

1990 - No. 406

COMMUNITY LAND MANAGEMENT ACT 1989 - REGULATION
(Community Land Management Regulation 1990)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Community Land Management Act 1989, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY
Minister for Natural Resources.

PART 1 - PRELIMINARY

Citation

1. This Regulation may be cited as the Community Land Management Regulation 1990.

Commencement

2. This Regulation commences on 1 August 1990.

Definitions

3. In this Regulation:

“**Schedule**” means a Schedule to the Act;

“**section**” means a section of the Act;

“the Act” means the Community Land Management Act 1989.

PART 2 – ELECTION OF EXECUTIVE COMMITTEE

Election of executive committee

4. (1) At a meeting of an association at which its executive committee is to be elected, the chairperson is to:

- (a) announce the names of the candidates already nominated in writing for election to the executive committee; and
- (b) call for any oral nominations of candidates eligible for election to the executive committee.

(2) A written or oral nomination made for the purposes of such an election is ineffective unless it is supported by the consent of the nominee given:

- (a) in writing if the nominee is not present at the meeting; or
- (b) orally if the nominee is present at the meeting.

(3) After the chairperson declares that nominations have closed, the association is to decide, in accordance with section 28, the size of the executive committee.

(4) If the number of candidates:

- (a) is the same as, or fewer than, the number decided on under subclause (3) as the size of the executive committee - those candidates are to be declared by the chairperson to be, and are to be taken to have been, elected as the executive committee; or
- (b) is greater than the number so decided on - a ballot is to be held in accordance with clause 5.

Ballot for executive committee

5. (1) If a ballot for membership of the executive committee of an association is required, the chairperson is to:

- (a) announce to the meeting the name of each candidate and the nominator of the candidate; and
- (b) provide each person present and entitled to vote at the meeting with a blank ballot-paper for each vote the person is entitled to cast.

(2) For a vote to be valid, a ballot-paper must be completed by the voter writing on it:

- (a) the names of the candidates (without repeating a name) for whom the voter desires to vote, the number of names written being the same as the number determined by the association under clause 4 as the size of the executive committee; and
- (b) the capacity in which the voter is exercising a right to vote, whether:
 - (i) as proprietor, first mortgagee or covenant chargee of a lot (identifying the lot); or
 - (ii) as a company nominee; or
 - (iii) by proxy and
- (c) if the vote is being cast by proxy - the name, and the capacity referred to in paragraph (b) (i) or (ii), of the person who gave the proxy.

(3) Until all the places for membership of the executive committee have been filled, the chairperson is to successively declare elected each candidate who has a greater number of votes than another candidate who has not been elected.

(4) If a place remains to be filled but there are 2 or more eligible candidates with an equal number of votes, the candidate to fill the place is to be decided by a show of hands of those present and entitled to vote.

PART 3 - INSURANCE

Insurance

6. (1) For the purposes of section 40 (3) (b):

- (a) the prescribed amount of cover for insurance referred to in section 40 (2) (b) (other than insurance against damage to association property, a building on association property or personal property of an association) is \$5,000,000; and
- (b) the prescribed amount of cover for insurance referred to in section 40 (2) (b) that is insurance against damage to a building on association property is the amount calculated under subclause (2); and

- (c) the prescribed amount of cover for other insurance referred to in section 40 (2) is the amount determined by resolution of the association.
- (2) The amount of cover referred to in subclause (1) (b) is to be calculated by adding together:
 - (a) the estimated cost (as at the date of the contract of insurance) of rebuilding the building, or replacing it with a similar building, so that every part of the rebuilt building or replacement building is in a condition no worse than that in which it was when new; and
 - (b) the estimated cost (as at the date of the contract of insurance) of removing debris from the parcel in the event of the building being destroyed by an occurrence specified in the policy; and
 - (c) the estimated fee (as at the date of the contract of insurance) payable to architects and other professional persons employed in the course of the rebuilding or replacing referred to in paragraph (a); and
 - (d) the estimated amount by which expenditure referred to in paragraphs (a), (b) and (c) may increase during the period of 18 months following the date of the contract of insurance.

PART 4 - COMMUNITY SCHEMES BOARDS

Prescribed areas for Community Schemes Boards

7. For the purposes of section 63 (1) and (2), the prescribed areas are the following Local Court Districts:

Eastern Metropolitan
Liverpool
Manly-Warringah
Northern Metropolitan
Parramatta
Southern Metropolitan
Western Metropolitan

Board Clerks

8. (1) For the purposes of section 63 (3), the Officer in Charge, Adjudication Services, Department of Housing, is the Clerk to a Board within an area prescribed by clause 7.

(2) For the purposes of section 63 (3), the Clerk of the Local Court nearest the parcel for the scheme involved is the Clerk to a Board outside the areas prescribed by clause 7.

