

Committee membership (Chapter 3, Part 2 Standard Module 2020)

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
Section 11 Co-owners or family members who are not eligible to be voting member	Section 11	The rules have been clarified about committee membership for co-owners and representatives of lot owners. The restriction on more than one co-owner, owner or family member being elected to the committee based on ownership of a lot, is applied separately for each lot that is owned.	Section 12 AM No equivalent in CM Section 11 SSM
Section 13 When committee is chosen	Section 13	Deemed committee membership has been expanded to apply where there are 3 or more lots in a scheme and only 3 owners for all lots, with the relevant owners to decide between themselves their executive positions. This will be called a 'minor committee' (new terminology). <i>This simplified process will now apply to a greater number of schemes.</i>	Section 14 AM Section 12 CM Section 12 SSM
Sections 21 to 25 Conduct of elections – secret ballots	Section 21	If the body corporate has by ordinary resolution decided that voters for an election of the committee held by secret ballot may cast votes electronically, then electronic votes can be passed. Lot owners may waive requirements to receive hard copy secret ballot materials where electronic voting is in place. <i>There are operational requirements imposed in relation to electronic voting. The system must reject a vote cast by a person who is ineligible to vote or who has already voted in the election. It must only allow the secretary to receive the votes and for secret ballots, it must not disclose the identity of the voter. In practice, it is likely that software packages or applications will be necessary to ensure compliance with these requirements.</i>	Section 22 AM No equivalent in CM No equivalent in SSM



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Sections 26 to 30 Conduct of elections – open ballots	Section 22	<p>If the body corporate has by ordinary resolution decided that voters for an election of the committee held by open ballot may cast votes electronically, then electronic votes can be passed.</p> <p><i>There are operational requirements imposed for electronic voting which must be complied with (refer to the above commentary on secret ballots).</i></p>	<p>Section 23 AM No equivalent in CM No equivalent in SSM.</p>
Sections 31 to 34 Conduct of ballots – general	Section 25	<p>Additional details have been included about how ballots for committee positions are to be conducted, including scrutineering processes.</p>	<p>Sections 24 to 26 AM No equivalent CM No equivalent SSM</p>
Sections 36 to 39 Choosing ordinary member positions	Section 27	<p>There has been some conjecture around when nominations are required to be called where the 'required number' of members has not been met (and what that required number is). Clarification has been provided in relation to when and how many nominations must be invited at a meeting (called from 'the floor').</p> <p>When there are fewer than the defined 'maximum number' (new terminology) of voting committee members, nominations must be invited. The number of nominations for ordinary member positions that must be invited is the number required to bring the voting members of the committee to the maximum number.</p>	<p>Sections 28 to 31 AM No equivalent CM No equivalent SSM</p>



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		<p>If the community titles scheme includes fewer than 7 lots, the maximum number is equal to the number of lots. If it includes more than 7 lots, the maximum is 7 - unless it is a principal scheme in a layered arrangement that has decided to increase its maximum number of committee members (capped at 12). A principal scheme in a layered arrangement of schemes can now increase the number of voting committee members from 7 to 12 members by passing a motion by ordinary resolution (refer to the definition of 'maximum number').</p> <p><i>This may provide broader representation where there are a large number of subsidiary schemes.</i></p>	
Sections 44 and 45 Removing committee members	Sections 33 to 35	<p>There has also been some conjecture around the methods available to remove committee members, by ordinary resolution or by issuing a notice for breach of the code of conduct applying to committee members. The new sections clarify that the process for removal for breach of the code (by issuing a notice for breach of the code followed by an ordinary resolution) is distinct from the process of removal by ordinary resolution (where no notice for breach of the code is issued).</p> <p><i>In practice, adjudicators have accepted that these are two distinctly different removal methods. The process for breach of the code is likely to remain rarely utilised.</i></p>	Sections 36 and 37 AM Sections 15 and 16 CM Sections 15 and 16 SSM
Section 74 Engagement of body corporate manager to carry out functions of committee and executive members	Section 58	A body corporate can now decide to engage a body corporate manager to carry out the functions of the committee (an administrator) in an open ballot, if an ordinary resolution is passed permitting it. Previously, this was only permitted by secret ballot.	Section 64 AM No equivalent CM Section 24 SSM (special resolution by open ballot)



