



Queensland

Building Units and Group Titles Act 1980

Building Units and Group Titles Regulation 2008

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Contents

		Page
Part 1	Preliminary	
1	Short title	5
2	Commencement	5
3	Definitions	5
Part 2	Registration requirements	
5	Requirements for registration of relevant documents	6
6	Notification of registration of plans by registrar of titles	6
Part 3	Nominations and elections	
7	Nominations and elections at first annual general meeting and other particular meetings	7
8	Nominations at second or subsequent annual general meetings	7
Part 4	Miscellaneous	
9	Cost of improvements—Act, s 37(2)(g)(i)	8
10	Retaining records—Act, s 38D(1)(b)	8
10A	Matters that must be included in approved form for body corporate certificate—Act, s 40AA	8
11	Ground for application for exemption—Act, s 41(2)	11
12	Restriction on expenditure by committee—Act, s 47(1)	11
13	Amount of insurance cover—Act, s 56(2)	11
14	Classes of order—Act, s 117(a)(ii)	11
Part 5	Fees	
15	Fees	11
15A	Rounding of amounts expressed as numbers of fee units	12
16	Remission of referee's fees	12
16A	Priority requests for body corporate certificates	12
Part 6	Repeal	

Contents

17	Repeal	13
Part 7	Transitional provision	
18	Transitional provision for forms approved under repealed regulation	13
Schedule 1	Nomination and election of committee at first annual general meeting and other particular meetings	14
Part 1	Nominations	
1	Preliminary decisions	14
2	Chairperson to call for nominations	14
3	Consent for effective nominations	14
4	Sole nominees for election as chairperson, secretary or treasurer	15
5	Multiple nominees for election as chairperson, secretary or treasurer	15
6	Required number of nominees for election as other committee members	15
7	More than required number of nominees for election as other committee members	15
Part 2	Elections	
8	Elections must be separate	16
9	Pre-ballot	16
10	Opening envelopes	17
11	Counting ballot	17
12	Properly completed ballot papers	17
13	Properly completed particulars envelope	18
14	Result of ballot	18
Schedule 2	Nomination and election of committee at second and subsequent annual general meetings	20
Part 1	Nominations	
1	Secretary to give notices calling for nominations	20
2	Properly completed nominations	20
3	Absence of nominees	21
4	Sole nominees for election as chairperson, secretary or treasurer	21
5	Multiple nominees for election as chairperson, secretary or treasurer	21
6	Required number of nominees for election as other committee members	22
7	Less than required number of nominees for election as other committee members	22
8	More than required number of nominees for election as other committee members	22
Part 2	Elections	

Contents

9	Elections must be separate	22
10	Pre-ballot	23
11	Ballot papers	24
12	Opening envelopes	24
13	Counting ballot	25
14	Properly completed ballot papers	25
15	Properly completed particulars envelope	26
16	Result of ballot	26
Schedule 3	Fees	28

Building Units and Group Titles Regulation 2008

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Building Units and Group Titles Regulation 2008*.

2 Commencement

This regulation commences 1 September 2008.

3 Definitions

In this regulation—

annual general meeting means an annual general meeting under section 29A(1) of the Act.

books of account means the books of account required to be kept by a body corporate under section 38D(1)(b) of the Act.

notice of conversion means a notice of conversion under section 12 of the Act.

other committee member, of a body corporate, means a member of the committee, other than the chairperson, secretary or treasurer of the committee.

plan of amalgamation means a plan of amalgamation under section 11 of the Act.

plan of resubdivision means a plan of resubdivision under section 10 of the Act.

statement of accounts means a statement of accounts required to be prepared by a body corporate under section 38D(1)(c) of the Act.

Part 2 Registration requirements

5 Requirements for registration of relevant documents

- (1) A relevant document must be—
 - (a) in the approved form; and
 - (b) in conformity with directions of the registrar of titles about the required format for a relevant document.
- (2) In this section—

relevant document means—

 - (a) a plan; or
 - (b) a plan of amalgamation; or
 - (c) a notice of conversion.

6 Notification of registration of plans by registrar of titles

- (1) The registrar of titles must make appropriate notification of the registration of a plan of amalgamation, plan of resubdivision or notice of conversion on the original plan for the plan of amalgamation, plan of resubdivision or notice of conversion (the ***original plan***).
- (2) Without limiting subsection (1), the registrar of titles must—
 - (a) chart the effect of registration on the diagram illustrating the lots, common property, or lots and common property, the subject of the original plan; and
 - (b) for a plan of amalgamation—amend the schedule of lot entitlements to record the effect of registration.

