

1995—No. 341

**COMMUNITY LAND MANAGEMENT ACT 1989—
REGULATION**

Community Land Management Regulation 1995)
NEW SOUTH WALES



[Published in Gazette No. 97 of 11 August 1995]

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.

FAYE LO PO', M.P.,
Minister for Consumer Affairs.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Community Land Management Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definition

3. In this Regulation:

“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 of the Act, the size of the executive committee.

(4) If the number of candidates:

- (a) is the same as, or fewer than, the number decided on 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.

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 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 capacity 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—RECORDS OF AN ASSOCIATION

Periods for retention of documents: Sch. 1, cl. 9

6. For the purposes of clause 9 of Schedule 1 to the Act, the prescribed period for each of the following records that must be retained by the association is as set out in the Table to this clause.

TABLE

Class of record	Prescribed period
Record of the proceedings of a meeting (clause 9 (a))	7 years from the date of the meeting
Accounting record (clause 9 (b))	7 years from the date of the latest entry in the record
Summary and other particulars required to be recorded in relation to a notice or order served on it (clause 9 (c))	7 years from the date of the notice or order
Financial statement (clause 9 (d))	7 years from the date up to which the relevant financial statement is made
Correspondence received or sent (clause 9 (e)).	6 years from the date of the correspondence
Copy of notice of meeting (clause 9 (f))	6 years from the date of the meeting to which the notice relates
Proxy (clause 9 (g))	1 year from the expiration of the proxy
Voting paper for resolutions (clause 9 (h))	6 years from the date of the meeting at which the voting took place

Class of record	Prescribed period
Voting paper for election of executive committee and officers (clause 9 (i))	6 years from the date of the meeting at which the voting took place
Record served on it by its managing agent (clause 9 (j))	6 years from the date of the record
Notice specifying an address for service (clause 9 (k))	6 years from the date of the notice

Accounting records: Sch. 1, cl. 10

7. (1) For the purposes of clause 10 of Schedule 1 to the Act the prescribed accounting records to be kept by an association are as follows:

- (a) a receipt book;
- (b) a bank deposit book;
- (c) a cash book (which may comprise a separate receipts cash book and separate payments cash book);
- (d) a levy register.

(2) Separate accounting records must be kept for the administrative fund, the sinking fund and any other fund in which money is held by the association.

(3) Those records must be kept in accordance with the requirements of this Part.

Maximum penalty: 5 penalty units.

Maintenance of records

8. The accounting records must be kept:

- (a) in book or loose-leaf form; or
- (b) in a system of cards; or
- (c) in an electronic data storage system approved by the Minister.

Receipt book

9. (1) A receipt must be issued for each amount of money received by the treasurer for the credit of a fund.

(2) A receipt book must contain forms of receipt in duplicate, the forms in which are consecutively numbered.

(3) The following particulars must be included on each receipt:

- (a) the date of the receipt;
- (b) the amount of money received;

- (c) the form (cash, cheque or postal order) in which the money was received;
- (d) the name and address of the person on whose behalf the amount was received;
- (e) particulars of the transaction or transactions in respect of which the payment was received.

(4) If the payment is a contribution levied under clause 13 of Schedule 1 to the Act, the following additional particulars must be entered:

- (a) a statement that the payment was made in respect of the contribution;
- (b) a statement identifying the land or premises in respect of which the liability to make the contribution was imposed;
- (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 manner in which the payment is apportioned between the transactions must be entered on the receipt.

(6) The particulars must be entered on each receipt in ink or indelible pencil and the receipt must be signed by a person authorised by the association.

(7) A carbon impression of the receipt must be made on the duplicate form, which must be retained by the association.

(8) The manner in which a receipt is to be cancelled is by writing the word “CANCELLED” across the face of the original and copy of the form, which must both be retained by the association.

(9) The association must retain in the receipt book the original form of a cancelled receipt and the copy.

Bank deposit book

10. (1) A bank deposit book must contain bank deposit forms in duplicate.

(2) The following particulars must be included on each bank deposit form:

- (a) the date of the deposit;
- (b) the amount of the deposit;
- (c) the form (cash, cheque or postal order) of the deposit;
- (d) in the case of a deposit by cheque, the name of the drawer of the cheque.

(3) A carbon impression of the bank deposit must be made on the duplicate form which must be retained by the association.

(4) The carbon impression of each complete deposit entry must be initialled by an officer of the bank at which the deposit is being made and stamped with that bank's stamp.

Cash book

11. (1) A cash book must contain sheets which are consecutively numbered.

(2) The numbers of receipts issued or cheques drawn must be shown on the respective sheets.

(3) If the loose-leaf principle is used, separate sheets may be kept for receipts and payments, in which case it is not necessary to number the sheets consecutively.

(4) As soon as practicable after a transaction is effected, the following must be entered:

- (a) in the receipts section of the cash book—particulars of all money received;
- (b) in the payments section of the cash book—particulars of all money disbursed.

(5) At the end of each month, the cash book must be balanced and the balance carried forward to the commencement of the next month and to a ledger account provided for that purpose.

(6) At the end of each month:

- (a) the entries in the cash book must be compared with the bank pass book; and
- (b) amounts credited to the bank account and appearing in the bank pass book for which no receipt had been written and amounts debited to the bank account and appearing in the bank pass book for which no cheque had been drawn must be entered in the cash book.

(7) Any necessary reconciliation (showing the balance in the bank account as indicated in the bank pass book, and adding any money received but not banked and deducting any cheques drawn but not presented for payment) must be entered in the cash book at the end of the entries for the month.

