

Version  
as at 9 May 2023



## Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022

Public Act      2022 No 19  
Date of assent      9 May 2022  
Commencement      see section 2

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022.

**2 Commencement**

- (1) This Act comes into force—
  - (a) on 1 or more dates set by Order in Council; or
  - (b) to the extent not brought into force earlier, on the second anniversary of the date of Royal assent.
- (2) One or more Orders in Council may set different dates for different provisions (and, for that purpose, may commence a provision only for the purpose of giving effect to some, but not other, parts of this Act).

- (3) Orders made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 2(1)(a): sections 12, 16, and 54(2) brought into force, on 9 December 2022, by clause 2(1) of the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 Commencement Order 2022 (SL 2022/281).

Section 2(1)(a): the rest of this Act, except for sections 10(2), 17, 23, 24, 26, 29, 34 (in respect of new section 157C), 35(4) and (5), 37 to 41, 42(1), 57 (in respect of new regulation 28C), 58 and 59, brought into force, on 9 May 2023, by clause 2(2) of the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 Commencement Order 2022 (SL 2022/281).

## Part 1 Amendments to Unit Titles Act 2010

### 3 Principal Act

This Part amends the Unit Titles Act 2010.

### 4 Section 5 amended (Interpretation)

In section 5(1), insert in their appropriate alphabetical order:

**body corporate manager** has the meaning given by section 114G

**large unit title development** means a unit title development that includes 10 or more principal units

**remediation report** means a report prepared by a suitably qualified building professional that reviews and reports on investigations of any defects within the unit title development

**signage agreement** means a contract or an agreement (including a licence) between a body corporate and another person that permits that person to display a sign of any kind on the unit title development

### 5 Section 39 amended (Utility interest (other than for future development units))

After section 39(2A), insert:

- (2B) A utility interest assignment for the purposes of subsection (2A) may be—
- (a) a single uniform interest; or
  - (b) a multiple set of interests,—
    - (i) each targeted at a particular service or amenity; and

- (ii) which may be, for a specific interest targeted at a particular service or amenity, assigned to some units only.

**6 Section 40 amended (Utility interest for future development unit)**

After section 40(2A), insert:

- (2B) A deemed utility interest assignment for the purposes of subsection (2A) may be—
  - (a) a single uniform interest; or
  - (b) a multiple set of interests,—
    - (i) each targeted at a particular service or amenity; and
    - (ii) which may be, for a specific interest targeted at a particular service or amenity, assigned to some units only.

**7 Section 41 amended (Reassessment of ownership interest and utility interest)**

- (1) In section 41(5A), replace “interest” with “interests”.
- (2) After section 41(5A), insert:
  - (5B) A reassessment of the utility interests made by a body corporate created before the commencement of the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 may be of—
    - (a) a single uniform interest; or
    - (b) a multiple set of interests,—
      - (i) each targeted at a particular service or amenity; and
      - (ii) which may be, for a specific interest targeted at a particular service or amenity, assigned to some units only.
- (3) In section 41(6),—
  - (a) replace “a utility interest is” with “utility interests are”; and
  - (b) replace “of the utility interest” with “of the utility interests”.

**8 Section 79 amended (Rights of owners of principal units)**

In section 79(e), after “do not materially affect”, insert “the use, enjoyment, or ownership interest of”.

**9 Section 80 amended (Responsibilities of owners of principal units)**

In section 80(1)(i), after “materially affect”, insert “the use, enjoyment, or ownership interest of”.

**10 Section 84 amended (Powers and duties of bodies corporate)**

- (1) After section 84(1)(b), insert:

- (ba) section 84A (which requires the body corporate to keep records to enable information disclosure obligations to be met):
- (2) After section 84(1)(p), insert:
  - (pa) section 202A (which requires the body corporate to retain prescribed documents and produce them to the chief executive on request):

## 11 New section 84A inserted (Records to be kept)

After section 84, insert:

### 84A Records to be kept

A body corporate must keep the records necessary to enable unit owners to comply with their obligations under sections 146 and 147 to provide disclosure statements containing the prescribed information.

## 12 Section 88 amended (Meetings)

Replace section 88(3) to (5) with:

- (3) Members of a body corporate may attend and vote at a general meeting (and members of a body corporate committee may attend and vote at a committee meeting) in person or by audio link, audiovisual link, or other remote access facility despite any limitation or condition on the use of an audio link, audiovisual link, or remote access facility that is contained in the body corporate operational rules.
- (4) A meeting conducted under this section must comply with any procedures or other matters prescribed in the regulations, including those relating to electronic voting.

## 13 Section 95 amended (Quorum)

- (1) Replace section 95(1) with:
  - (1) A quorum for a general meeting of a body corporate is the number of persons attending in accordance with section 88(3) (including proxies)—
    - (a) who are entitled to exercise the voting power in respect of not less than 25% of the total number of principal units; and
    - (b) who also satisfy the eligibility requirements to exercise that voting power (for example, have no outstanding levy amounts owing to the body corporate).
  - (1A) However, if a body corporate comprises 2 or more members, a quorum must be at least 2 persons who satisfy the requirements of subsection (1).
- (2) After section 95(2), insert:
- (3) To avoid doubt, nothing in this section prevents those who are entitled but not eligible to vote from attending meetings and taking part in any discussions.



- (4) For entitlement to vote, *see* section 79(c). For eligibility to vote, *see* section 79(c), section 96, and the regulations.

**14 Section 99 amended (Request for poll)**

- (1) In section 99(1), replace “eligible voter voting” with “eligible voter or their proxy who votes”.
- (2) Replace section 99(2) with:
- (2) The eligible voter or their proxy must request the poll in person at the meeting or by audio link, audiovisual link, or other remote access facility.

**15 Section 101 amended (How matters at general meeting of body corporate decided)**

Replace section 101(1) and (2) with:

- (1) A matter to be decided by a body corporate must be decided by ordinary resolution at a general meeting.
- (2) Subsection (1) applies unless—
- (a) the Act provides for the matter to be decided by the body corporate by special resolution; or
  - (b) the body corporate committee exercises a delegated authority to decide the matter.
- (2A) A body corporate may decide matters within its functions and powers regardless of whether they have been delegated to the body corporate committee (*see also* section 110 concerning the effect of delegation on the body corporate).

**16 Section 102 amended (Voting: proxies)**

Replace section 102(1) with:

- (1) An eligible voter may exercise the right to vote—
- (a) by being present in person or by audio link, audiovisual link, or other remote access facility; or
  - (b) by proxy.

**17 New section 103A inserted (Voting: electronic)**

After section 103, insert:

**103A Voting: electronic**

- (1) An eligible voter may exercise the right to vote at a body corporate meeting by casting a vote electronically before or during a meeting.
- (2) An electronic vote must be cast in accordance with the regulations.

**18 Section 108 amended (Delegation of duties and powers)**

Replace section 108(2) with:

- (2) The body corporate must not delegate—
- (a) any of the powers or duties set out in—
    - (i) subsection (1) (which is the general power of delegation):
    - (ii) section 41 (which provides for the reassessment of ownership interests and utility interests):
    - (iii) section 105(4) (which requires the body corporate to comply with the body corporate operational rules):
    - (iv) section 136(4) (which relates to the application of insurance moneys in or towards reinstatement of the development); and
  - (b) a matter if the Act provides for the matter to be decided by the body corporate by special resolution.

**19 Section 112 amended (Establishment of body corporate committee)**

- (1) In section 112(2), replace “a unit title development of 10 or more principal units” with “a large unit title development”.
- (2) After section 112(2), insert:
- (3) A body corporate committee (if the body corporate decides to form one) must be formed and conduct its business in accordance with this Act and the regulations.

**20 New section 112A inserted (Chairperson of body corporate committee)**

After section 112, insert:

**112A Chairperson of body corporate committee**

- (1) The chairperson of a body corporate is—
- (a) a member of its body corporate committee; and
  - (b) the chairperson of the body corporate committee.
- (2) Subsection (1)(b) applies unless, at its annual general meeting, the body corporate decides by ordinary resolution that the chairperson of the committee should instead be a person that is elected to the committee (by the process prescribed in the regulations).

