



## **New BCCM Regulations – Changes to the Standard Module and Accommodation Module**

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On 30 September 2020, the Queensland Government published the new body corporate and community management regulation modules which become law on 1 March 2021.

The changes legitimise many modern practices of bodies corporate. Although the existing regulation modules are largely preserved, the changes validate modern strata administration practices, address some previous deficiencies and provide lot owners with additional rights.

The changes to the regulation modules were developed after extensive stakeholder and community consultation which was conducted by the Commercial and Property Law Research Centre of the Queensland University of Technology for the Queensland Government.

Here is a snapshot of the changes to the [Standard Module \(SM\)](#) and [Accommodation Module \(AM\)](#). We will provide further updates relevant to the other modules over the next few weeks.



## Committee Membership

### 1. Voting member of committee

Sections 11 SM and 12 AM restrict co-owners from being part of the committee together. This means a person who owns a lot will not be able to be a voting member of the committee at the same time as:

- a. a member of their family;
- b. a person acting under authority of a power of attorney given by the owner of the lot; or
- c. a co-owner of the same lot,

unless:

- a. the minimum required number of committee members (3) has not been reached; or
- b. they own more than one lot.

### 2. Electing committee

Sections 13 SM and 14 AM allow members of the committee to be elected at any general meeting rather than only at the annual general meeting.

### 3. Conduct of elections via secret and open ballot

Sections 21 – 30 SM allow committee elections by secret and open ballot to be conducted via electronic voting. This is only permitted if the body corporate approves electronic voting and operates a voting system compliant with the legislation.

Sections 22 and 23 AM allow committee elections by open ballot to be conducted via electronic voting. This is only permitted if the body corporate approves electronic voting and operates a voting system compliant with the legislation. The AM does not allow electronic voting by secret ballot.

### 4. Conduct of ballots

Sections 31 – 34 SM and 24 – 26 AM are

amended to provide greater detail about how ballots for committee positions should be conducted.

### 5. Removing committee members

Sections 44 to 45 SM and 36 to 37 AM clarify how a voting committee member may be removed. A committee member may now be removed by passing an ordinary resolution or by following the removal procedures set out in the Code of Conduct of Voting Committee Members.

## Committee Meetings

### 6. Agenda

Sections 58 SM and 50 AM allow a lot owner to submit a motion for consideration at a committee meeting or be decided outside a committee meeting. The committee must make a decision as soon as reasonably practicable but within 6 weeks.

The committee is not required to decide on a motion if within the 12-month period before the lot owner submitted the motion, submitted a motion about the same issue or has submitted 6 or more motions.

The motion cannot conflict with the Act, the regulation module, by-laws or be about a restricted issue.

### 7. Attendance

Sections 61 – 63 SM and 53 – 55 AM allow electronic committee meetings to be held. Lot owner representatives are also now permitted to attend committee meetings.

### 8. Voting at committee meetings

Sections 64 – 67 SM and 56 – 59 AM state that if a voting committee member with a body corporate debt ("debtor member"), the debtor member cannot vote at committee meetings (or outside committee meetings) until the body corporate debt is extinguished. However, the debtor member may be counted towards a quorum.



## 9. Voting outside committee meetings

Sections 68 – 69 SM and 60 – 61 AM give committee members 21 days to vote on a motion outside of a committee meeting. If a decision is not made within time, the motion is deemed to not carry.

## Engagement of Body Corporate Manager

### 10. General

Sections 74 SM and 64 AM permit a body corporate to engage a body corporate manager by open ballot, but the open ballot procedure must have first been approved by ordinary resolution.

### 11. Receipt of benefits by committee

Sections 79 SM and 69 AM stop a committee member from receiving a benefit from a caretaking contractor or service contractor, other than a "permitted benefit", unless authorised by the body corporate.

## Body Corporate Meetings

### 12. Agenda motions

Sections 86 SM and 76 AM allow lot owners to submit a motion for the first annual general meeting.

### 13. Notice of general meetings

Sections 87 SM and 77 AM allow voting on secret ballots in hard copy and electronically.

### 14. Group of "same issue" motions

Sections 89 SM and 79 AM state if 2 or more motions proposing different ways to deal with the same issue are submitted for a general meeting, the committee must list the original motions together on the agenda as a 'group of same-issue motions'. A voter may vote on one or more of the grouped motions.

## 15. Materials at first annual general meeting

Sections 99 SM and 89 AM require a developer to provide additional documents, including development approvals, building warranties, documents relating to any claim made against a policy of insurance taken out by the original owner, contracts or agreements for the supply of utility services, fire and evacuation plans and any proxy forms that the original owner is the proxy for an owner of a lot.

## 16. Quorum for general meetings

Sections 99 SM and 89 AM allows bodies corporate to pass a motion by special resolution to change how a quorum is calculated for a general meeting. A body corporate will be able to decide a minimum percentage of voters for a quorum at a general meeting that is—

- a. not less than 10% of the number of voters; and
- b. not more than 25% of the number of voters.

Under the expiring modules, a quorum is present if 25% of voters cast a vote and (generally) two people are physically present at the meeting. Under the new modules, bodies corporate can decide a person is personally present if that person can cast a vote electronically at the meeting. This should significantly reduce the amount of adjourned meetings.

## 17. Meaning of voter for general meetings

Sections 101 SM and 90 AM state a representative or power of attorney may only represent one lot, unless:

- a. the owner of each lot is the same person;
- b. the representative or power of attorney is a family member of a lot owner; or
- c. the power of attorney is given by a buyer under sections 211 or 219 if the Act.



The objective of sections 101 SM and 90 AM is to prevent the activity of "power of attorney farming" which can result in the inappropriate use of powers of attorney. The provisions prevent the concentration of voting power which can impact a scheme's decision making.

### **18. Minutes of general meetings**

Sections 117 SM and 103 AM state that if a motion is ruled out of order, the reason for the ruling must be recorded in the minutes of meeting.

## **Financial Management**

### **19. Committee spending**

Sections 172 SM and 158 and 160 AM allow a committee to spend above the spending limit to obtain insurance, on the condition that it is not a restricted issue.

## **Property Management**

### **20. Defect assessment**

Sections 181 – 182 SM and 168 – 169 AM oblige a body corporate, at its second

annual general meeting, to consider a defect assessment motion proposing to engage an appropriately qualified person to prepare a defect assessment report for all property that the body corporate must insure for its full replacement value. The objective of these sections is to encourage the early discovery of building defects.

### **21. Recording information on the role**

Sections 225 SM and 214 AM oblige a body corporate to record information required to be contained on the roll within 14 of receiving the information.

## **The Outcome of these new Modules**

Time will tell whether these changes will help lot owners and bodies corporate and reduce administration and other costs.

This may have been a worthy and well-intended move but it has taken a long time to surface and experience may show otherwise. Little in the world of body corporate law is easy or cheap.

If you would like to discuss this article further please contact:

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