Part 3 Nominations and elections

7 Nominations and elections at first annual general meeting and other particular meetings

- (1) This section applies to the nomination and election of a chairperson, secretary, treasurer and other committee members of a body corporate—
 - (a) at the body corporate's first annual general meeting under section 29(1) of the Act; or
 - (b) at an annual general meeting of the body corporate if, because of a resolution of the body corporate under section 41(1) of the Act or a referee's order under section 41(4) or (4A) of the Act—
 - (i) schedule 2, part 2, section 1(4)(d), (5), (6), (7) or (10), 4(b), 5(b), 6 or 8 of the Act does not apply to the body corporate; or
 - (ii) schedule 4, section 10(f) of the Act does not apply to the body corporate; or
 - (c) at an extraordinary general meeting of the body corporate under section 42(5)(a)(i) of the Act; or
 - (d) at a meeting of the body corporate under section 43(3) of the Act.
- (2) Schedule 1 applies to the nomination and election.

8 Nominations at second or subsequent annual general meetings

- (1) This section applies to the nomination and election of a chairperson, secretary, treasurer and other committee members of a body corporate at an annual general meeting of the body corporate other than an annual general meeting mentioned in section 7(1)(a) or (b).
- (2) Schedule 2 applies to the nomination and election.

Part 4 Miscellaneous

9 Cost of improvements—Act, s 37(2)(g)(i)

For section 37(2)(g)(i) of the Act, the prescribed amount, for the cost of improvements made to common property, is the amount worked out by using the formula—

$$SPA = 2,000 \times L$$

where—

L means the number of lots the subject of the plan that includes the common property.

PA means the prescribed amount in dollars.

10 Retaining records—Act, s 38D(1)(b)

For section 38D(1)(b) of the Act, the prescribed time is—

- (a) for minutes of meetings of a body corporate—until the day the plan whose registration incorporated the body corporate is extinguished under section 25(1) of the Act; and
- (b) for books of account of a body corporate—6 years after the day a statement of accounts prepared from the books of account is adopted by a general meeting of the body corporate.

10A Matters that must be included in approved form for body corporate certificate—Act, s 40AA

- (1) For section 40AA(5)(a) of the Act, the following matters relating to a lot are prescribed—
 - (a) details of the lot, including—
 - (i) whether the lot is shown on a building units plan or a group titles plan; and
 - (ii) the lot number and plan number;

- (b) details of the plan, including—
 - (i) the name of the building or parcel endorsed on the plan; and
 - (ii) the number of the plan; and
 - (iii) the specified Act that applies in relation to the plan;
- (c) the name and contact details of the secretary of the body corporate;
- (d) the name and contact details of any body corporate manager for the body corporate;
- (e) amounts associated with ownership of the lot that are payable to the body corporate, including amounts payable under a by-law made under section 30(7) of the Act;
- (f) contributions determined by the body corporate under section 38A(1), (2), (3) and (5) of the Act;
- (g) an amount determined under section 38A(4) of the Act;
- (h) any unpaid amount of—
 - (i) an amount payable under a by-law made under section 30(7) of the Act; or
 - (ii) an amount recoverable under section 33(3) or (4) of the Act; or
 - (iii) a contribution levied under section 38B of the Act; or
 - (iv) a contribution levied under section 124(2) of the Act; or
 - (v) another amount associated with ownership of the lot that is payable to the body corporate;
- (i) the lot entitlement of every lot the subject of the plan;
- (j) the aggregate lot entitlement for the plan;
- (k) any arrangement entered into between the body corporate and another entity for the conduct of a

business by the entity of letting lots on behalf of proprietors;

- (l) any arrangement that—
 - (i) is entered into between the body corporate and an entity who has entered into an arrangement mentioned in paragraph (k); and
 - (ii) is for the entity to carry out maintenance and repair for which the body corporate is responsible;
 - (m) the by-laws in force for the plan;
 - (n) the body corporate's sinking fund balance;
 - (o) the insurance held by the body corporate;
 - (p) the most recent statement of accounts prepared under section 38D(1)(c) of the Act;
 - (q) any arrangement to supply electricity to proprietors of lots or occupiers of lots through an embedded electricity network;
 - (r) improvements in or on the common property for which a person will become responsible under section 37A(2) of the Act for properly maintaining and keeping in a state of good and serviceable repair if the person becomes the proprietor of the lot;
 - (s) personal property vested in the body corporate.
- (2) The approved form may include provision for the following documents to be given with the form—
- (a) a document stating the details of each insurance policy held by the body corporate;
 - (b) a document setting out the by-laws mentioned in subsection (1)(m) in consolidated form;
 - (c) a copy of the statement of accounts mentioned in subsection (1)(p).
- (3) In this section—
- specified Act*** see section 5A(3) of the Act.