**21 Section 113 replaced (Decision-making of body corporate committee)**

Replace section 113 with:

**113 Decision-making of body corporate committee**

- (1) A body corporate committee must produce an agenda for each body corporate committee meeting.
- (2) A body corporate committee must keep written records of its meetings.
- (3) Matters must be decided by a simple majority of votes and each resolution must be recorded and included in the written records for the meeting.

- (4) The committee must promptly report to the body corporate on the meetings it holds in the manner prescribed in the regulations.

## 22 New sections 114A to 114J inserted

After section 114, insert:

### 114A Body corporate committee to comply with code of conduct

The members of a body corporate committee must comply with the code of conduct for committee members prescribed in the regulations.

### 114B Conflicts of interest of members of body corporate committee

The members of a body corporate committee must comply with the conflict of interest rules contained in sections 114C to 114F.

### 114C Duty to disclose conflicts of interest

- (1) A member of a body corporate committee who is interested in a matter must disclose details of the nature and extent of the interest (including any monetary value of the interest, if it can be quantified)—
- (a) to the committee; and
  - (b) in an interests register kept by the committee (*see* section 114F).
- (2) Disclosure under subsection (1) must be made as soon as practicable after the member becomes aware of being interested in the matter.
- (3) A person is **interested** in a matter if the person—
- (a) may derive a financial benefit from the matter; or
  - (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
  - (c) may have a financial interest in a person to whom the matter relates; or
  - (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
  - (e) may be interested in the matter because the body corporate's operational rules say so.
- (4) However, a person is not interested in a matter—
- (a) merely because they receive an indemnity, insurance cover, remuneration, or other benefit authorised by the body corporate; or
  - (b) if the interest is due to their membership of the body corporate and it is the same or substantially the same as the interest of all or most other members of the body corporate; or
  - (c) if their interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the person in carrying out their responsibilities under this Act, the regulations, or the body corporate's operational rules.

- (5) In this section and sections 114D to 114F, **matter** means—
- (a) the body corporate committee’s performance of its functions or exercise of its powers; and
  - (b) an arrangement, agreement, or contract (a **transaction**) made or entered into, or proposed to be entered into, by the body corporate committee (whether on behalf of the body corporate or otherwise).

#### **114D Consequences of being interested in matter**

- (1) A member who is interested in a matter—
- (a) must not vote or take part in any decision of the body corporate committee that relates to the matter; and
  - (b) must not sign any document relating to the entry into a transaction or the initiation of the matter; but
  - (c) may take part in any committee discussion relating to the matter and be present at the time the decision of the committee is made (unless the committee decides otherwise).
- (2) A member who is prohibited from voting under subsection (1) may still be counted for the purpose of determining whether there is a quorum at any meeting at which the matter is considered, with 1 exception, as set out in subsection (3).
- (3) If 50% or more of the members of the committee are prohibited from voting under subsection (1), an extraordinary general meeting of the body corporate must be called to consider and determine the matter.

#### **114E Consequences of failure to disclose interest**

- (1) A body corporate committee must notify the members of the body corporate of a failure to comply with section 114C or 114D, and of any transactions affected, as soon as practicable after becoming aware of the failure.
- (2) A failure to comply with section 114C or 114D does not affect the validity of the committee’s decision on the matter concerned or the matter itself (but the member’s behaviour may be censured under Part 4).
- (3) Subsection (2) does not affect any right a person may have to make an application under this Act in relation to the decision on the matter.

#### **114F Interests register**

- (1) The body corporate committee must keep a register of disclosures made by committee members under section 114C (an **interests register**).
- (2) The interests register must be available for inspection by the members of the committee.

- (3) The operational rules of the body corporate may provide for whether (and, if so, the extent to which) the interests register is to be made available for inspection by other members of the body corporate or any other person.

*Body corporate managers*

**114G Definition of body corporate manager**

- (1) In this Act, **body corporate manager** means a person who is employed or engaged by a body corporate (whether itself or through its body corporate committee) to provide (or manage the provision of) 1 or more of the services specified in subsection (2).
- (2) The services are as follows:
- (a) record-keeping and other administrative services:
  - (b) financial services, including the handling of money belonging to the body corporate or members of the body corporate:
  - (c) regulatory compliance services, including—
    - (i) the making or preparing of statutory disclosures; and
    - (ii) regulatory compliance services performed on behalf of the body corporate (including the body corporate committee and the body corporate chairperson).

**114H Functions and duties of body corporate manager**

- (1) A body corporate manager must exercise or perform the functions and duties—
- (a) that the body corporate may lawfully authorise the body corporate manager to exercise or perform; and
  - (b) that are specified in a written agreement setting out the manager's terms of employment/engagement.
- (2) The agreement must also provide for any matter prescribed by the regulations.
- (3) Subsection (4) applies if a body corporate intends to employ or engage a body corporate manager that is the owner of a principal unit within the unit title development.
- (4) The person or a proxy for the person is not entitled to vote on any resolution relating to the person's employment or engagement as the manager.

**114I Conflicts of interest of body corporate managers**

- (1) A body corporate manager must, as soon as practicable after becoming aware of any conflict of interest, disclose it to the body corporate committee or, if there is no committee, to the body corporate chairperson, and the body corporate must decide whether, and on what terms, the manager may continue to act in the matter concerned.

- (2) To avoid doubt, if a person is engaged as a body corporate manager by more than 1 body corporate,—
  - (a) the manager must act independently in relation to each body corporate; and
  - (b) all matters for which the manager is responsible in relation to each body corporate must be independently satisfied; and
  - (c) the manager must not intermix the funds, records, or any other things of any of the body corporates with those of 1 or more of the other body corporates.
- (3) For the purposes of determining whether there is a conflict of interest in relation to a matter, section 114C(3) to (5) applies—
  - (a) as if a reference to a body corporate committee were a reference to a body corporate manager; and
  - (b) with any other necessary modifications.
- (4) The body corporate committee or the chairperson of a body corporate must keep a separate register of disclosures made by its body corporate managers (an **interests register**).
- (5) The register must be available for inspection—
  - (a) by members of the body corporate committee (if any); and
  - (b) if the operational rules of the body corporate allow, by any other members of the body corporate or any other person to the extent that the rules provide.

#### **114J Body corporate manager to comply with code of conduct**

A body corporate manager must comply with the code of conduct for body corporate managers prescribed in the regulations.

#### **23 Section 117 amended (Long-term maintenance fund)**

After section 117(1), insert:

- (1A) The body corporate may determine the level of funding to be held in the fund.
- (1B) If a body corporate has decided not to establish a fund, the body corporate—
  - (a) must review the decision annually; and
  - (b) may, by special resolution, decide to establish a fund.

#### **24 Section 124 amended (Recovery of levy)**

After section 124(2), insert:

- (3) The recovery of reasonable costs under subsection (2) that are legal costs as defined in section 176A(2) is subject to any regulations made under section 176A(1).

**25 Section 125 amended (Recovery of metered charges)**

- (1) In section 125(1), after “principal unit”, insert “or accessory unit”.
- (2) In section 125(2), after “principal unit”, insert “or the accessory unit”.
- (3) In section 125(3), after “principal unit owner”, insert “or the accessory unit owner”.

**26 Section 133 repealed (Special powers of chief executive for monitoring and reporting on long-term financial and maintenance planning regime)**

Repeal section 133.

**27 Section 139 replaced (Original owner’s obligation in relation to service contracts)**

Replace section 139 with:

**139 Original owner’s obligation in relation to service contracts and signage agreements**

- (1) This section applies if a body corporate enters into a service contract or a signage agreement for the unit title development before the date on which the control period ends.
- (2) The original owner and any associate of the original owner who is a member of the body corporate during the control period must exercise reasonable skill, care, and diligence and act in the best interests of the body corporate, as constituted after the date on which the control period ends, in ensuring that—
  - (a) the terms of the contract or agreement achieve a fair and reasonable balance between the interests of the other party to the contract or agreement and the body corporate as constituted after the date on which the control period ends; and
  - (b) the terms are appropriate for the unit title development; and
  - (c) in respect of a service contract, the powers able to be exercised, and functions required to be performed, by the service contractor—
    - (i) are appropriate for the unit title development; and
    - (ii) do not adversely affect the body corporate’s ability to carry out its functions.
- (3) Despite subsection (2), the body corporate must not enter into a service contract or a signage agreement that has effect for longer than 24 months after the date on which the control period ends, unless the contract or agreement also includes—
  - (a) a term—
    - (i) providing for the contract or agreement to be varied after the control period ends by agreement of the parties; and

- (ii) including a right for either party to cancel the contract or agreement, without penalty, if agreement on a variation cannot be reached; and
- (b) a term providing that any rights of renewal under the contract or agreement exercisable after the control period ends are exercisable only if the body corporate agrees (by ordinary resolution) to each renewal as it arises.

