



Unit Titles Amendment Regulations 2024

Cindy Kiro, Governor-General

Order in Council

At Wellington this 6th day of May 2024

Present:

The Right Hon Christopher Luxon presiding in Council

These regulations are made under section 217 of the Unit Titles Act 2010 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Unit Titles Amendment Regulations 2024.

2 Commencement

These regulations come into force on 9 May 2024.

3 Principal regulations

These regulations amend the Unit Titles Regulations 2011.

4 Regulation 3 amended (Interpretation)

In regulation 3(1), insert in its appropriate alphabetical order:

electronic voting information, in relation to a general meeting of a body corporate, means—

- (a) information about how to cast a vote electronically before the meeting; and
- (b) the date and time by which an electronic vote cast before the meeting must be received; and
- (c) information about how to cast a vote electronically during the meeting; and
- (d) a statement summarising the effect of regulation 15A(4) (which relates to the status of a vote cast electronically on a motion that is later materially amended at the meeting); and

- (e) a statement summarising the effect of regulation 15A(5) (which relates to the status of a vote cast electronically before the meeting if the meeting is adjourned)

5 New regulation 3A inserted (Transitional, savings, and related provisions)

After regulation 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 Regulation 6 amended (Notice of annual general meeting)

- (1) After regulation 6(4)(c), insert:

(ca) set out how unit owners can attend the meeting by remote access facility; and

- (2) After regulation 6(4)(d), insert:

(da) set out the electronic voting information; and

7 Regulation 8 amended (Notice of extraordinary general meeting (other than one to which regulation 8A applies))

- (1) After regulation 8(2)(d), insert:

(da) set out how unit owners can attend the meeting by remote access facility; and

- (2) After regulation 8(2)(f), insert:

(fa) set out the electronic voting information; and

8 Regulation 8A amended (Notice of extraordinary general meeting required by section 89A of Act)

- (1) After regulation 8A(5)(d), insert:

(da) set out how unit owners can attend the meeting by remote access facility; and

- (2) After regulation 8A(5)(f), insert:

(fa) set out the electronic voting information; and

9 New regulation 12A inserted (Provision of facilities for remote attendance)

Before regulation 13, insert:

12A Provision of facilities for remote attendance

- (1) At a general meeting of a body corporate, the body corporate must take reasonable steps to provide 1 or more facilities to enable unit owners to attend the meeting by audio link, audiovisual link, or other remote access facility.

- (2) The facilities provided must adequately enable persons to participate in and vote at the meeting.

10 Regulation 14 amended (Voting: proxies)

After regulation 14(5), insert:

- (6) The chairperson is not required to ensure that the proxy follows the direction of the eligible voter that is set out in the proxy appointment form.

11 New regulation 15A inserted (Voting: electronic)

After regulation 15, insert:

15A Voting: electronic

- (1) A body corporate must, in relation to a general meeting of the body corporate,—
- (a) take reasonable steps to enable eligible voters to vote by electronic means; and
 - (b) make electronic voting available to eligible voters from, at the latest, the last day on which the notice of meeting could have been issued (*see* regulation 6(3), 8(1), or 8A(3)); and
 - (c) take reasonable steps to verify the identity of persons purporting to cast a vote electronically.
- (2) In subclause (1)(a), **vote by electronic means** includes any way in which a vote is cast using electronic means (for example, emailing the postal voting form set out in form 12 of Schedule 2).
- (3) Electronic votes must be cast in the manner specified in the electronic voting information set out in the notice of meeting issued under regulation 6, 8, or 8A.
- (4) If the text of a motion to be decided by resolution at a general meeting is materially amended at the meeting, an electronic vote cast on the motion before the amendment is made must not be counted in relation to that motion, but may still be counted for the purpose of regulation 13(1).
- (5) If a general meeting is adjourned, an electronic vote relating to the meeting remains valid for the purpose of the reconvened meeting, unless the voter who cast the vote attends the reconvened meeting in person or by proxy.

12 New regulation 16A inserted (Retention of proxy and voting records)

After regulation 16, insert:

16A Retention of proxy and voting records

- (1) A body corporate must retain the specified records for a period of 28 days after—
- (a) a general meeting is held; or

- (b) the result of a vote on a resolution without a general meeting is notified to the unit owners.
- (2) The **specified records** are—
 - (a) proxy appointment forms:
 - (b) postal votes:
 - (c) electronic votes:
 - (d) any other voting records.