Committee meetings (Chapter 3, Part 2 Standard Module 2020)

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
<p>Section 58 Submissions for consideration of motions at committee meetings</p>	<p>No previous equivalent</p>	<p>A new explicit right is given to owners to submit motions for consideration by the committee. The provisions require the committee to decide the motion as soon as reasonably practicable, and within a 6 week period (which may be extended to 12 weeks if required, provided notice is given with reasons as to why additional time is needed).</p> <p>The committee is not required to decide a motion if within a 12-month period before the member submitted the motion, the member has submitted a motion about the same issue, or 6 or more motions (in total about any issues). The committee must give notice stating the reason the motion was not decided if either of those circumstances applies.</p> <p><i>No additional guidance has been given as to when a decision must be made in order to satisfy the requirement that it be made 'as soon as reasonably practicable.' However, in some circumstances a decision may be required to be made earlier than within 6 weeks (e.g. if urgent repairs are needed). This may require committee members to take on a more active role, particularly in larger schemes. Given the limits on motions being submitted 'about the same issue', owners will also need to ensure their motions are properly prepared and valid, otherwise they may be precluded from submitting a further motion for 12 months. It is likely that there will be significant debate on the interpretation of these provisions.</i></p>	<p>Section 50 AM Section 22 CM Section 19 SSM</p>



Committee meetings (Chapter 3, Part 2 Standard Module 2020)

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
		<p>The committee must not decide a motion if a decision on the motion would be a decision on a restricted issue for the committee, or the motion if carried would conflict with the <i>Body Corporate and Community Management Act 1997</i> (Qld), the regulation, the by-laws or a motion already voted on at the meeting, or would be unlawful or unenforceable for another reason.</p> <p>If a motion is not decided within the prescribed period, the motion is considered to have not been agreed to.</p>	
Sections 61 to 63 Attendance at committee meetings	Sections 50 to 51	<p>Committees will be able to authorise attendance by any electronic means authorised by a resolution of the committee (for example: email, teleconferencing and videoconferencing). The committee can authorise electronic attendance for a particular meeting or any meeting, by a specific electronic means or any electronic means.</p> <p>A representative of an owner will be able to attend committee meetings in place of any owner where a notice containing prescribed information is given at least 24 hours before the meeting.</p>	<p>Sections 53 to 55 AM Sections 25 to 27 CM No equivalent SSM</p>



General meetings (Chapter 4, Part 2 to 4 Standard Module 2020)

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
Section 86 Submitting agenda motions	Section 88	A lot owner will be permitted to submit a motion for the first annual general meeting which must be included on the agenda if it is practicable to include it.	Section 76 AM Section 44 CM Section 36 SSM
Sections 87, 88 and 106 relating to electronic voting methods	Sections 78 and 89	Details as to electronic voting methods must be included on the voting papers included with a notice of general meeting. An electronic vote must be cast in accordance with the instructions issued by the secretary, so that the secretary receives the vote before the general meeting or at the meeting (if the system so allows) and in accordance with any requirement under the <i>Electronic Transactions (Queensland) Act 2001</i> (Qld). An electronic vote can be withdrawn any time before the vote is declared. A person's proxy cannot withdraw an owner's electronic vote.	Sections 77, 78 and 96 AM Sections 45, 46 and 64 CM Section 37 SSM.
Section 89 Group of 'same issue' motions	Section 72	<p>There has been confusion as to the systems surrounding 'motions with alternatives' where the relevant resolution thresholds required for the alternate motions are different. The process has been recast to require the grouping of 'same issue' motions (new terminology).</p> <p>If 2 or more motions proposing different ways of dealing with the same issue are submitted for a general meeting, the committee must list the original motions together on the agenda as a 'group of same-issue motions'. Voters can vote for or against 1 or more of the motions.</p>	Section 79 AM Section 47 AM Section 38 SSM