PART 5 - RETENTION OF DOCUMENTS

Periods for retention of documents

9. For the purposes of:

- (a) clause 9 (a) of Schedule 1 - the prescribed period is 7 years from the date of the meeting; and
- (b) clause 9 (b) of Schedule 1 - the prescribed period is 7 years from the date of the latest entry in the record; and
- (c) clause 9 (c) of Schedule 1 - the prescribed period is 7 years from the date of the notice or order; and
- (d) clause 9 (d) of Schedule 1 - the prescribed period is 7 years from the date up to which the financial statement is made; and
- (e) clause 9 (e) of Schedule 1 - the prescribed period is 6 years from the date of the correspondence; and
- (f) clause 9 (f) of Schedule 1 - the prescribed period is 6 years from the date of the meeting to which the notice relates; and
- (g) clause 9 (9) of Schedule 1 - the prescribed period is 1 year from the expiration of the proxy, and
- (h) clause 9 (h) of Schedule 1 - the prescribed period is 6 years from the date of the meeting at which the voting took place; and
clause 9 (i) of Schedule 1 - the prescribed period is 6 years from the date of the meeting at which the voting took place; and
- (i) clause 9 (j) of Schedule 1 - the prescribed period is 6 years from the date of the record; and
- (j) clause 9 (k) of Schedule 1 - the prescribed period is 6 years from the date of the notice.

PART 6 - ACCOUNTING RECORDS AND FINANCIAL STATEMENTS

Accounting records

10. For the purposes of clause 10 of Schedule 1 the prescribed accounting records to be kept by an association are:

- (a) a receipt book containing forms of receipt that are machine-numbered consecutively in duplicate; and
- (b) a passbook, a bank deposit book or bank statements of deposits and withdrawals that are in chronological order and are either bound or kept in a loose-leaf folder; and
- (c) a cash book; and,
- (d) a levy register,

kept separately for each of the administrative fund, the sinking fund and any other fund in which money is held by the association.

Receipt book

11. (1) The treasurer of an association must issue from the receipt book kept under clause 10 for a fund a receipt for each amount of money received by the treasurer for credit of the fund.

(2) The treasurer must cause a simultaneous carbon impression to be taken on the duplicate form of each receipt made out in the receipt book.

(3) The treasurer must enter on each receipt:

- (a) the date of its issue; and
- (b) the name of the person on whose behalf the payment is received; and
- (c) the amount of the payment received; and
- (d) unless the payment is a contribution levied under clause 13 of Schedule 1 - particulars of the transaction in respect of which the payment is received; and
- (e) if the payment is a contribution so levied - the additional particulars required by subclause (4).

(4) The additional particulars required by this subclause in relation to a contribution levied under clause 13 of Schedule 1 are:

- (a) a statement that the payment is made in respect of the contribution; and
- (b) a statement identifying the land or premises in respect of which the liability to make the contribution is imposed; and
- (c) if the contribution is a regular periodic contribution details of the period in respect of which it is made.

(5) If a payment is received in respect of more than one transaction, the treasurer must enter on the receipt the manner in which the payment is apportioned between the transactions.

Maximum penalty 5 penalty units.

Bank deposit book

12. (1) If a bank account of an association is kept with a trading bank, the treasurer must, when making each deposit:

- (a) enter in the bank deposit book the particulars required by subclause (2); and
- (b) cause a simultaneous carbon impression of the entry to be taken on a duplicate sheet in the bank deposit book; and
- (c) when the deposit is accepted at the bank, cause the officer accepting the deposit to authenticate the duplicate sheet.

(2) The particulars required by this subclause to be entered in the bank deposit book are:

- (a) the date of the deposit; and
- (b) the amount of the deposit; and
- (c) the separate amount in notes, coin and cheques that comprise the deposit; and
- (d) for each cheque included in the deposit, the name of the drawer, the bank on which it is drawn and the branch at which the deposit is made, together with the amount of the cheque.

Maximum penalty. 5 penalty units.

Cash book

13. (1) In this clause:

“balancing period” means 6 months or, if an annual general meeting of the association determines a shorter period, that shorter period;

“banking record” means bank passbook, bank deposit book or bank statement of deposits and withdrawals.

(2) As soon as is reasonably practicable, the treasurer must record in the cash book kept under clause 10 for a fund the amount and particulars of:

- (a) all payments to the fund in respect of which the treasurer is required by clause 11 to issue a receipt; and

(b) each expenditure of money from the fund.

(3) At the end of each balancing period, the treasurer must balance the cash book and reconcile with the banking record for the fund the amount not disbursed as appearing from the cash book.

(4) A reconciliation for the purposes of subclause (3) is effected by:

- (a) ascertaining from the banking record the amount of the balance in the bank account for the fund; and
- (b) adding to that amount any money received but not deposited with the bank for credit of the fund; and
- (c) deducting from the result of that addition the amount of any cheques drawn against the bank account for the fund but not presented for payment.

(5) If, at the end of a balancing period, it appears from the cash book that there is an unexpended surplus of receipts over expenditure, the treasurer must commence entries in the cash book for the next succeeding balancing period by carrying forward as a receipt an amount equal to the unexpended amount.