11 Ground for application for exemption—Act, s 41(2)

The prescribed ground on which a body corporate may make an application under section 41(2) of the Act is that the body corporate has received written notice from each proprietor entitled to vote, but not voting, on a resolution under section 41(2) of the Act that the resolution is not opposed.

12 Restriction on expenditure by committee—Act, s 47(1)

For section 47(1) of the Act, the prescribed amount is \$200.

13 Amount of insurance cover—Act, s 56(2)

For section 56(2) of the Act, the prescribed amount of cover is \$10m.

14 Classes of order—Act, s 117(a)(ii)

For section 117(a)(ii) of the Act, an order is of a prescribed class if the order is made by a referee about—

- (a) a body corporate; or
- (b) a committee; or
- (c) a proprietor or occupier of a lot about which an inquiry under section 117 of the Act is made; or
- (d) a proprietor or occupier of a lot other than a proprietor or occupier mentioned in paragraph (c) if the order is made no more than 12 months before the relevant inquiry under section 117 of the Act is made.

Part 5 Fees

15 Fees

- (1) The fees payable under the Act to the referee or tribunal are stated in schedule 3, part 1.

- (2) The fees payable under the Act to a body corporate are stated in schedule 3, part 2.

15A Rounding of amounts expressed as numbers of fee units

- (1) This section applies for working out the amount of a fee expressed in this regulation as a number of fee units.
- (2) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded—
 - (a) if the result is not more than \$100—to the nearest multiple of 5 cents (rounding one-half upwards); or
 - (b) if the result is more than \$100 but not more than \$1,000—to the nearest multiple of 10 cents (rounding one-half upwards).

Example for paragraph (a)—

If a fee were 35 fee units and the value of a fee unit were \$1.015, the number of dollars obtained by multiplying 35 by \$1.015 would be \$35.525. Because \$35.525 is halfway between \$35.50 and \$35.55, it is rounded upwards, so the amount of the fee would be \$35.55.

16 Remission of referee's fees

- (1) The referee may excuse a person from paying a fee, or part of a fee, payable to the referee.
- (2) However, the referee may act under subsection (1) only if the referee is satisfied the person is suffering financial hardship.

16A Priority requests for body corporate certificates

- (1) A request for a body corporate certificate under section 40AA(1) of the Act may include a request for the certificate to be given within 24 hours.
- (2) A request for a body corporate certificate that includes a request made under subsection (1) must be accompanied by the priority fee prescribed in schedule 3, part 2.

- (3) The priority fee payable under subsection (2) must be refunded if the requested body corporate certificate is not given within 24 hours.

Part 6 Repeal

17 Repeal

The Building Units and Group Titles Regulation 1998, SL No. 189 is repealed.

Part 7 Transitional provision

18 Transitional provision for forms approved under repealed regulation

- (1) This section applies to any forms that have been approved under section 3 of the repealed regulation.
- (2) The forms are taken to be forms approved under section 4 of this regulation.
- (3) In this section—
repealed regulation means the *Building Units and Group Titles Regulation 1998*.

Schedule 1 Nomination and election of committee at first annual general meeting and other particular meetings

section 7(2)

Part 1 Nominations

1 Preliminary decisions

The meeting must decide—

- (a) if there are more than 3 proprietors, the number of other members required to make up a committee as required by section 42(4) of the Act; and

Note—

If there are not more than 3 proprietors, section 42(3) of the Act applies to the constitution of the committee.

- (b) if the election of the committee will be by open ballot.

Note—

Section 42(15) of the Act provides for the election of the members of a committee and the chairperson, secretary and treasurer of a body corporate to be by secret ballot unless the body corporate otherwise resolves.

2 Chairperson to call for nominations

The chairperson must call upon those present and entitled to nominate candidates for election as chairperson, secretary, treasurer and other committee members of the body corporate to nominate candidates.

3 Consent for effective nominations

A nomination under section 2 has no effect unless—

- (a) the nominee's written consent is given to the chairperson before, or at, the meeting; or
- (b) the nominee's verbal consent is given to the chairperson at the meeting.

