



New South Wales

## Community Land Management Amendment Regulation 1997

under the

Community Land Management Act 1989

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Community Land Management Act 1989*.

Faye Lo Po'

Minister for Fair Trading

### Explanatory note

The object of this Regulation is to amend the *Community Land Management Regulation 1995* as a consequence of amendments made to the *Community Land Management Act 1989* by the *Strata Schemes Management (Miscellaneous Amendments) Act 1996* relating to:

- (a) the abolition of regional community schemes boards and their replacement with one Community Schemes Board, and
- (b) the change in the role of the Community Schemes Commissioner from an adjudicative role to a mediation role, and
- (c) the appointment of Community Schemes Adjudicators to carry out the previous adjudicative role of the Commissioner, and
- (d) the inclusion of additional information in the rolls required to be kept by community associations, precinct associations and neighbourhood associations.

The amendments also bring that Regulation into line with the *Strata Schemes Management Regulation 1997* in the following areas:

- (a) the keeping of accounts and other records by an association,

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- (b) the procedure for mediation of disputes,
- (c) the election of executive committees,
- (d) the obtaining of valuations for insurance purposes,
- (e) the procedure of the Community Schemes Board,
- (f) the level of fees.

This Regulation is made under the *Community Land Management Act 1989*, including section 122 (the general regulation-making power), sections 63 and 66, clauses 10 and 11 of Schedule 1 and clause 1 of Schedule 7.

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## **Community Land Management Amendment Regulation 1997**

### **1 Name of Regulation**

This Regulation is the *Community Land Management Amendment Regulation 1997*.

### **2 Commencement**

This Regulation commences on 1 July 1997.

### **3 Amendment of Community Land Management Regulation 1995**

The *Community Land Management Regulation 1995* is amended as set out in Schedule 1.

### **4 Notes**

The explanatory note does not form part of this Regulation.

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Schedule 1 Amendments

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### Schedule 1 Amendments

(Clause 3)

**[1] Clause 4 Election of executive committee**

Insert “if it is made by a person other than the nominee” after “ineffective” in clause 4 (2).

**[2] Clause 5 Ballot for executive committee**

Omit “the same as” from clause 5 (2) (a).  
Insert instead “no more than”.

**[3] Clause 9 Receipt book**

Omit clause 9 (2) and (7)–(9).

**[4] Clause 9 (6)**

Omit “particulars must be entered on each receipt in ink or indelible pencil and the”.

**[5] Clause 11 Cash record**

Omit clause 11 (1)–(3).

**[6] Clause 11 (4)–(7)**

Omit “cash book” wherever occurring.  
Insert instead “cash record”.

**[7] Clause 12 Levy register**

Omit “page or card” from clause 12 (1).  
Insert instead “section”.

**[8] Clause 12 (2)**

Omit the subclause. Insert instead:

(2) Each of the sections referred to in subclause (1) must specify, by appropriate entries, the following matters in relation to each contribution levied by the association and must indicate whether those entries are debits or credits and the balances for those entries:

- (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) the amount of the contribution levied shown as a debit,
- (d) the amount of each payment shown as a credit,
- (e) the date on which each payment is made,
- (f) whether a payment was made in cash or by cheque or in some other specified manner,
- (g) whether an amount paid comprised full payment or part payment,
- (h) the balance of the account.

**[9] Clause 13**

Omit the clause.

**[10] Part 3A**

Insert after Part 3:

**Part 3A Mediation**

**13A Directions of Commissioner**

The Commissioner may give directions for regulating and prescribing the practice and procedure to be followed in connection with a mediation session, including the preparation and service of documents.

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### 13B Attendance and representation

- (1) A mediation session must be attended by each party or by a legal representative, or other representative, having authority to settle the matter.
- (2) Other persons may attend a mediation session with the leave of the mediator.

### 13C Termination

- (1) A mediator may terminate a mediation.
- (2) A party may terminate a mediation at any time by giving notice of the termination to the Commissioner, the mediator and each other party.

### [11] Clauses 16 and 17

Omit clause 16. Insert instead:

### 16 Valuations to be obtained for insurance purposes

A person is qualified to carry out a valuation for the purposes of section 39A of the Act if the person:

- (a) is registered as a practising real estate valuer under the *Valuers Registration Act 1975*, or
- (b) has successfully completed a course conducted by a tertiary institution that qualifies the person to be a quantity surveyor.

### 17 Conduct of proceedings before Board

- (1) An application to the Board may be heard in the following manner if all of the parties indicate that they do not intend to call witnesses and the Board and all of the parties agree that the application should be heard in that manner:
  - (a) each party may, in turn, present its case orally and unsworn and may be questioned by any other party,

- (b) each party may produce and tender evidence in support of its case, unless the Board directs that any such evidence may not be tendered,
- (c) each party may comment on any other party's case after all of the parties have presented their cases,
- (d) each party may make a final submission.

(2) The order in which each party presents its case is to be as determined by the Board.

**[12] Clause 19 Fees**

Omit the Table to clause 19. Insert instead:

**Table**

Matter arising under Act	Fee
Inspection of association records under section 26:	
(a) for up to 1 hour .....	\$20
(b) for each additional half hour or part of a half hour .....	\$10
Issue by an association of a certificate under section 26 .....	\$70 and \$35 for a further certificate for a lot comprising a garage that services the lot the subject of the first certificate
Lodging an application for an order for settlement of a dispute or complaint by an Adjudicator or the Board under Part 4:	
(a) if the application includes an application for an interim order under section 72 of the Act .....	\$100
(b) if it does not .....	\$50
Lodging a notice of appeal against an order made by an Adjudicator under section 88 .....	\$50

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#### Schedule 1 Amendments

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#### **Table—continued**

Matter arising under Act	Fee
Lodging an application for a copy of an order made by an Adjudicator or the Board .....	\$2 (minimum fee \$10)
Issuing a summons to appear before the Board under section 94 .....	\$28

#### [13] Clause 21

Insert after clause 20:

#### **21 Transitional provisions**

- (1) This clause applies to a community association, precinct association or neighbourhood association in existence at 1 July 1997.
- (2) An amendment made to Schedule 3 (Association rolls) of the Act by the *Strata Schemes Management (Miscellaneous Amendments) Act 1996* does not affect a community association, precinct association or neighbourhood association until 1 January 1998.