**28 Section 140 amended (Compensation for, or termination of, service contracts)**

- (1) In the heading to section 140, after “**service contracts**”, insert “**or signage agreements**”.
- (2) In section 140(1), after “service contract”, insert “or signage agreement”.
- (3) In section 140(5),—
  - (a) after “service contract”, insert “or signage agreement”; and
  - (b) after “the contract”, insert “or agreement”.

**29 Section 141 amended (Appointment of administrator)**

- (1) In section 141(1), after “a creditor of the body corporate,”, insert “the chief executive,”.
- (2) In section 141(2), replace “layered development” with “layered unit title development”.

**30 Section 146 amended (Pre-contract disclosure to prospective buyer)**

Replace section 146(2) with:

- (2) The pre-contract disclosure statement must contain the prescribed information (to the extent that it is capable of being provided in relation to the unit and the development concerned).
- (3) If the seller does not comply with subsections (1) and (2), the settlement date agreed to in a subsequent agreement for sale and purchase may be delayed in accordance with section 149 or the agreement may be cancelled in accordance with section 149A.

**31 Section 148 repealed (Buyer may request additional disclosure)**

Repeal section 148.

**32 Section 149 replaced (Buyer may delay settlement if disclosure late or not made)**

Replace section 149 with:



**149 Buyer may delay settlement if pre-contract disclosure late, incomplete, inaccurate, or not made at all**

- (1) Subsection (2) applies if the seller has not provided a complete and accurate pre-contract disclosure statement to the buyer on a date that is earlier than 5 working days before the settlement date.
- (2) The buyer may, by notice in writing given on or before the settlement date, delay the settlement date,—
  - (a) if the seller has provided a complete and accurate pre-contract disclosure statement on a date that is later than 5 working days before the settlement date, until the fifth working day after the date on which the pre-contract disclosure statement was provided; and
  - (b) if the seller has provided an incomplete or inaccurate pre-contract disclosure statement or has not provided a pre-contract disclosure statement at all, until the fifth working day after the date on which the seller provides a complete and accurate pre-contract disclosure statement.
- (3) A buyer who delays the settlement date by giving notice under subsection (2)(b) may, by notice in writing, further delay the settlement date until the fifth working day after the seller provides a complete and accurate statement if—
  - (a) the seller provides a further incomplete or inaccurate pre-contract disclosure statement; or
  - (b) the seller does not provide a complete and accurate pre-contract disclosure statement within 5 working days after the date on which notice was given under subsection (2)(b).
- (4) The buyer must give notice of further delay,—
  - (a) if subsection (3)(a) applies, within 5 working days of the seller providing the further incomplete or inaccurate pre-contract disclosure statement; or
  - (b) if subsection (3)(b) applies, within 5 working days of the expiry of the period set out in that paragraph.
- (5) If a buyer gives notice of further delay under subsection (3) and the seller fails to provide the buyer with a complete and accurate pre-contract disclosure statement within 5 working days of the date of that notice, the buyer must, unless the buyer and seller agree otherwise,—
  - (a) cancel the agreement for sale and purchase under section 149A (if permitted by that section); or
  - (b) proceed with the agreement for sale and purchase, with settlement—
    - (i) on the date that is 5 working days from the date on which the buyer advises the seller of the election to proceed; or
    - (ii) on a date agreed by the buyer and seller.

**149A Buyer may cancel agreement for sale and purchase if pre-contract disclosure late, incomplete, inaccurate, or not made at all**

- (1) The buyer may cancel the agreement for sale and purchase under this section if—
  - (a) the seller—
    - (i) has not provided a pre-contract disclosure statement to the buyer in accordance with section 146; or
    - (ii) subject to subsection (2), has provided to the buyer a pre-contract disclosure statement that is incomplete or inaccurate; and
  - (b) the buyer does not delay settlement under section 149.
- (2) The buyer may not cancel an agreement for sale and purchase for provision of an incomplete or inaccurate pre-contract disclosure statement before the agreement was entered into if—
  - (a) the disclosure is incomplete or inaccurate but—
    - (i) this was noted by the seller in the disclosure statement by reference to the specific information not provided or the manner in which it was inaccurate; and
    - (ii) the seller confirmed in the pre-contract disclosure statement that the reason for the incomplete disclosure or inaccuracy was that the information (or document containing the information) required to complete or correct the pre-contract disclosure statement did not exist or, despite reasonable efforts, could not be found; or
  - (b) the incomplete or inaccurate information contained in the pre-contract disclosure statement would not have had the effect of—
    - (i) substantially reducing the benefit to the buyer under the agreement for sale and purchase or as a unit owner; or
    - (ii) substantially increasing the burden of the buyer under the agreement for sale and purchase or as a unit owner; or
    - (iii) in relation to the buyer, making the benefit or burden of the agreement for sale and purchase substantially different from that represented or contracted for; or
  - (c) the seller provides the missing information or corrects the inaccuracy in the pre-contract disclosure statement before the buyer gives notice to cancel the contract.
- (3) Before cancelling an agreement for sale and purchase under this section,—
  - (a) the buyer must, on or before the settlement date, give the seller notice in writing that they intend to cancel the agreement; and
  - (b) the seller has 10 working days from the date the notice under paragraph (a) is given to provide a complete and accurate pre-contract disclosure statement.

- (4) Whether or not the seller has provided a complete and accurate pre-contract disclosure statement, the buyer must, within 5 working days of the expiry of the period provided by subsection (3)(b),—
- (a) cancel the agreement for sale and purchase by notice in writing; or
  - (b) proceed with the agreement for sale and purchase, with settlement—
    - (i) on the date that is 5 working days from the date on which the buyer advises the seller of the election to proceed; or
    - (ii) on a date agreed by the buyer and seller.

### 33 Section 151 replaced (Cancellation by buyer)

Replace section 151 with:

#### **151 Buyer may delay settlement if pre-settlement disclosure late, incomplete, inaccurate, or not made at all**

- (1) Subsection (2) applies if the seller provides a pre-settlement disclosure statement to the buyer on a date that is later than 5 working days before the settlement date but prior to the settlement date.
- (2) The buyer may, by notice in writing given on or before the settlement date, delay the settlement date until the fifth working day after the date on which the pre-settlement disclosure statement was provided.
- (3) Subsection (4) applies if, at the close of business on the last working day before the settlement date, the seller has provided an incomplete or inaccurate pre-settlement disclosure statement or has not provided a pre-settlement disclosure statement at all.
- (4) The buyer may, by notice in writing given on or before the settlement date, delay the settlement date until the fifth working day after the date on which the seller provides a complete and accurate pre-settlement disclosure statement.

#### **151A Buyer may cancel agreement for sale and purchase if pre-settlement disclosure late, incomplete, inaccurate, or not made at all**

- (1) The buyer may cancel the agreement for sale and purchase under this section if—
  - (a) the seller has not provided a complete and accurate pre-settlement disclosure statement within the time required in section 147; and
  - (b) the buyer chooses not to delay settlement under section 151.
- (2) Before cancelling an agreement for sale and purchase under this section,—
  - (a) the buyer must, on or before the settlement date, give the seller notice in writing that they intend to cancel the agreement; and
  - (b) the seller has 10 working days from the notice under paragraph (a) being given to fully comply with the seller's obligations under section 147(3).