13 Regulation 33 amended (Pre-contract disclosure statement)

- (1) In regulation 33(1)(o)(vii), replace “the land information memorandum” with “land information memoranda”.
- (2) After regulation 33(2)(e), insert:
 - (f) 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) land information memoranda issued under section 44A of the Local Government Official Information and Meetings Act 1987:
 - (viii) easements and covenants.

14 Regulation 34 replaced (Pre-settlement disclosure statement)

Replace regulation 34 with:

34 Pre-settlement disclosure statement

- (1) The following information is prescribed for the purposes of section 147(3)(a) of the Act (which requires a pre-settlement disclosure statement to contain the prescribed information), subject to subclause (2):
 - (a) in relation to the unit being sold,—
 - (i) the unit number; and
 - (ii) the body corporate number; and
 - (iii) the amount of the contribution levied by the body corporate under section 121 of the Act in respect of the unit being sold; and
 - (iv) the period covered by the contribution; and
 - (v) the manner of payment of the levy; and

- (vi) the date on or before which payment of the levy is due; and
- (vii) whether a levy, or part of a levy, due to the body corporate is unpaid and, if so, the amount of the unpaid levy; and
- (viii) whether legal proceedings have been initiated in relation to any unpaid levy; and
- (ix) whether any metered charges due to the body corporate are unpaid and, if so, the amount of unpaid metered charges; and
- (x) whether any costs relating to repairs to building elements or infrastructure contained in the unit are unpaid and, if so, the amount of unpaid costs; and
- (xi) the rate at which interest is accruing on any money owing to the body corporate by the seller; and
- (b) in relation to the unit title development,—
 - (i) whether there are any proceedings pending against the body corporate in any court or tribunal; and
 - (ii) whether there are any proceedings—
 - (A) initiated by the body corporate and pending in any court or tribunal; or
 - (B) intended to be initiated by the body corporate in any court or tribunal; and
 - (iii) whether there is any written claim by the body corporate against a third party that is yet to be resolved; and
 - (iv) whether there have been any changes to the body corporate operational rules since the pre-contract disclosure statement.
- (2) If the pre-settlement disclosure statement is provided for an “off-the-plan” unit, the seller is required to provide the following information to the extent that it is capable of being provided at the date the statement is provided:
 - (a) the information specified in subclause (1); and
 - (b) the name and contact details of the body corporate manager, if there is one; and
 - (c) the insurance information specified in regulation 33(1)(n); and
 - (d) the details of any contract, or any obligation arising from the decision of a court or tribunal, that will bind the body corporate or the unit owner after the settlement date; and
 - (e) a copy of the long-term maintenance plan; and
 - (f) a copy of the written agreement setting out the body corporate manager’s terms of employment or engagement; and
 - (g) a copy of the body corporate operational rules that apply to the body corporate, including any amendments, revocations, or additions to the rules

that have been made by the body corporate but that do not yet have effect; and

- (h) a copy of the minutes of the most recent general meeting of the body corporate.

15 New regulation 36A and cross-heading inserted

After regulation 36, insert:

Retention of documents

36A Documents that must be retained by body corporate and body corporate manager

The following are prescribed documents for the purposes of section 202A(1) of the Act (which means a body corporate and a body corporate manager must retain the documents, or copies of them, for at least 3 years):

- (1) the bank statements for any bank accounts established and maintained by the body corporate; and
- (2) the financial statements and any audit reports relating to the financial statements; and
- (3) any valuation report from a registered valuer relating to an assessment of ownership interests for the unit title development; and
- (4) a completed copy of any of forms 3 to 7 of Schedule 2 that relates to the unit title development; and
- (5) any document that contains information about the imposition of levies by and payment of levies to the body corporate; and
- (6) the long-term maintenance plan; and
- (7) any remediation report, or any report about earthquake-prone issues or other significant defects in the land that relates to the unit title development or the land on which it is situated; and
- (8) any notice given under section 80(1)(a) of the Act from the body corporate to a unit owner regarding entering a unit; and
- (9) the register of unit owners maintained under section 85 of the Act and any previous versions of the register; and
- (10) the notices, agendas, and minutes of the body corporate meetings and any body corporate committee meetings; and
- (11) a document that contains the contact details of the body corporate chairperson; and
- (12) a document that contains the contact details of the body corporate committee chairperson (if any); and
- (13) a document that contains the contact details of the body corporate manager (if any); and