4 Sole nominees for election as chairperson, secretary or treasurer

- (1) If there is only 1 nominee for election as chairperson, the nominee is taken to be elected as chairperson.
- (2) If there is only 1 nominee for election as secretary, the nominee is taken to be elected as secretary.
- (3) If there is only 1 nominee for election as treasurer, the nominee is taken to be elected as treasurer.

5 Multiple nominees for election as chairperson, secretary or treasurer

- (1) If there are 2 or more nominees for election as chairperson, the election of the chairperson must be by ballot.
- (2) If there are 2 or more nominees for election as secretary, the election of the secretary must be by ballot.
- (3) If there are 2 or more nominees for election as treasurer, the election of the treasurer must be by ballot.

6 Required number of nominees for election as other committee members

If the number of nominees for election as other committee members is the same as the number of other committee members required to make up the committee, the nominees are taken to be elected as other committee members.

7 More than required number of nominees for election as other committee members

If the number of nominees for election as other committee members is more than the number of other committee

members required to make up the committee, the election of other committee members must be by ballot.

Part 2 Elections

8 Elections must be separate

A body corporate must have a separate election for each of the following—

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

9 Pre-ballot

Before each ballot the chairperson must—

- (a) announce—
 - (i) the names of the nominees; and
 - (ii) whether or not a nominee is a proprietor or a company nominee; and
 - (iii) if a nominee is not a proprietor or company nominee, by whom the nominee was nominated; and
- (b) give each individual present and entitled to vote, for each lot entitling an individual to vote, a blank paper to be used as a ballot paper; and
- (c) for a secret ballot—give each individual present and entitled to vote—
 - (i) a ballot paper envelope; and
 - (ii) a particulars envelope.

10 Opening envelopes

For a secret ballot, a ballot paper envelope must be opened by the chairperson, or an individual appointed by the chairperson, after—

- (a) all votes cast have been given to the chairperson; and
- (b) the chairperson, or an individual appointed by the chairperson, is satisfied that—
 - (i) the particulars envelope is properly completed; and
 - (ii) the individual who completed the particulars envelope is entitled to vote; and
- (c) the ballot paper envelope has been drawn randomly from a receptacle in open view of the meeting.

11 Counting ballot

The chairperson, or an individual appointed by the chairperson, must count the votes recorded on properly completed ballot papers.

12 Properly completed ballot papers

- (1) A ballot paper for an open ballot is properly completed if—
 - (a) it states—
 - (i) the name of the individual voting; and
 - (ii) the number of the lot entitling the individual to vote; and
 - (iii) the name of the proprietor of the lot; and
 - (iv) the capacity in which the individual is voting; and
 - (v) the name of 1 nominee for each of the members of the committee required to be elected and to which the ballot relates; and
 - (b) the signature of the individual appears on the paper; and
 - (c) the individual gives the paper to the chairperson.

- (2) A ballot paper for a secret ballot is properly completed if—
- (a) it states the name of 1 nominee for each of the members of the committee required to be elected and to which the ballot relates; and
 - (b) it is put into a ballot paper envelope and the envelope is sealed; and
 - (c) the ballot paper envelope mentioned in paragraph (b) is—
 - (i) if separate from a particulars envelope—put into a properly completed particulars envelope; or
 - (ii) if attached to a particulars envelope—still attached to a properly completed particulars envelope; and
 - (d) the properly completed particulars envelope is sealed and given to the chairperson.

13 Properly completed particulars envelope

A particulars envelope is properly completed if—

- (a) it states—
 - (i) the name of the individual voting; and
 - (ii) the number of the lot entitling the individual to vote; and
 - (iii) the name of the proprietor of the lot; and
 - (iv) the capacity in which the individual is voting; and
- (b) it contains, or is attached to, a sealed ballot paper envelope containing a properly completed ballot paper; and
- (c) the signature of the individual and the date of signing appears on the particulars envelope.

14 Result of ballot

- (1) For an election—

- (a) of chairperson—the individual who receives the highest number of votes is elected as chairperson; or
 - (b) of secretary—the individual who receives the highest number of votes is elected as secretary; or
 - (c) of treasurer—the individual who receives the highest number of votes is elected as treasurer; or
 - (d) as other committee members—the individuals who receive the highest number of votes, in descending order, up to the number of persons required to be elected, are elected as the other committee members.
- (2) However, if 2 or more individuals receive the same number of votes and the number of individuals who would, under subsection (1)(a), (b), (c) or (d) be elected, is higher than the number required to be elected, the result of the election must be decided by chance in the way the meeting decides.