- (3) If the seller has not fully complied with its obligations under section 147(3) at the end of the period provided in subsection (2)(b), the buyer must, within 5 working days of the expiry of the period,—
- (a) cancel the agreement for sale and purchase by notice in writing; or
  - (b) proceed with the agreement for sale and purchase, with settlement—
    - (i) on the date that is 5 working days from the date on which the buyer advises the seller of the election to proceed; or
    - (ii) on a date agreed by the buyer and seller.
- (4) If the seller has fully complied with their obligations under section 147(3) at the end of the period provided in subsection (2)(b), the buyer may not cancel the agreement for sale and purchase under this section.

### 34 New Part 2A inserted

After Part 2, insert:

## Part 2A Special provisions for large unit title developments

### 157A Application of this Part

- (1) This Part applies to a large unit title development.
- (2) If there is an inconsistency between a provision in this Part and a provision in the rest of the Act (or any regulations made under the Act), the provision in this Part prevails, but only to the extent of the inconsistency.
- (3) To avoid doubt, except to the extent expressly provided in this Part or as set out in subsection (2), unit title developments to which this Part applies must also comply with all the relevant provisions of the rest of this Act and the regulations.

### 157B Employment or engagement of body corporate manager or managers

The body corporate of a large unit title development must employ or engage 1 or more body corporate managers, unless the body corporate, by special resolution, decides not to do so.

### 157C Additional requirements regarding long-term maintenance plans

- (1) The body corporate of a large unit title development must comply with all the requirements of this section.
- (2) The long-term maintenance plan for the body corporate must—
  - (a) cover a period of at least 30 years from the date of the plan or the last review of the plan; and
  - (b) comply with the requirements and include the matters prescribed by regulations.

- (3) Regulations may prescribe different requirements and matters to be included in a long-term maintenance plan for different parts of the period described in subsection (2)(a).
- (4) The long-term maintenance plan for the body corporate must be reviewed in accordance with this section every 3 years.
- (5) However, if the body corporate becomes aware of any matter that may have a material impact on the long-term maintenance plan, it must review the plan in accordance with this section as soon as practicable (and the date on which the review is conducted becomes the start date from which the next review cycle is calculated).
- (6) The body corporate must, unless it decides by special resolution not to do so, consult with the building professional or professionals, or other suitably qualified professional or professionals, it considers necessary or appropriate—
  - (a) when it develops the long-term maintenance plan; and
  - (b) when it reviews the plan.

**35 Section 171 amended (Jurisdiction of Tenancy Tribunals)**

- (1) After section 171(1), insert:
  - (1AA) To avoid doubt, the Limitation Act 2010 applies to any unit title dispute heard by the Tribunal.
- (2) After section 171(2)(d), insert:
  - (da) a body corporate manager:
- (3) After section 171(2)(h), insert:
  - (ha) a party to a signage agreement:
- (4) After section 171(3A)(b), insert:
  - (ba) make orders for a person to pay a pecuniary penalty under sections 176B to 176E:
- (5) After section 171(3A)(c), insert:
  - (d) determine objections to improvement notices under section 176J.
- (6) In section 171(4)(a), replace “\$50,000” with “\$100,000”.
- (7) In section 171(7), replace “\$50,000” with “\$100,000”.
- (8) In section 171(8), replace “\$50,000” with “\$100,000”.

**36 Section 172 amended (Jurisdiction of District Court)**

In section 172(1), replace “\$50,000” with “\$100,000”.

**37 Section 176 amended (Certain provisions of Residential Tenancies Act 1986 to apply)**

After section 176(1), insert:

- (1A) For the purposes of subsection (1), reasonable costs referred to in section 102(3)(b) of the Residential Tenancies Act 1986 that are legal costs must be determined in accordance with regulations made under section 176A if the regulations are in force.

### 38 New sections 176A to 176E inserted

After section 176, insert:

#### 176A Principles and rules for determination of reasonable legal costs

- (1) The Governor-General may, by Order in Council, make regulations prescribing principles and rules for the determination of reasonable costs that are legal costs for the purpose of section 102(3)(b) of the Residential Tenancies Act 1986, as applied to unit title disputes by section 176 of this Act.
- (2) In this section and in section 176,—
- disbursement**—
- (a) means an expense paid or incurred for the purposes of a proceeding that would ordinarily be charged for separately from legal professional services in a solicitor’s bill of costs; and
- (b) includes—
- (i) fees of the Tribunal for the proceeding;
- (ii) expenses of serving documents for the purposes of the proceeding;
- (iii) expenses of photocopying documents required by a direction of the Tribunal;
- (iv) expenses of conducting a conference by telephone or video link; but
- (c) does not include counsel’s fees

**legal costs** means the costs to a party of legal professional services related to a proceeding, but does not include disbursements.

- (3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

### **176B Tribunal may make pecuniary penalty orders**

- (1) The Tribunal may, on the application of the chief executive, order a body corporate manager to pay to the Crown the pecuniary penalty that the Tribunal determines to be appropriate if the Tribunal is satisfied that—
  - (a) the body corporate manager has intentionally and without reasonable excuse breached their duty—
    - (i) under section 114I(1) (disclosure of conflict of interest to a body corporate); or
    - (ii) under section 114I(2) (duties when engaged as a body corporate manager by more than 1 body corporate); and
  - (b) the breach of duty has materially and negatively impacted on 1 or more individual unit owners or the body corporate as a whole.
- (2) The Tribunal may, on the application of the chief executive, order a body corporate or a body corporate manager to pay to the Crown the pecuniary penalty that the Tribunal determines to be appropriate if the Tribunal is satisfied that the body corporate, the body corporate manager, or both have intentionally and without reasonable excuse—
  - (a) failed to comply with the requirement to produce documents under section 202A(3); or
  - (b) obstructed or hindered an authorised person in exercising the power of entry to a unit title development under section 202B(1)(b); or
  - (c) failed to comply with an improvement notice issued under section 176F.
- (3) The chief executive may not make an application under subsection (1) or (2) later than 12 months from the date on which the chief executive first became aware of the breach of this Act.

Compare: 1986 No 120 s 109B

### **176C Maximum amount of pecuniary penalty**

The maximum amount of pecuniary penalty for a breach of this Act is,—

- (a) for a breach referred to in section 176B(1), \$5,000;
- (b) for a breach referred to in section 176B(2)(a), \$1,500;
- (c) for a breach referred to in section 176B(2)(b) or (c), \$3,000.

Compare: 1986 No 120 s 109C

### **176D Considerations for Tribunal in determining pecuniary penalty**

In determining an appropriate pecuniary penalty, the Tribunal must have regard to all relevant matters, including—

- (a) the nature and extent of the breach of this Act; and
- (b) the nature and extent of any loss or damage suffered as a result of the breach; and

- (c) any gains made or losses avoided by the body corporate or the body corporate manager as a result of the breach; and
- (d) the circumstances in which the breach took place.

Compare: 1986 No 120 s 109D

### **176E Only 1 pecuniary penalty order may be made for same conduct**

- (1) If conduct by a body corporate constitutes a breach of 2 or more provisions of this Act, proceedings may be brought against that body corporate for the conduct under any 1 or more of the provisions, but no body corporate is liable to more than 1 pecuniary penalty order for the same conduct.
- (2) If conduct by a body corporate manager constitutes a breach of 2 or more provisions of this Act, proceedings may be brought against that body corporate manager for the conduct under any 1 or more of the provisions, but no body corporate manager is liable to more than 1 pecuniary penalty order for the same conduct.

Compare: 1986 No 120 s 109E

### **39 New subpart 1A of Part 4 inserted**

In Part 4, after subpart 1, insert:

#### Subpart 1A—Improvement notices

### **176F Power to issue improvement notices**

- (1) This section applies if the chief executive reasonably believes that a person—
  - (a) is contravening a provision of this Act or of regulations made under this Act; or
  - (b) is likely to contravene a provision of this Act or of regulations made under this Act.
- (2) The chief executive may issue an improvement notice requiring the person to—
  - (a) remedy the contravention; or
  - (b) prevent a likely contravention from occurring; or
  - (c) remedy the things or activities causing the contravention or likely to cause a contravention.