General meetings (Chapter 4, Part 2 to 4 Standard Module 2020)

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
		<p>An original motion with enough votes to pass becomes a 'qualifying motion'. If there is only 1 qualifying motion, that motion is the decision of the body corporate. If there is more than 1 qualifying motion, the motion that has the highest number of votes in favour of the motion is the decision of the body corporate. If there are 2 or more qualifying motions with an equal number of votes in favour of them, the motion with the fewest votes against it is the body corporate's decision. If the motion can still not be decided, the decision of the body corporate is decided by chance, for example, by tossing a coin or drawing the motions out of a hat.</p> <p>An explanatory schedule with prescribed information is required to advise voters how a group of same-issue motions will be dealt with.</p> <p><i>A useful guide to 'same issue' motions (issued by the Office of the Commissioner for Body Corporate and Community Management) is available here. The new provisions should reduce some of the strategic submissions which have occurred from time to time to try and affect the outcome of motions with alternatives</i></p>	



General meetings (Chapter 4, Part 2 to 4 Standard Module 2020)

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
Section 99 Quorum for general meetings	Section 82	<p>The body corporate can pass a motion by special resolution to change how a quorum is calculated for a general meeting. The body corporate may decide to:</p> <ul style="list-style-type: none"> reduce the number of voters required to be present in person from 2 to 1; and change the minimum percentage of voters required to vote to between 10% and 25%. <p>Only 1 voter must be present in person if there are fewer than 3 voters in the body corporate. The body corporate can decide by ordinary resolution that a voter is present personally at a meeting if they vote by electronic means, such as video conferencing.</p>	<p>Section 89 AM Section 57 CM Section 47 SSM</p>
Section 101 Meaning of 'voter' for general meeting	Section 83	<p>A person can represent only 1 lot under a power of attorney unless the owner of each lot is the same person, the person is a family member of the lot owner, or the power of attorney is given by a buyer under sections 21 or 219 of the <i>Body Corporate and Community Management Act 1997</i> (Qld).</p> <p><i>This will restrict the voting power able to be exercised by persons who collect powers of attorney from multiple owners.</i></p>	<p>Section 91 AM Section 59 CM Section 49 SSM</p>
Section 117 Minutes of general meeting	Section 96	<p>If a motion is ruled out of order, the reasons must now be included on the meeting minutes.</p>	<p>Section 107 AM Section 75 CM Section 56 SSM</p>



Disclosure of benefits

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
Section 79 When committee member may receive particular benefits	No previous equivalent	<p>Committee members may only receive a direct or indirect benefit from a caretaking service contractor or service contractor, other than a permitted benefit (such as the usual services of a letting agent for which payment is rendered), if the body corporate has authorised the member, by ordinary resolution, to receive the benefit.</p> <p><i>This requirement is aimed at preventing committee members from giving preferential consideration to a contractor.</i></p>	<p>Section 69 AM Section 36 CM Section 29 SSM</p>
Section 156 Disclosure of commission, payment or other benefit	Section 135	<p>If a body corporate is considering entering into a contract for the supply of goods or services, under which under another contract or arrangement a relevant person (being a body corporate manager or caretaking service contractor) is entitled to receive a commission, payment or other benefit, then that relevant person is required to give written notice to the body corporate disclosing the benefit including the monetary amount (if applicable).</p> <p><i>Whilst benefits are currently required to be disclosed, this reform introduces stricter arrangements as to notices disclosing the specific monetary amount. 'Generic' disclosure by way of generic descriptions or percentages will no longer be sufficient.</i></p>	<p>Section 146 AM Section 106 CM Section 77 SSM Section 21(2) STLSM</p>