Schedule 2 Nomination and election of committee at second and subsequent annual general meetings

section 8(2)

Part 1 Nominations

1 Secretary to give notices calling for nominations

- (1) The secretary must give a written notice to each proprietor inviting the proprietor to nominate individuals for election as chairperson, secretary, treasurer and other committee members of the body corporate.
- (2) The notice must be given 35 days before the anniversary of the first annual general meeting.

2 Properly completed nominations

The nomination of an individual eligible for election as chairperson, secretary, treasurer or other committee member is properly completed if—

- (a) it is in writing; and
- (b) it states—
 - (i) the name of the proprietor making the nomination, or on whose behalf the nomination is being made; and
 - (ii) the name of the nominee; and
 - (iii) whether the nominee is—
 - (A) a proprietor; or
 - (B) a company nominee; or

- (C) neither a proprietor nor a company nominee;
and
- (c) it is signed by—
 - (i) the proprietor making the nomination or the individual making the nomination on the proprietor's behalf; and
 - (ii) the nominee.

3 Absence of nominees

Schedule 1 applies instead of this schedule—

- (a) if there is no nominee for chairperson—to the nomination and election of the chairperson; and
- (b) if there is no nominee for secretary—to the nomination and election of the secretary; and
- (c) if there is no nominee for treasurer—to the nomination and election of the treasurer; and
- (d) if there are no nominees for other committee members—to the nomination and election of the other committee members.

4 Sole nominees for election as chairperson, secretary or treasurer

- (1) If there is only 1 nominee for election as chairperson, the nominee is taken to be elected as chairperson.
- (2) If there is only 1 nominee for election as secretary, the nominee is taken to be elected as secretary.
- (3) If there is only 1 nominee for election as treasurer, the nominee is taken to be elected as treasurer.

5 Multiple nominees for election as chairperson, secretary or treasurer

- (1) If there are 2 or more nominees for election as chairperson, the election of the chairperson must be by ballot.

- (2) If there are 2 or more nominees for election as secretary, the election of the secretary must be by ballot.
- (3) If there are 2 or more nominees for election as treasurer, the election of the treasurer must be by ballot.

6 Required number of nominees for election as other committee members

If the number of nominees for election as other committee members is the same as the number of other committee members required to make up the committee, the nominees are taken to be elected as other committee members.

7 Less than required number of nominees for election as other committee members

If the number of nominees for election as other committee members is less than the number of other committee members required to make up the committee—

- (a) the nominees are taken to be elected as other committee members of the committee; and
- (b) schedule 1 applies instead of this schedule to the nomination and election of the number of committee members, other than those mentioned in paragraph (a), required to make up the committee.

8 More than required number of nominees for election as other committee members

If neither section 6 nor 7 applies, the election of the other committee members must be by ballot.

Part 2 Elections

9 Elections must be separate

A body corporate must have a separate election for each of the following—

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

10 Pre-ballot

- (1) Before each ballot the secretary must give to each proprietor—
 - (a) for an open ballot—
 - (i) a ballot paper; and
 - (ii) a ballot paper envelope addressed to the secretary;
or
 - (b) for a secret ballot—
 - (i) a ballot paper; and
 - (ii) a ballot paper envelope; and
 - (iii) a particulars envelope addressed to the secretary.
- (2) If a ballot paper is not available for use for any reason, a secretary must give a replacement ballot paper to the proprietor or the individual voting on the proprietor's behalf.
- (3) A secretary who gives a replacement ballot paper under subsection (2) must—
 - (a) make a written record of—
 - (i) the reason the ballot paper is not available for use;
and
 - (ii) the individual to whom the replacement paper is
given; and
 - (iii) when the replacement paper is given; and
 - (b) show the record to the chairperson before the votes are
counted.

11 Ballot papers

A ballot paper must state—

- (a) the number of individuals required to be elected; and
- (b) the names of the nominees nominated by properly completed nominations; and
- (c) whether a nominee is—
 - (i) a proprietor; or
 - (ii) a company nominee; or
 - (iii) neither a proprietor nor a company nominee; and
- (d) by whom each nominee was nominated.