Compare: 1986 No 120 s 126H

### **176G Content of improvement notices**

- (1) An improvement notice must state—
  - (a) that the chief executive believes the person—
    - (i) is contravening a provision of this Act or of regulations made under this Act; or



- (ii) is likely to contravene a provision of this Act or of regulations made under this Act; and
  - (b) the provision the chief executive believes is being, or is likely to be, contravened; and
  - (c) briefly, how the provision is being, or is likely to be, contravened; and
  - (d) a reasonable period within which the person is required to remedy—
    - (i) the contravention or likely contravention; or
    - (ii) the things or activities causing the contravention or likely to cause a contravention.
- (2) An improvement notice may include recommendations concerning—
- (a) the measures that could be taken to remedy the contravention, or prevent the likely contravention, to which the notice relates;
  - (b) the things or activities causing the contravention, or likely to cause a contravention, to which the notice relates.

Compare: 1986 No 120 s 126I

#### **176H Extension of time for compliance with improvement notices**

- (1) This section applies if a person has been issued with an improvement notice.
- (2) The chief executive may, by written notice given to the person, extend the compliance period for the improvement notice.
- (3) However, the chief executive may extend the compliance period only if the period has not ended.
- (4) In this section, **compliance period**—
  - (a) means the period stated in the improvement notice under section 176G(1)(d); and
  - (b) includes any extension of that period under this section.

Compare: 1986 No 120 s 126K

#### **176I Chief executive may withdraw improvement notice**

- (1) The chief executive may withdraw an improvement notice.
- (2) The withdrawal of an improvement notice does not prevent another improvement notice from being served in relation to the same matter.

Compare: 1986 No 120 s 126L

#### **176J Objection to improvement notice**

- (1) A person who has been issued with an improvement notice may file an objection with the Tribunal.
- (2) An objection must be filed with the Tribunal within 28 days after the date on which the improvement notice was served on the person.
- (3) In determining the objection, the Tribunal must consider—

- (a) whether the person has failed, or is likely to fail, to comply with the specified provision of this Act or of regulations made under this Act; and
  - (b) the nature and extent of the failure or likely failure to comply with the provision; and
  - (c) the nature and extent of any loss suffered by any other person specified in section 171(2) in respect of the unit title development to which the failure or likely failure to comply relates.
- (4) The Tribunal may confirm, vary, or rescind the improvement notice as the Tribunal thinks fit.

Compare: 1986 No 120 s 126M

#### **40 Section 202 amended (General functions and powers of chief executive)**

After section 202(1)(c), insert:

- (ca) the monitoring and assessing of compliance by bodies corporate and body corporate managers with this Act:

Compare: 1986 No 120 s 123(1)(cb)

#### **41 New sections 202A to 202F inserted**

After section 202, insert:

##### **202A Documents to be retained by body corporate and body corporate manager and produced to chief executive if required**

- (1) A body corporate and a body corporate manager must retain any prescribed documents (or copies of them) for at least 3 years.
- (2) The chief executive may, by notice in writing, require a body corporate or body corporate manager to produce to the chief executive any prescribed document, or class of prescribed documents, that—
  - (a) the body corporate or body corporate manager is required to retain under subsection (1); and
  - (b) the chief executive reasonably requires for the purposes of the chief executive's functions or powers under this Act.
- (3) A body corporate or body corporate manager who receives a notice under subsection (2) must, within 10 working days after receiving the notice, produce the documents to the chief executive in the way specified in the notice.
- (4) Subsection (3) does not apply to a document or part of a document that is protected by legal professional privilege.
- (5) If a document is produced to the chief executive, the chief executive may—
  - (a) inspect and make records of the document; and
  - (b) take copies of the document or extracts from it.

Compare: 1986 No 120 ss 123A, 123C

### **202B Power of entry to inspect unit title development**

- (1) An authorised person may, at any reasonable time, enter a unit title development to inspect it—
  - (a) with the consent of the body corporate given in accordance with section 202C; or
  - (b) if—
    - (i) the inspection is authorised by an order of the Tribunal under section 202D and is carried out in accordance with any conditions set out in that order; and
    - (ii) the authorised person gives the body corporate at least 24 hours' written notice of their intention to enter the unit title development.
- (2) The power of entry does not authorise the authorised person to enter any principal unit without the consent of the occupier of that unit given in accordance with section 202C.
- (3) A notice under subsection (1)(b)(ii) must—
  - (a) state that it is given under this section; and
  - (b) state the address of the unit title development to which it relates; and
  - (c) state the time at which, and the date on which, the authorised person proposes to inspect the unit title development; and
  - (d) include a copy, sealed with the Tribunal's seal, of the Tribunal's order under section 202D.
- (4) The authorised person's power to inspect includes the power to do any of the following:
  - (a) to bring into, and operate at, the unit title development any equipment (and to use electricity from the electricity supply at the unit title development for the purpose of operating the equipment):
  - (b) to take or make photographs, sound or video recordings, measurements, or drawings:
  - (c) to take samples of things for analysis:
  - (d) to test things.
- (5) The body corporate must provide the authorised person with all assistance that the authorised person reasonably requests from the body corporate in relation to the inspection, including (for example) assistance reasonably requested for the purpose of enabling the authorised person to enter the unit title development or to access any part of the unit title development (excluding a principal unit).
- (6) A person authorised by the body corporate may accompany the authorised person while the authorised person is inspecting the unit title development.

- (7) An authorised person who enters any unit title development under this section must,—
- (a) on initial entry, produce evidence of the authorised person’s identity; and
  - (b) while subsequently at the unit title development, produce that evidence to any person who reasonably requests to see it.
- (8) Sections 166 and 167 of the Search and Surveillance Act 2012 apply (with any necessary modifications) in relation to the powers of an authorised person under this section.
- (9) In this section and in section 202C, **authorised person** means the chief executive or a person authorised by the chief executive.
- Compare: 1986 No 120 s 123D

### 202C Inspection by consent

- (1) An authorised person may, for the purpose of investigating whether a breach of this Act has occurred, ask—
- (a) a body corporate to consent to an inspection being made of its unit title development (excluding a principal unit or an accessory unit); or
  - (b) a unit title occupier to consent to an inspection being made of their principal unit or their accessory unit.
- (2) Before conducting an inspection by consent, the authorised person who proposes to conduct it must—
- (a) determine that the inspection is for the purpose authorised by subsection (1); and
  - (b) advise in writing the person from whom consent is sought—
    - (i) of the reason for the proposed inspection; and
    - (ii) that they may either consent to the inspection or refuse to consent to the inspection.

Compare: 2012 No 24 ss 92(c), 93

### 202D Tribunal may authorise inspection

- (1) The chief executive may, in relation to a unit title development, apply to the Tribunal for an order authorising an inspection under section 202B.
- (2) The Tribunal may make an order authorising the inspection if it is satisfied that the chief executive has reasonable grounds for believing—
- (a) that there has been a breach of this Act in relation to unit title development; and
  - (b) that the inspection is reasonably necessary for the purposes of the chief executive’s functions or powers under this Act in relation to the breach.

- (3) The Tribunal's authorisation under subsection (2) may be given subject to conditions, which must be set out in the order.

Compare: 1986 No 120 s 123E

#### **202E Chief executive may take proceedings in place of specified person**

- (1) The chief executive may, if satisfied that it is in the public interest to do so on any of the grounds listed in subsection (2), do any of the following in relation to 1 or more unit title developments:
- (a) initiate any proceedings in the Tribunal or a court that could be brought by a person specified in section 171(2) (a **specified person**):
  - (b) defend any proceedings in the Tribunal or a court that are brought against a specified person:
  - (c) assume the conduct of any proceedings in the Tribunal or a court brought by or against a specified person:
  - (d) take any steps that are necessary to enforce or protect the rights of the specified person under this Act in relation to any infringement or suspected infringement of any of those rights.
- (2) The grounds referred to in subsection (1) are as follows:
- (a) in the chief executive's opinion, there are allegations of conduct that is likely to cause or have caused a significant risk to the health or safety of any person:
  - (b) in the chief executive's opinion, a person has committed a serious breach of this Act, or has persistently breached this Act:
  - (c) in the chief executive's opinion, actions of a person risk undermining public confidence in the administration of this Act.
- (3) The chief executive must not exercise the powers conferred by subsection (1) unless the written consent of the specified person concerned has first been obtained, which, once given, may be revoked only with the written consent of the chief executive.