- (14) a document that contains the contact details of the previous body corporate manager (if any); and
- (15) any notice of designated resolution served under section 213 of the Act; and
- (16) any notice of delegation from the body corporate to the body corporate committee; and
- (17) any report from the body corporate committee to the body corporate on the exercise of the duties and powers delegated to it by the body corporate; and
- (18) any document that contains the details of any insurance policy held by the body corporate; and
- (19) any document filed in any proceedings in any court or tribunal that the body corporate is involved in; and
- (20) the written agreement setting out the body corporate manager's terms of employment or engagement; and
- (21) the body corporate operational rules and any previous versions of the rules; and
- (22) any document that sets out any current warranties from third parties for common property, assets owned by the body corporate, or building elements and infrastructure of the unit title development; and
- (23) any notice of resolution to be decided without a general meeting; and
- (24) any notice requiring a unit owner to sign any document to carry out a resolution; and
- (25) the interests register for the body corporate committee; and
- (26) the interests register for the body corporate manager; and
- (27) any service contract that has been entered into by the body corporate.

16 New Schedule 1AA inserted

Insert the Schedule 1AA set out in the Schedule of these regulations as the first schedule to appear after the last regulation of the principal regulations.

17 Schedule 2 amended

In Schedule 2, form 11, under the heading **Notes**, after paragraph 6, insert:

- 7 The chairperson of the meeting is not required to ensure that your proxy follows any direction on resolution set out in the form.
- 8 When entering a direction on resolution, you can use statements such as (for example):
 - I am for (which means you support)
 - I am against (which means you do not support)

- I abstain (which means you decline to vote either for or against the motion)

9 It is recommended that you provide the instructions in this form to your proxy before delivering it to the body corporate in the manner required.

Schedule
New Schedule 1AA inserted

r 16

Schedule 1AA
Transitional, savings, and related provisions

r 3A

Part 1
Provisions relating to Unit Titles Amendment Regulations 2024

1 Application of this Part

This Part applies when a notice of a general meeting of a body corporate has been issued under regulation 6, 8, or 8A before 9 May 2024, and the date of the meeting is on or after 9 May 2024.

2 Information to be given to unit owners

- (1) The body corporate, chairperson, or body corporate committee (as the case may be) must, if it is reasonably practicable to do so before the meeting, issue to every unit owner in the unit title development by each owner's preferred method of contact—
- (a) information about how to attend the meeting by remote access facility; and
 - (b) the electronic voting information.
- (2) A failure to issue the information referred to in subclause (1) does not affect the validity of the meeting or any business transacted at the meeting.

3 Electronic voting before general meeting

- (1) The body corporate, chairperson, or body corporate committee (as the case may be) must, if it is reasonably practicable, make electronic voting available to eligible voters from the time the electronic voting information is issued to the unit owners under clause 2(1)(b).
- (2) If it is not reasonably practicable to comply with subclause (1), electronic voting must be made available to eligible voters at the earliest reasonably practicable time after the electronic voting information is issued.

4 Manner of electronic voting

- (1) Where it has been reasonably practicable to issue the electronic voting information to the unit owners before the meeting under clause 2(1)(b), any electronic votes must be cast in the manner specified in the electronic voting information.

- (2) Where it has not been reasonably practicable to issue the electronic voting information to the unit owners before the meeting under clause 2(1)(b), any electronic votes must be cast by emailing the postal voting form set out in form 12 of Schedule 2 to the email address ordinarily used by the body corporate to communicate to unit owners.
- (3) An electronic vote cast under subclause (2) must be received before the relevant vote is held.

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations but is intended to indicate their general effect.

These regulations, which come into force on 9 May 2024, amend the Unit Titles Regulations 2011 (the **principal regulations**). The regulations are made largely to take account of amendments made to the Unit Titles Act 2010 by the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 that also come into force on 9 May 2024.

The principal regulations are amended to provide rules about electronic voting at and before body corporate meetings, including—

- information about remote attendance and electronic voting to be included in notices of meeting; and
- the obligations of body corporates in relation to electronic voting before and during a meeting; and
- the manner in which electronic votes may be cast; and
- meeting processes.

The principal regulations are also amended to—

- provide specific responsibilities for body corporates in relation to providing facilities for remote attendance at meetings; and
- provide that the chairperson of a meeting of a body corporate is not required to ensure that a person who has been appointed as a proxy follows the direction in their proxy appointment form; and
- provide rules relating to the retention of proxy and voting records; and
- provide for information that must be contained in pre-contract disclosure statements and pre-settlement disclosure statements in relation to sales of “off-the-plan” units; and
- provide a list of documents that must be retained for at least 3 years by body corporates and body corporate managers.

Issued under the authority of the Legislation Act 2019.

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These regulations are administered by the Ministry of Housing and Urban Development.