



New BCCM Regulations – Changes to the Small Schemes Module and Specified Two-lot Scheme Module

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On 1 March 2021 the Queensland Government's new body corporate and community management regulations modules became law. Following our first two e-alerts in this series, this third and final e-alert summarises the changes contained in the [*Body Corporate and Community Management \(Small Schemes Module\) Regulation*](#) (SS) and [*Body Corporate and Community Management \(Specified Two-lot Schemes Module\) Regulation*](#) (TL).

The SS and TL modules predominantly apply to residential community titles and are easier for lot owners to manage as these schemes generally require little regulation compared with other body corporate modules. The SS and TL regulations act as a guide or framework for community title schemes to follow when things do go wrong.

The SS applies to residential schemes of no more than six lots while the TL applies to schemes of two lots, as the name suggests.



Committee Meetings

1. Agenda

Section 19 SS allows 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, the lot owner previously submitted a motion about the same issue or has submitted 6 or more motions.

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

2. Voting at committee meetings

Section 20 SS states a voting committee member with a body corporate debt will not be able to vote at committee meetings or outside of a committee meeting, until the body corporate debt is paid.

Engagement of Body Corporate Manager

3. General

Section 24 SS allows a body corporate to engage a body corporate manager or amend the engagement by special resolution.

4. Receipt of benefits by committee

Sections 77 SS and 21 TL prevent a committee member from receiving a benefit from a caretaking contractor or service contract, other than a "permitted benefit", unless authorised by the body corporate.

Body Corporate Meetings

5. Agenda motions

Section 36 SS allows a lot owner or the

committee to submit a motion for the first annual general meeting.

6. Group of "same issue" motions

Section 38 SS states that 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.

7. Materials at first annual general meeting

Section 44 SS and 67 TL 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 where the original owner is the proxy for an owner of a lot.

8. Quorum for general meetings

Section 47 SS allow a body 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 old module, a quorum was present if 25% of voters cast a vote and (generally) two people are physically present at the meeting. Under the new module, bodies corporate can decide a person is personally present if that person casts a vote electronically. This should significantly reduce the number of adjourned meetings.



9. Meaning of voter for general meetings

Section 49 SS states 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 of the Act.

The objective here is to prevent the activity of "power of attorney farming" which may result in inappropriate use of powers of attorney. The provisions prevent the concentration of voting power which might impact a scheme's decision making.

10. Minutes of general meetings

Section 46 SS states if a motion is ruled out of order, the reason for the ruling must be recorded in the minutes of meeting by the chairperson.

Property Management

11. Defect assessment

Sections 119 to 128 SS oblige a body corporate to include a defect assessment motion at the annual general meeting following the first annual general meeting.

Sections 31A to 31B TL oblige a body corporate on or before the second anniversary of the scheme's establishment to consider engaging an appropriately qualified person to prepare a defect assessment report for all property that the body corporate must insure for its full replacement value, but not for a body corporate asset.

These sections are designed to identify building defects early.

Selecting a Regulation Module

The new body corporate and community management regulation modules are intended to validate modern practices, address previous deficiencies, provide further protection for lot owners and simplify administrative processes.

However, the benefits of these modules for smaller schemes will only be seen where original owners choose these modules as the applicable module to regulate the scheme, when the first community management statement is recorded.

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