Compare: 1986 No 120 s 124A

#### **202F Supplementary provision to section 202E**

- (1) The chief executive may not initiate any proceedings under section 202E(1) any later than 12 months after the date on which the chief executive becomes aware of the matters on which the proceedings are based.
- (2) If the chief executive acts in the place of a person (A) under section 202E(1), the following provisions apply in relation to the proceedings in question:
- (a) the chief executive has the same rights and remedies as A, including the right to settle the proceedings:

- (b) the chief executive may do anything in relation to the proceedings that A could do and, as between the chief executive and A, has control of the proceedings:
  - (c) if the proceedings have already commenced, the Tribunal or court must substitute the chief executive for A as a party to the proceedings:
  - (d) the Tribunal must, on the chief executive's application, order that any other claim by or against A be dealt with in separate proceedings brought by the claimant against A (and not against the chief executive):
  - (e) any order or judgment may be enforced by the chief executive as if the chief executive were A:
  - (f) any money (excluding costs) recovered by the chief executive must, without any deduction, be paid by the chief executive to A:
  - (g) A must reasonably co-operate with the chief executive.
- (3) The chief executive may, if acting under section 202E, file an application to commence a proceeding that relates to 2 or more unit title developments if 1 person is the body corporate manager of each of the developments.
- (4) If a person is the body corporate manager of 2 or more unit title developments and the chief executive acts under section 202E in relation to 2 or more of those developments, the Tribunal or any court may allow any of the proceedings in question that are before it to be consolidated with 1 or more of any of the other proceedings in question that are before it.
- (5) Any certificate given by the chief executive relating to the chief executive's powers under section 202E or this section is, in the absence of proof to the contrary, sufficient evidence of the matters referred to in the certificate.

Compare: 1986 No 120 s 124B

#### 42 Section 217 amended (Regulations)

- (1) After section 217(1)(e), insert:
- (ea) specifying the documents or classes of documents to be retained by a body corporate or body corporate manager for the purposes of section 202A:
- (2) In section 217(1)(f), after "committee", insert ", including in relation to meeting requirements and procedures for participation by remote access".
- (3) After section 217(1)(f), insert:
- (fa) specifying matters associated with the functions and duties that a body corporate manager may perform or exercise, including any terms that must be included in a manager's terms of employment or engagement:
- (4) In section 217(1)(h), after "relating to voting", insert ", including in relation to electronic voting".

- (5) In section 217(1)(n), after “this Act”, insert “, including in relation to the settling of disputes”.
- (6) After section 217(1)(p), insert:
- (pa) prescribing codes of conduct for—
    - (i) body corporate committee members; and
    - (ii) body corporate managers:

**43 Schedule 1AA amended**

In Schedule 1AA,—

- (a) insert the Part set out in Schedule 1 of this Act as the last Part; and
- (b) make any necessary consequential amendments.

**Part 2**  
**Amendments related to Part 1**

Subpart 1—Consequential amendments to Unit Titles Act 2010

**44 Amendments to Unit Titles Act 2010**

This subpart consequentially amends the Unit Titles Act 2010.

**45 Section 4 amended (Overview)**

After section 4(1)(f), insert:

*Special provisions for large unit title developments*

- (fa) Part 2A applies to large unit title developments. The Part imposes extra or more specific obligations, or both, on those types of developments over and above the general obligations in the rest of the Act and the regulations, although, in most cases, the body corporate of a large unit title development may opt out of the requirements by special resolution:

**46 Section 134 amended (Insurance)**

In section 134(4)(b), replace “layered title development” with “layered unit title development”.

**47 Section 150 amended (Seller must rectify inaccuracies in disclosure statement)**

- (1) In section 150(1), replace “any of sections 146, 147, and 148” with “section 146 or 147”.
- (2) In section 150(3), replace “postpone” with “delay”.

**48 Schedule 2 amended**

- (1) In Schedule 2, item relating to section 95, replace new section 95(1) and (2) with:
- (1) A quorum for a general meeting of a body corporate is the number of timeshare owners attending in accordance with section 88(3) (including proxies) who are entitled to exercise not less than 5% of the timeshare entitlements and also satisfy the eligibility requirements to exercise that voting power (for example, have no outstanding levy amounts owing to the body corporate).
- (2) However, in the case of a timeshare resort comprising both timeshare units and non-timeshare units, a quorum for a general meeting of the body corporate is—
- (a) the number of non-timeshare owners attending in accordance with section 88(3) (including proxies) who are entitled to exercise not less than 25% of the votes able to be exercised in respect of non-timeshare units and who also satisfy the eligibility requirements to exercise that voting power; and
- (b) the number of persons attending in accordance with section 88(3) (including proxies) who are entitled to exercise not less than 5% of the votes able to be exercised in respect of timeshare unit entitlements and who also satisfy the eligibility requirements to exercise that voting power.
- (2) In Schedule 2, item relating to section 99, in new section 99(2), after “non-timeshare unit”, insert “or their proxy”.

**Subpart 2—Amendments to Unit Titles Regulations 2011****49 Amendments to Unit Titles Regulations 2011**

This subpart amends the Unit Titles Regulations 2011 (consequentially or otherwise in relation to Part 1 of this Act).

**50 Regulation 6 amended (Notice of annual general meeting)**

After regulation 6(5)(c), insert:

- (ca) a copy of the body corporate committee interests register; and

**51 Regulation 10 amended (Election of chairperson)**

- (1) After regulation 10(2)(a), insert:
- (ab) at the time nominations are required by regulation 5(4)(f) or 7(4)(e) to be received, have no overdue body corporate levies or other amounts payable and owing to the body corporate; and
- (2) After regulation 10(2), insert:
- (2A) Despite subclause (2), a candidate for election as chairperson may nominate themselves—



- (a) during the control period; and
- (b) at any time that all the principal units in the unit title development are owned by the candidate.

**52 Regulation 24 amended (Election of body corporate committee)**

- (1) In regulation 24(1)(a),—
  - (a) after “how many”, insert “elected”; and
  - (b) after “have and the”, insert “total”.
- (2) In regulation 24(1)(b), after “elect the”, insert “elected”.
- (3) Replace regulation 24(3) with:
  - (3) A candidate for election as a committee member must—
    - (a) be the owner of a principal unit in the unit title development; and
    - (b) at the time nominations are required by regulation 5(4)(f) or 7(4)(e) to be received, have no overdue body corporate levies or other amounts payable and owing to the body corporate.
  - (3A) A candidate for election who is nominated by another unit owner must consent to the nomination.
- (4) In regulation 24(4), replace “must nominate a director” with “may nominate a director of the candidate, or an employee or class of employee authorised by the directors of the candidate,”.
- (5) Replace regulation 24(5) and (6) with:
  - (5) A candidate for election as a committee member may—
    - (a) be nominated by another unit owner in the unit title development; or
    - (b) nominate themselves.
  - (6) After regulation 24(8), insert:
- (9) *See* section 112A of the Act that confers automatic membership of the body corporate committee on the chairperson of the body corporate.

**53 Regulation 26 amended (Body corporate committee chairperson)**

Before regulation 26(1), insert:

- (1AA) This regulation applies only if a body corporate has decided (in accordance with section 112A of the Act) that the chairperson of the body corporate committee is to be a person other than the chairperson of the body corporate.