Maximum penalty: 5 penalty units.

Levy register

14. (1) The treasurer must ensure that the levy register required to be kept under clause 10 for a fund includes a separate page or card:

- (a) for each development lot and former development lot (if any) in the community scheme, if the register is kept by a community association; or
- (b) for each development lot and former development lot (if any) in the precinct scheme, if the register is kept by a precinct association; or
- (c) for each neighbourhood lot in the neighbourhood scheme, if the register is kept by a neighbourhood association.

(2) The treasurer must ensure that each page or card in the levy register includes separate columns for debits, credits and balances and specifies, in relation to each contribution levied by the association:

- (a) the date on which the contribution is due and payable; and
- (b) the type of contribution and the period in respect of which it is to be made; and

- (d) in the debit column - the amount of the contribution levied; and
 - (e) the date on which each payment is made; and
 - (f) whether a payment made was made in cash or by cheque or in some other specified manner; and
 - (g) whether an amount paid comprised full payment or part payment; and
 - (h) the number of the page in the cash book in which the amount of each payment is entered; and
 - (i) in the credit column - the amount of each payment; and
 - (j) in the balances column - the balance of the account.
- Maximum penalty 5 penalty units.

Financial statements

15. (1) For the purposes of clause 11 of Schedule 1, the prescribed financial statements are:

- (a) a statement of income and expenditure for the administrative fund; and
- (b) a statement of income and expenditure for the sinking fund; and
- (c) a statement of the income and expenditure for any other fund that is the property of the association.

(2) Each financial statement must specify the fund, and the period, for which it is prepared, that period being referred to in this clause as **“the current period”**.

(3) If the current period for which a financial statement is prepared is a period referred to in clause 11 (3) of Schedule 1, the financial statement must specify

- (a) the balance carried forward in the fund from the period in respect of which the last preceding financial statement for the fund was prepared; and
- (b) the particulars and amount of each item of income of the fund received during the current period; and
- (c) the particulars and amount of each item of expenditure from the fund during the current period; and

- (d) the cash in the fund at the end of the current period; and
- (e) the balance of the fund; and
- (f) in respect of each liability to contribute to the fund - any unpaid arrears and any balance outstanding; and
- (g) the extent to which, at the end of the current period, the fund is in debit or credit.

(4) In relation to a current period referred to in subclause (3), the financial statement for a fund must also specify

- (a) the amount of the contribution to the fund determined for each association or person liable to make such a contribution; and
- (b) the balance outstanding for each such contribution; and
- (c) the debit or credit balance in the fund.

PART 7 - GENERAL

Inspection of records of managing agent

16. The records required to be kept by Regulations 54 and 54A of the Auctioneers and Agents Regulations are prescribed for the purposes of clause (1) (j) of Schedule 4.

Investment of funds of association

17. For the purposes of clause 14 of Schedule 1, money is invested in accordance with this Regulation if it is invested by way of a subscription of share capital in, a deposit with, or a loan to:

- (a) a permanent building society registered under the Permanent Building Societies Act 1967; or
- (b) a credit union registered under the Credit Union Act 1969.

PART 8 - FEES

Fee payable to Registrar-General

18. A fee of \$47 is payable to the Registrar-General on lodgment under section 21 of a notice of change of address for service of notices on an association.

Fees payable to association

19. The fees set out in the Table to this clause are payable to an association.

TABLE	\$
1. For making records available for inspection as required by section 26:	
(a) for up to 1 hour	10
(b) for each additional half-hour or part of a half-hour	5
2. For issuing a certificate under section 26.....	35

Fees payable to Commissioner

20. (1) The fees set out in the Table to this subclause are payable to the Commissioner.

TABLE	\$
1. On lodgment of an application under section 65 for an order by the Commissioner or by a Board, unless the application includes a request for an interim order under section 72	20
2. On lodgment of an application under section 65 for an order by the Commissioner or a Board, if the application includes a request for an interim order under section 72.....	40
3. On lodgment of a notice of appeal under section 88.....	20
4. On lodgment of an application for a copy of an order made by the Commissioner or a Board.....	2

(2) The Commissioner may waive payment of a fee under section 65 or 88 if satisfied that the applicant or appellant lacks the means to pay the fee.

Fee for issue of summons

21. For the purposes of section 94, the prescribed fee is \$14.

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EXPLANATORY NOTE

The object of this Regulation is to provide administrative details necessary for the commencement of the Community Land Management Act 1989.

The Regulation makes provision with respect to:

- (a) the election of members of executive committees of community associations, precinct associations and neighbourhood associations; and
 - (b) the minimum amount of insurance cover required to be obtained by associations; and
 - (c) the constitution of Community Schemes Boards; and
 - (d) the keeping of records (including accounting records) by associations; and
 - (e) the investment of association funds; and
 - (f) the fees payable for the purposes of that Act.
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