Levy register

12. (1) The levy register for a fund must include a separate page or card:

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

(2) Each page or card in the levy register must include separate columns for debits, credits and balances and must specify the following matters for each contribution levied by the association:

- (a) the date on which the contribution is due and payable;
- (b) the type of contribution and the period in respect of which it is to be made;
- (c) in the debit column—the amount of the contribution levied;
- (d) the date on which each payment is made;
- (e) whether a payment made was made in cash or by cheque or in some other specified manner;
- (f) whether an amount paid comprised full payment or part payment;
- (g) if the pages in the cash book are numbered, the number of the page in which the amount of each payment is entered;
- (h) in the credit column—the amount of each payment;
- (i) in the balances column—the balance of the account.

Financial statements: Sch. 1, cl. 11

13. (1) For the purposes of clause 11 of Schedule 1 to the Act, the prescribed financial statements are as follows:

- (a) a statement of income and expenditure for the administrative fund;
- (b) a statement of income and expenditure for the sinking fund;
- (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.

(3) If the period is a period referred to in clause 11 (3) of Schedule 1 to the Act, the financial statement for a fund must also specify the following:

- (a) the balance carried forward in the fund from the previous period;
- (b) the particulars and amount of each item of income of the fund received during the current period;
- (c) the particulars and amount of each item of expenditure from the fund during the current period;
- (d) the amount of the contribution to the fund determined for each association or person liable to make such a contribution;
- (e) the balance outstanding for each such contribution;
- (f) the cash in the fund at the end of the current period;
- (g) the balance of the fund;
- (h) in respect of each liability to contribute to the fund—any unpaid arrears and any balance outstanding;
- (i) the extent to which, at the end of the current period, the fund is in debit or credit.

PART 4—GENERAL

Property insurance: sec. 39

14. For the purposes of section 39 of the Act, the amount for which insurance is to be effected against damage to association property or a building on association property of an association is the sum of the following amounts:

- (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;
- (b) the estimated cost (as at the date of the contract of insurance) of removing debris in the event of the building being destroyed by an occurrence specified in the policy;
- (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);
- (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.

Other insurance: sec. 40

- 15.** For the purposes of section 40 (3) (b) of the Act:
- (a) the prescribed amount of cover for insurance referred to in section 40 (2) (b) of the Act is \$10,000,000; and
 - (b) the prescribed amount of cover for other insurance referred to in, or prescribed under, section 40 (2) of the Act is the amount determined by resolution of the association.

Community Schemes Boards: sec. 63

16. (1) For the purposes of section 63 of the Act, the prescribed areas are the following Local Court Districts:

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

(2) For the purposes of section 63 (3) of the Act, the following persons are Clerks to Community Schemes Boards:

- (a) for a Board within a prescribed area, the Officer in Charge, Adjudication Services, Office of Real Estate Services;
- (b) for a Board outside a prescribed area, the Clerk of the Local Court nearest the parcel for the scheme to which the relevant dispute relates.

Investment of funds of association: Sch. 1, cl. 14

17. For the purposes of clause 14 of Schedule 1 to the Act, money held by an association in its fund may be invested by way of a subscription of share capital in, a deposit with, or a loan to a building society or a credit union within the meaning of the Financial Institutions (NSW) Code.

Inspection of records of managing agent: Sch. 4, cl. 1

18. For the purposes of clause 1 (1) (j) of Schedule 4 to the Act, the prescribed records to be kept in relation to a scheme in respect of which the association's duties have been delegated is the trust account ledger for the association referred to in clause 27 (3) of the Property, Stock and Business Agents (General) Regulation 1993.

Fees

19. The fees specified in the Table to this clause are the fees payable in respect of the matters so Specified.

TABLE

Matters arising under the Act	Fee
Inspection of association records under section 26:	
(a) for up to 1 hour	\$10
(b) for each additional half-hour or part of a half-hour	\$5
Issue by an association of a certificate under section 26	\$35
Lodging an application for an order for settlement of a dispute or complaint by the Commissioner or by a Board under section 65:	
(a) if the application includes an application for an interim order under section 72 of the Act	\$40
(b) if it does not	\$20
Lodging a notice of appeal against an order by the Commissioner under section 88	\$20
Lodging an application for a copy of an order made by the Commissioner or a Board	\$2
Issuing a summons to appear before a Board under section 94	\$14

Repeal

20. (1) The Community Land Management Regulation 1990 is repealed.

(2) Any act, matter or thing which, immediately before the repeal of the Community Land Management Regulation 1990, had effect under that Regulation continues to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with minor modifications, the provisions of the Community Land Management Regulation 1990. The Regulation makes provision in respect of the following matters:

- (a) the election of the executive committees of an association, that is, of a community association, a precinct association or a neighbourhood association (clauses 4 and 5);
- (b) the retention by an association of certain documents (clause 6);
- (c) the preparation of accounting records and of financial statements of an association (clauses 7–13);
- (d) the insurance that an association must take out (clauses 14 and 15);
- (e) the area and operation of Community Schemes Boards (clause 16);
- (f) the investment of funds of an association (clause 17);
- (g) the keeping of records where the duties of an association have been delegated to a managing agent (clause 18);
- (h) fees (clause 19);
- (i) formal matters (clauses 1, 2 and 20).

The Regulation is made under the provisions of the Community Land Management Act 1989, including section 122 (the general regulation making power).

This Regulation comprises matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.