**54 Regulation 27 amended (Body corporate committee business)**

- (1) In regulation 27(2), after “considers necessary”, insert “(so long as it has a quorum)”.
- (2) After regulation 27(2), insert:

- (2A) A meeting may be conducted by audio link, audiovisual link, or other remote access facility.
- (3) After regulation 27(3), insert:
- (3A) A committee member who, at a committee meeting, does not satisfy the eligibility requirements to exercise a vote as if the meeting were a general meeting of the body corporate (for example, because the member has outstanding levy amounts owing to the body corporate)—
- (a) must not be counted when determining whether there is a quorum for the meeting; and
  - (b) must not vote on any resolution put at the meeting; but
  - (c) may remain at the meeting and take part in any discussions.
- (4) Revoke regulation 27(4) and (5).
- (5) After regulation 27(5), insert:
- (6) *See regulation 24 for how the quorum number is determined. See section 79(c) and section 96 of the Act for eligibility to vote at a general meeting.*

#### **55 New regulation 27A inserted (Body corporate committee minutes)**

After regulation 27, insert:

##### **27A Body corporate committee minutes**

- (1) A body corporate committee must provide copies of the minutes of its meetings to all unit owners promptly, but no later than 1 month after the meeting date.
- (2) Information in the minutes may be redacted from the copies provided to unit owners if—
- (a) disclosing the information would be a breach of the Privacy Act 2020 or any other enactment; or
  - (b) the information is subject to legal professional privilege; or
  - (c) confidentiality of the information must be protected on grounds of commercial sensitivity.
- (3) The copies of the minutes may be provided to unit owners electronically, including through an online portal.
- (4) A unit owner may request the body corporate committee to provide a physical copy of the minutes.
- (5) If a unit owner requests a physical copy of the minutes, the body corporate committee must provide the copy within a reasonable time.

#### **56 Regulation 28 amended (Body corporate committee reports)**

- (1) In regulation 28(3)(a), delete “during the period covered by the report”.
- (2) Replace regulation 28(3)(b) with:

- (b) an account of how those duties have been performed or those powers have been exercised by the committee.

**57 New regulations 28A to 28C and cross-heading inserted**

After regulation 28, insert:

**28A Body corporate committee code of conduct**

The code of conduct set out in Schedule 1A is the code prescribed for the purposes of section 114A of the Act.

*Body corporate managers*

**28B Body corporate manager code of conduct**

The code of conduct set out in Schedule 1B is the code prescribed for the purposes of section 114J of the Act.

**28C Terms that must be included in agreement engaging body corporate manager**

The agreement setting out the terms of engagement for a body corporate manager must include the following terms:

- (a) the manager's reporting requirements to the body corporate on the performance of the manager's functions and duties; and
- (b) the requirement to comply with the code of conduct set out in Schedule 1B; and
- (c) the requirement for reviews of the manager's performance at specified intervals and the key performance targets and other measures by which the manager's performance is to be judged; and
- (d) the grounds for termination and the process for doing so, if met; and
- (e) the role, if any, of the manager at general meetings of the body corporate; and
- (f) the records, funds, or other things of or relating to the body corporate that must be returned by the manager to the body corporate if the agreement is terminated or the term of the agreement ends; and
- (g) the latest date, whether specified or able to be calculated, by which the things must be returned.

**58 Regulation 30 amended (Long-term maintenance plans)**

(1) After regulation 30(1)(a), insert:

- (aa) summarise the current state of the common property; and

(2) After regulation 30(1)(f), insert:

- (fa) state the sources of funding for the plan; and

(3) After regulation 30(1), insert:

(1A) A body corporate must apply the amount each year to maintain the fund that it has determined under subclause (1)(g), less any amount that has been applied to maintain any item in that year.

**59 New regulation 30A inserted (Long-term maintenance plans for large unit title developments)**

After regulation 30, insert:

**30A Long-term maintenance plans for large unit title developments**

- (1) This regulation applies to a long-term maintenance plan for a large unit title development.
- (2) Regulation 30(1)(d), (e), and (g) does not apply to a large unit title development's long-term maintenance plan in respect of the period that is more than 10 years from the date of the plan or the last review of the plan (**years 11 to 30**).
- (3) A large unit title development's long-term maintenance plan must provide a high-level indication of the expected cost of maintenance and replacement of the items covered by the plan in respect of years 11 to 30.

**60 Regulation 33 replaced (Pre-contract disclosure statement)**

Replace regulation 33 with:

**33 Pre-contract disclosure statement**

- (1) The following information is prescribed for section 146(2) of the Act (which requires a pre-contract disclosure statement to contain prescribed information) if the pre-contract disclosure is provided in relation to a sale and purchase of a unit other than an "off-the-plan" unit:
  - (a) whether the body corporate or body corporate committee has actual knowledge that any part of the unit title development has—
    - (i) weathertightness issues for which a claim has been made under the Weathertight Homes Resolution Services Act 2006; or
    - (ii) weathertightness issues that have been remediated without a claim under that Act or other proceedings before a court or tribunal; or
    - (iii) weathertightness issues that have not been remediated; or
    - (iv) earthquake-prone issues; or
    - (v) any other significant defects in the land (including the unit title development and the land on which it is situated) that may require remediation:
  - (b) whether the body corporate is involved in any proceedings in any court or tribunal and, if so, details of the proceedings:

- (c) financial statements and audit reports for the previous 3 years or (as the case may be) audit reports for those of the previous 3 years for which an audit was carried out and a statement of the years in that time period for which no audit was carried out:
- (d) notices and minutes of general meetings of the body corporate and the body corporate committee for the previous 3 years,—
  - (i) including all supporting documentation; but
  - (ii) excluding any information that may be redacted for the reasons specified in regulation 27A(2):
- (e) the name and contact details of the body corporate manager or managers:
- (f) the 12-month period comprising the current financial year for the purposes of the financial statements of the body corporate:
- (g) the body corporate levies payable for the unit for the current financial year:
- (h) details of maintenance that the body corporate proposes to carry out on the unit title development in the year following the date of the disclosure statement and how the body corporate proposes to meet the cost of that maintenance:
- (i) the balance of every fund or bank account held or operated by or on behalf of the body corporate at the date of the last financial statement:
- (j) a copy of the long-term maintenance plan:
- (k) any proposed works under the long-term maintenance plan for the unit title development to be carried out or begun within the next 3 years and the estimated costs of the works:
- (l) the next review date for the long-term maintenance plan for the unit title development:
- (m) any remediation reports commissioned by the body corporate within the previous 3 years:
- (n) a summary of the insurance cover the body corporate maintains for the unit title development, including—
  - (i) the insurer's name and contact details; and
  - (ii) the type and amount of cover, the annual amount payable for it, and the excess payable on any claim under it; and
  - (iii) any specific exclusions from cover; and
  - (iv) a statement of where and how the insurance policy can be viewed:
- (o) an explanation of the following:
  - (i) unit title property ownership:
  - (ii) unit plans:

- (iii) ownership and utility interests:
  - (iv) body corporate operational rules:
  - (v) the information required to be contained in a pre-settlement disclosure statement:
  - (vi) records of title:
  - (vii) the land information memorandum issued under section 44A of the Local Government Official Information and Meetings Act 1987:
  - (viii) easements and covenants.
- (2) The following information is prescribed for section 146(2) of the Act if the pre-contract disclosure statement is provided in relation to the sale and purchase of an “off-the-plan” unit:
- (a) a summary of the draft financial budget for the unit title development, including an estimate of the cost of operating the body corporate in an average 12 months:
  - (b) an estimate of the proposed ownership interest for the unit based on the sales value (or, in a case where an actual sales value is not available at the time the pre-contract disclosure is provided, based on an estimated sales value at that time):
  - (c) an estimate of the proposed utility interest for the unit:
  - (d) the draft (if any) of the body corporate operational rules that will first apply:
  - (e) what, if any, service contracts have been or are proposed to be entered into that will continue in force after the unit purchase is settled, including—
    - (i) any contracts for utilities (for example, telecommunications, water, or electricity); and
    - (ii) any contract appointing a body corporate manager.
- (3) For the purposes of subclause (1)(a), a unit title development has a **weather-tightness issue** if—
- (a) water has penetrated it because of some aspect of its design, construction, or alteration, or of materials used in its construction or alteration; and
  - (b) the penetration of water is likely to cause or has caused damage to it.
- (4) The information required by this regulation must be provided to the extent that it is capable of being provided in relation to the unit and the development concerned (*see* section 146(2) of the Act).

