

Owners Corporations Amendment Regulations 2021

S.R. No.

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STATUTORY RULES 2021

S.R. No.

Owners Corporations Act 2006

**Owners Corporations Amendment
Regulations 2021**

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

MELISSA HORNE

Minister for Consumer Affairs, Gaming and Liquor
Regulation

Clerk of the Executive Council

1 Objective

The objective of these Regulations is to amend the Owners Corporations Regulations 2018—

- (a) to prescribe circumstances in which section 89D(1) of the **Owners Corporations Act 2006** does not apply; and
- (b) to prescribe the manner a person may vote on a resolution of an owners corporation; and
- (c) to prescribe new model rules for owners corporations; and
- (d) to prescribe certain records to be kept by owners corporations; and
- (e) to make other consequential amendments.

2 Authorising provision

These Regulations are made under section 204 of the **Owners Corporations Act 2006**.

3 Commencement

These Regulations come into operation on 1 December 2021.

4 Principal Regulations

In these Regulations, the Owners Corporations Regulations 2018¹ are called the Principal Regulations.

5 Regulation 1(b) revoked

Regulation 1(b) of the Principal Regulations is **revoked**.

6 Regulation 6 revoked

Regulation 6 of the Principal Regulations is **revoked**.

7 New regulations 7A and 7B inserted

After regulation 7 of the Principal Regulations **insert—**

"7A Procedure at meeting

For the purposes of section 80(1) of the Act, a lot owner who participates in a general meeting by teleconferencing may do so by using videoconference facilities.

7B Voting on a resolution of the owners corporation at a meeting

For the purposes of section 89(1) of the Act, the prescribed manner is completing a form, whether hard copy or electronic, which includes the following—

- (a) the owners corporation plan number;

- (b) the lot owner's name and address;
- (c) the lot number;
- (d) if the vote is being cast by proxy, the name of the proxy;
- (e) the closing date for the vote;
- (f) whether the motion requires an ordinary resolution, a special resolution or a unanimous resolution;
- (g) the text of the motion;
- (h) any voting instructions;
- (i) a statement that explains the implications of abstaining from a motion;
- (j) a statement that the lot owner has the right to appoint a proxy;
- (k) the signature of the lot owner or the proxy and the date of the signature."

8 Proxy authorisation

In regulation 8 of the Principal Regulations, for "87(3)" **substitute** "89C(3)(a)".

9 New regulation 8A inserted

After regulation 8 of the Principal Regulations **insert—**

"8A Restriction on number of lot owners on behalf of whom a proxy may vote on a resolution

For the purposes of section 89D(2)(b) of the Act, the prescribed circumstances are—

- (a) if the lot owner for whom the person is authorised to vote—
 - (i) owns more than one lot; and

- (ii) has authorised that person to vote on the lot owner's behalf in relation to each lot; or
- (b) if the owners corporation manages the common property of a commercial, retail or industrial development."

10 New regulation 9A

After regulation 9 of the Principal Regulations
insert—

"9A Proceedings of committee

- (1) For the purposes of section 112(4) of the Act, a member who participates in a meeting by teleconferencing may do so by using videoconference facilities.
- (2) For the purposes of section 112(10) of the Act, the prescribed manner is participation in a meeting by using videoconference facilities."

11 New regulation 11A inserted

After regulation 11 of the Principal Regulations
insert—

"11A Additional records

In addition to the records in section 144 of the Act, an owners corporation must keep the following records in respect of the owners corporation—

- (a) the telephone number and email address (if any) of each lot owner;
- (b) records of any homicides (if known) which have occurred on the common property;

- (c) the dates of any gas safety check, electrical safety check and pool barrier compliance check conducted by the owners corporation;
- (d) details of any outstanding recommendations for work to be completed from a gas safety check and electrical safety check;
- (e) notices, orders, declarations, reports or recommendations issued by a building surveyor, municipal building surveyor, public authority or under an Act relating to any building defects or safety concerns associated with the common property."

12 New regulation 21A inserted

After regulation 21 of the Principal Regulations
insert—

"21A Prescribed information on register of managers

For the purposes of section 194(1) of the Act, the prescribed information is all permission determinations under section 182A or 186A of the Act."

13 Schedule 1—Proxy form

In Schedule 1 to the Principal Regulations—

- (a) **omit** "in person" (wherever occurring);
- (b) after "Print Name" **insert—**

"I confirm that I have the right to sign this proxy form on behalf of all owners of this lot.

Note

If you direct your proxy to abstain, they will not vote on your behalf on a show of hands or on a poll, and your vote will not be counted towards the required majority.

Note

You should check that your proxy is able to vote on your behalf. There are restrictions on the number of lot owners a proxy can vote on behalf of. Your proxy will not be able to vote on your behalf if they are acting as proxy for too many people."

14 New model rules inserted

- (1) After rule 1.3 in Schedule 2 to the Principal Regulations **insert**—

"1.4 Smoke penetration

A lot owner or occupier in a multi-level development must ensure that smoke caused by the smoking of tobacco or any other substance by the owner or occupier, or any invitee of the owner or occupier, on the lot does not penetrate to the common property or any other lot.

1.5 Fire safety information

A lot owner must ensure that any occupier of the lot owner's lot is provided with a copy of fire safety advice and any emergency preparedness plan that exists in relation to the lot prior to the occupier commencing occupation of the lot."

15 Schedule 2 amended

- (1) After rule 4.1(6) in Schedule 2 to the Principal Regulations **insert**—

"(7) The owners corporation may impose reasonable conditions on a lot owner's right or an occupier's right to access or use common property to protect the quiet

- enjoyment, safety and security of other lot owners, including but not limited to imposing operating hours on facilities such as gymnasiums and swimming pools."
- (2) After rule 5.2(2) in Schedule 2 to the Principal Regulations **insert**—
- "(3) The owners corporation cannot unreasonably prohibit the installation of sustainability items on the exterior of the lot, including by prohibiting the installation of a sustainability item only on aesthetic grounds.
- (4) The owners corporation may require that the location of a sustainability item, or the works involved in installing a sustainability item, must not unreasonably disrupt the quiet enjoyment of other lot owners or occupiers or impede reasonable access to, or the use of, any other lot or the common property.
- (5) The owners corporation may impose reasonable conditions on the installation of a sustainability item on the exterior of the lot related to the colour, mounting and location of the sustainability item provided that these conditions do not increase the cost of installing the sustainability item or reduce its impact as a sustainability item."
- (3) In rule 7(5) in Schedule 2 to the Principal Regulations, for "14 working days" **substitute** "28 calendar days".
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(4) After rule 7(5) in Schedule 2 to the Principal Regulations **insert**—

"(5A) A meeting under subrule (5) may be held in person or by teleconferencing, including by videoconference."

(5) After rule 7(6) in Schedule 2 to the Principal Regulations **insert**—

"(6A) Subject to subrule (6B), the grievance committee may elect to obtain expert evidence to assist with the resolution of the dispute.

(6B) The grievance committee may obtain expert evidence to assist with the resolution of a dispute if the owners corporation or the parties to the dispute agree in writing to pay for the cost of obtaining that expert evidence."

Endnotes