12 Opening envelopes

A ballot paper envelope must be opened—

- (a) for an open ballot—by the secretary, after all votes cast have been given to the secretary; and
- (b) for a secret ballot—by the chairperson, or an individual appointed by the chairperson, after—
 - (i) all votes cast have been given to the secretary; and
 - (ii) the chairperson, or an individual appointed by the chairperson, is satisfied that—
 - (A) the particulars envelope for the ballot paper envelope is properly completed; and
 - (B) the individual who completed the particulars envelope is entitled to vote; and
 - (iii) the ballot paper envelope has been drawn randomly from a receptacle in open view of the meeting.

13 Counting ballot

The chairperson, or an individual appointed by the chairperson, must count the votes recorded on properly completed ballot papers.

14 Properly completed ballot papers

- (1) A ballot paper for an open ballot is properly completed if—
 - (a) it states—
 - (i) the name of the individual voting; and
 - (ii) the number of the lot entitling the individual to vote; and
 - (iii) the name of the proprietor of the lot; and
 - (iv) the capacity in which the individual is voting; and
 - (v) the name of 1 nominee for each member of the committee required to be elected and to which the ballot relates; and
 - (b) the signature of the individual appears on the paper; and
 - (c) if the paper is given to the secretary before the annual general meeting—it is put into a ballot paper envelope and the envelope is sealed; and
 - (d) the individual gives the paper to the secretary before or at the annual general meeting.
- (2) A ballot paper for a secret ballot is properly completed if—
 - (a) it states the name of 1 nominee for each member of the committee required to be elected and to which the ballot relates; and
 - (b) it is put into a ballot paper envelope and the envelope is sealed; and
 - (c) the ballot paper envelope mentioned in paragraph (b) is—
 - (i) if separate from a particulars envelope—put into a properly completed particulars envelope; or

- (ii) if attached to a particulars envelope—still attached to a properly completed particulars envelope; and
- (d) the properly completed particulars envelope is sealed and given to the secretary before or at the annual general meeting.

15 Properly completed particulars envelope

A particulars envelope is properly completed if—

- (a) it states—
 - (i) the name of the individual voting; and
 - (ii) the number of the lot entitling the individual to vote; and
 - (iii) the name of the proprietor of the lot; and
 - (iv) the capacity in which the individual is voting; and
- (b) it contains, or is attached to, a sealed ballot paper envelope containing a properly completed ballot paper; and
- (c) the signature of the individual and the date of signing appears on the particulars envelope.

16 Result of ballot

- (1) For an election—
 - (a) as chairperson—the individual who receives the highest number of votes is elected as chairperson; and
 - (b) as secretary—the individual who receives the highest number of votes is elected as secretary; and
 - (c) as treasurer—the individual who receives the highest number of votes is elected as treasurer; and
 - (d) as other committee members—the individuals who receive the highest number of votes, in descending order, up to the number of persons required to be elected, are elected as the other committee members.

- (2) However, if 2 or more individuals receive the same number of votes and the number of individuals who would, under subsection (1)(a), (b), (c) or (d) be elected, is higher than the number required to be elected, the result of the election must be decided by chance in the way the meeting decides.

Schedule 3 Fees

section 15

Part 1 Fees payable to the referee or tribunal

	Fee units
1 Application for an order mentioned in section 41(2) of the Act	104.10
2 Application for an order mentioned in section 77(1) of the Act—	
(a) if the applicant requests an interim order mentioned in section 76(2) of the Act	218.76
(b) otherwise	104.10
3 Issuing a summons under section 103(1) of the Act	86.75
4 Lodging a notice of appeal under section 106(1) of the Act	86.75
5 Making an inquiry mentioned in section 117 of the Act—	
(a) if the reply is collected from the referee	19.50
(b) if the reply is posted to the inquirer	22.70
(c) if the reply is faxed to the inquirer	29.25

Part 2 Fees payable to a body corporate

	Fee units
6 Giving information under section 40(1)(a) of the Act	38.35

	Fee units
7 Making documents available for inspection under section 40(1)(b) of the Act—	
(a) if the applicant is a person mentioned in section 40(5) of the Act, definition <i>prescribed person</i> , paragraph (a)	19.50
(b) if the applicant is a person mentioned in section 40(5) of the Act, definition <i>prescribed person</i> , paragraph (b)	38.35
8 Giving a copy of the by-laws under section 40(1)(d) of the Act, for each page supplied	0.65
9 Giving a body corporate certificate for a lot under section 40AA(3) of the Act (Act, s 40AA(2))—	
(a) if the person requesting the certificate for the lot has requested, and been given, a body corporate certificate for the same lot within the previous 3 months	65.24
(b) otherwise	76.75
10 Priority fee for a request under section 16A	27.35 (in addition to any other fee)