**61 Regulation 34 amended (Pre-settlement disclosure statement)**

- (1) In regulation 34, after “(which requires a pre-settlement disclosure statement to contain the prescribed information)”, insert “, subject to subclause (2)”.
- (2) After regulation 34(1), insert:
  - (la) whether there are any proceedings—
    - (i) initiated by the body corporate and pending in any court or tribunal; or
    - (ii) intended to be initiated by the body corporate in any court or tribunal; and
  - (lb) whether there is any written claim by the body corporate against a third party that is yet to be resolved; and
- (3) Replace regulation 34(m) with:
  - (m) whether there have been any changes to the body corporate operational rules since the pre-contract disclosure statement.
- (4) In regulation 34, insert as subclause (2):
- (2) If the pre-settlement disclosure statement is provided for an “off-the-plan” unit, the seller is required to—
  - (a) provide the information specified in subclause (1) to the extent that it is capable of being provided at the date the statement is provided; and
  - (b) provide the following additional information:
    - (i) the name and contact details of the body corporate manager, if there is one; and
    - (ii) the insurance information specified in regulation 33(1)(n).

**62 Regulation 35 revoked (Additional disclosure statement)**

Revoke regulation 35.

**63 New Schedule 1A inserted**

After Schedule 1, insert the Schedule 1A set out in Schedule 2 of this Act.

**64 New Schedule 1B inserted**

After Schedule 1, insert the Schedule 1B set out in Schedule 3 of this Act.

**65 Schedule 2 amended**

- (1) In Schedule 2, form 11, replace the table under the heading “**Motions**” with:

<b>Motion</b>	<b>Type of resolution</b>	<b>Direction on resolution</b>
[Summarise the motion.]	[State whether the motion requires an ordinary or special resolution and whether, if passed, the resolution would be a designated resolution.]	[State if the eligible voter wishes to direct how the proxy votes on the resolution.]

- (2) In Schedule 2, revoke form 18.

**Subpart 3—Amendments to Unit Titles (Unit Title Disputes—Fees)  
Regulations 2011**

**66 Amendments to Unit Titles (Unit Title Disputes—Fees) Regulations 2011**

This subpart amends the Unit Titles (Unit Title Disputes—Fees) Regulations 2011.

**67 Regulation 3 amended (Interpretation)**

In regulation 3(1), revoke the definitions of **category 1 proceedings**, **category 2 proceedings**, and **chief executive**.

**68 Regulation 5 replaced (Filing fee)**

Replace regulation 5 with:

**5 Fees**

- (1) The following fees are payable by the applicant for filing an application with the Tenancy Tribunal under section 86 of the 1986 Act in relation to a unit title dispute:
- (a) \$250 for an application for a dispute to be referred to a Tenancy Mediator:
  - (b) \$500 for an application for a dispute to be referred to adjudication (whether directly or because 1 or more of the parties refuses to have the matter considered by a Tenancy Mediator).
- (2) If the fee payable under subclause (1)(a) has been paid and the dispute is then referred to adjudication, the fee payable under subclause (1)(b) is \$250.
- (3) To avoid doubt, the maximum total fee payable for a dispute is \$500.

**69 Regulation 6 revoked (Categorisation of proceedings)**

Revoke regulation 6.

**70 Regulation 7 revoked (Determining categorisation of proceedings)**

Revoke regulation 7.



## Schedule 1

### New Part 2 inserted in Schedule 1AA of Unit Titles Act 2010

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#### Part 2

#### Provisions relating to Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022

##### 4 Definitions

In this Part,—

**2022 Act** means the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022

**amendment** means an amendment to this Act made by a provision of the 2022 Act

**commencement date**, in relation to an amendment, means the date on which the provision of the 2022 Act that makes the amendment comes into force

**principal Act** means the Unit Titles Act 2010.

##### 5 Savings provision for existing service contracts and signage agreements

- (1) This clause applies to a service contract or signage agreement entered into before the commencement of sections 27 and 28 of the 2022 Act (which relate to sections 139 and 140 of the principal Act).
- (2) Section 139(3) does not apply to any service contract or signage agreement entered into before the commencement of section 27 of the 2022 Act.
- (3) In respect of a signage agreement entered into by a body corporate before the commencement of section 28 of the 2022 Act,—
  - (a) section 140(2) does not apply;
  - (b) section 140(5) applies.

##### 6 Pecuniary penalties

Sections 176B to 176E do not apply to acts or omissions before the commencement of section 38 of the 2022 Act.

##### 7 Proceedings that have commenced

An amendment does not apply to proceedings commenced before a court or the Tribunal before the commencement date.

**8 Documents to be retained and produced by body corporate or body corporate manager**

Section 202A applies to any documents (or copies of them) in the possession or control of a body corporate or a body corporate manager on or after the commencement of regulations that specify any prescribed document or class of prescribed document for the purpose of section 202A, whether the documents (or copies) were created before, on, or after that date.

**9 Only 1 penalty order for same conduct**

Section 176E applies to conduct whether the conduct is engaged in before, on, or after the commencement of section 38 of the 2022 Act.

**10 Power to issue improvement notices**

Section 176F applies to a contravention of a provision of this Act or of regulations made under this Act that occurs on or after the commencement of section 39 of the 2022 Act.

**11 Tribunal may authorise inspections**

The Tribunal may make an order under section 202D(2) whether the breach of this Act is believed on reasonable grounds to have occurred before, on, or after the commencement of section 41 of the 2022 Act.

**12 Chief executive may take proceedings in place of specified person**

The chief executive may act under section 202E in respect of proceedings that were brought or could have been brought on or after the commencement of section 41 of the 2022 Act.

**Schedule 2**  
**New Schedule 1A inserted in Unit Title Regulations 2011**

s 63

**Schedule 1A**  
**Code of conduct for body corporate committee members**

r 28A

- 1 Commitment to acquiring understanding of Act, including this code**  
A member must have a commitment to acquiring an understanding of anything in this Act and the regulations, including this code of conduct, that is relevant to the member's role on the committee.
- 2 Honesty, fairness, and confidentiality**
- (1) A member must act honestly and fairly in performing the member's duties as a committee member.
- (2) A member must not unfairly or unreasonably disclose information held by the body corporate, including information about an owner of a unit, unless authorised or required to do so by law.
- 3 Acting in body corporate's best interests**  
A member must act in the best interests of the body corporate in performing the member's duties as a committee member, unless it is unlawful to do so.
- 4 Complying with Act and this code**  
A member must comply with the Act, these regulations, including this code, and any other applicable legislation relating to matters for which the committee has responsibility in performing the member's duties as a committee member.
- 5 Conflict of interest**  
A committee member who is eligible to vote must disclose to the committee any conflict of interest the member may have in a matter before the committee.

**Schedule 3**  
**New Schedule 1B inserted in Unit Title Regulations 2011**

s 64

**Schedule 1B**  
**Code of conduct for body corporate managers**

r 28B

- 1 Acting in body corporate’s best interests**  
A body corporate manager must always act in the best interests of the body corporate.
- 2 Good faith and due care and diligence**  
A body corporate manager must act in good faith, exercise due care and diligence, and not make improper use of the position.
- 3 Complying with Act and this code**  
A body corporate manager must comply with—

  - (a) all relevant requirements of the Act, these regulations, including this code, and other legislation applicable to the body corporate for which the manager has responsibility (including financial management and reporting responsibilities); and
  - (b) the requirements of the Act and these regulations, including this code, applicable to body corporate managers.
- 4 Acquiring understanding of Act and this code**  
A body corporate manager must acquire a good understanding of the Act, these regulations, including this code of conduct, and other legislation and issues on which they are advising, or in relation to which they are acting on behalf of, the body corporate.
- 5 Conflicts of interest**  
A body corporate manager must, as soon as practicable after becoming aware of any conflict of interest, disclose the conflict of interest to the body corporate committee or, if there is no committee, to the chairperson.
- 6 Significant developments and issues**  
A body corporate manager must keep the body corporate informed of any significant development or issue relating to an activity that the manager performs for the body corporate.

**7 Employees of body corporate managers**

A body corporate manager must take reasonable steps to ensure that any person they employ, contract, or engage complies with the Act and these regulations.

**8 Competitive prices**

A body corporate manager must ensure that the goods and services they provide are supplied at competitive prices.

**9 Record keeping**

A body corporate manager must keep records in accordance with the requirements of the Act and these regulations applicable to—

- (a) the body corporate for which the manager has responsibility; and
- (b) the body corporate committee for which the manager has responsibility; and
- (c) body corporate managers.

## Notes

### **1** *General*

This is a consolidation of the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022  
Commencement Order 2022 (SL 2022/281)