lot; and
    - (iii) the name of the person entitled to vote; and

- (iv) the capacity in which that person votes; and
  - (b) sign and date the envelope.
- 4 A person who is entitled to vote in a secret ballot must vote by—
  - (a) crossing out the names of candidates for whom the person does not wish to vote until the number of names remaining equals the number of persons required to be elected; and
  - (b) placing the ballot paper in a ballot paper envelope, which must be sealed and, if a separate particulars envelope is provided, placed in the completed particulars envelope; and
  - (c) giving or sending the sealed envelope to the secretary.
- 5 The secretary may issue a fresh ballot paper in place of a ballot paper that has been lost, is not received, is destroyed or is for any other reason not available for use and must make a written record about the issue and show the record to the chairperson at the meeting before the votes in the election are counted.

(amended)

## **21C Result of ballot**

The result of a ballot must be decided in compliance with the following rules—

- 1 If the election was conducted by secret ballot, the chairperson, or a person appointed by the chairperson, must scrutinise the particulars endorsed on the particulars envelope in the presence of any scrutineers appointed by the chairperson and, if satisfied the person who completed the envelope was entitled to vote in the election, must remove the ballot paper envelope from the particulars envelope.

- 2 If the election was conducted by secret ballot, all ballot paper envelopes must be placed in a receptacle in open view of the meeting and must be randomly mixed.
- 3 The chairperson, or a person appointed by the chairperson, must open the ballot paper envelopes and count the votes recorded on the ballot papers in those envelopes.
- 4 Subject to rule 5—
  - (a) for an election for the position of chairperson, secretary or treasurer, the person who receives the highest number of votes for a position must be declared elected to the position; and
  - (b) for an election for the position of other members of a committee, the chairperson must declare elected the person who received the highest number of votes, in descending order, until the number of persons required to be elected have been elected.
- 5 If 2 or more persons receive the same number of votes and the number of persons to be elected would be exceeded by declaring those persons elected, the result of the ballot must be decided by lot.

(amended)

## **Part 5 Fees**

### **22 Fees payable to registrar of titles**

(omitted)

### **23 Fees payable to referee**

(not applied)

### **24 Fees payable to body corporate**

(not applied)



constitute a failure of the body corporate to comply with section 40(1) of the modified Act.

(amended)

**29 Application for exemption**

(omitted)

**30 Grounds for application for exemption**

For section 41(2) of the modified Act, each of the following is a prescribed ground—

- (a) a lessee who was a permanent resident has transferred the lease of the lot to a non-resident lessee who does not oppose the application;
- (b) a lessee who is a permanent resident is the owner of more than 1 lot in a leasehold building units plan;
- (c) a lessee is a corporation;
- (d) all non-resident lessees have notified the body corporate in writing that they do not oppose the application.

(amended)

**31 Restriction on expenditure by committee**

(not applied)

**32 Notices to body corporate—modified Act, s 53**

A notice given to a body corporate under section 53 of the modified Act must be in the approved form.

(amended)

**33 Request for summons**

A request for the issue of a summons under section 103(1) of the modified Act must be in the approved form and lodged with a referee.

(amended)

**34 Form of summons**

A summons issued under section 103(1) of the modified Act must be in the approved form.

(amended)

**35 Form of inquiry**

(omitted)

**36 Classes of order**

For section 117(1)(a)(ii) of the modified Act, the prescribed classes of order are orders made by a referee about—

- (a) a body corporate or its committee; or
- (b) a body corporate manager; or
- (c) a lessee or occupier of the particular lot the subject of the inquiry; or
- (d) a lessee or occupier of another lot in the parcel to which the inquiry relates within the period of 12 months before the inquiry was made.

(amended)

**37 Application for reservation of name**

(omitted)

**38 Manner of reservation of name**

For section 120(2) of the modified Act, the prescribed manner for reserving a name of a building or stratum parcel in a proposed leasehold building units plan is recording the name, and the date of the lodgement of the application for reservation of the name, in a register kept solely for that purpose.

(amended)

**39 Notice of general meeting**

- (1) A notice of a general meeting of a body corporate, other than the first annual general meeting, must be in the approved form.
- (2) However, a departure from the approved form mentioned in subsection (1) does not of itself affect the validity of the notice.

(amended)

**40 Requirements of application or notice of appeal**

Section 8(2)(b), (c) and (3) also applies to an application made to, or notice of appeal lodged with, the referee under part 5 of the modified Act.

(amended)

**41 Offences**

(not applied)

**42 Cost of improvements**

(not applied)

**43 Insurance**

(not applied)

## **Schedule**

(not applied)