Developers

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
<p>Section 96 Documents and materials to be given to the body corporate at first general meeting</p>	<p>Section 79</p>	<p>Additional documents must be supplied at the first general meeting, including (in addition to the materials currently required):</p> <ul style="list-style-type: none"> ▪ a development approval, if one was required; ▪ the scheme’s community management statement; ▪ documents relating to any claim made against a policy of insurance taken out by the original owner for the body corporate; ▪ any fire and evacuation plans required under the Fire and Emergency Services Act 1990 (Qld); ▪ any contracts or agreements for the supply of utility services to the body corporate; ▪ any documents relating to warranties for buildings or improvements forming part of scheme land, common property plant and equipment and any other body corporate asset; ▪ any proxy forms under which the original owner is the proxy for an owner of a lot; and ▪ any documents under which the original owner derives representative capacity for an owner of a lot. <p>Each of the documents must be provided in hard copy and electronic form.</p> <p><i>The provision of all required development approvals in hard copy could prove burdensome for complex developments where various levels of development approvals are required and detailed consultant reports form part of those approvals. The community management statement must be supplied in a format that is readily editable (e.g. word).</i></p>	<p>Section 86 AM Section 54 CM Section 44 SSM Section 67 STLSM</p>



Miscellaneous

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Section 172 Spending by committee	Section 151	The committee can spend above the committee spending limit for the purpose of obtaining insurance, if it is not a restricted issue. The committee must supply two insurance quotes if the policy cost is above the major spending limit. Policy information provided at the annual general meeting must now include details of any insurance broker or intermediary involved.	Section 162 AM No equivalent CM Section 91 SSM
Section 180 Duties of body corporate about common property	Section 152	More contemporary examples have been included as to the utility infrastructure on common property that lot owners must maintain which supply utilities to their lot (e.g. solar panels and air conditioning systems). <i>The general division of maintenance responsibility between body corporates and owners is unchanged.</i>	Section 170 AM Section 127 CM Section 99 SSM Section 31 STLMSM
Sections 181 and 182 Defect assessment	No previous equivalent	The agenda of a body corporate's second annual general meeting must include a motion proposing they engage an appropriately qualified person to prepare a defect assessment report which is to cover the property on scheme land (other than assets that the body corporate must be insured for full replacement value). A defect assessment report must identify any defective building work and if reasonable, identify the cause of any defective building work and the work required to rectify it. For community titles schemes that are developed progressively, a defect assessment notice motion must be put on the agenda for the first annual general meeting after a new community management statement is lodged and after property that the body corporate must insure, is included on scheme land.	Sections 171 and 172 AM Sections 128 and 129 CM Sections 181 and 182 SSM Sections 31A and 31B STLMSM



Miscellaneous

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		<p>The body corporate can set up a voluntary defect assessment plan for schemes registered under a standard format plan of subdivision with standalone buildings. Any owners who take part in the plan must pay part of the cost of the report.</p> <p><i>Body corporates will need to consider all obligations which may arise where a report identifies defects, such as disclosures to insurers.</i></p>	
Sections 218 to 221 Giving documents	Sections 202 to 205	<p>These sections modernise how documents, notices and information can be given. This includes allowing email addresses for service and other communication methods agreed between a lot owner and a body corporate (e.g. a web based portal).</p> <p><i>Body corporates will need to ensure all owners receive their notices in the manner elected or agreed by the relevant owners. There may be some administrative burdens where owners adopt different methods or operational issues where a method is ineffectual (e.g. if a portal or email system is unavailable).</i></p>	<p>Sections 208 to 210 AM Sections 165 to 167 CM Sections 137 and 138 SSM Sections 61A to 61C STLMS</p>



Miscellaneous

Standard Module 2020	Standard Module 2008	Key Outcomes of Reforms	Other 2020 Regulation Modules
Section 222 Service of documents or information on secretary generally	No previous equivalent	<p>This section applies if the regulation requires or permits a lot owner to give a document or information to, or serve a document on, the secretary of a body corporate for a scheme. The requirement or permission is taken to be satisfied if the lot owner gives the document or information to, or serves the document on, a body corporate manager who has been authorised by the body corporate under section 119(2) of the <i>Body Corporate and Community Management Act 1997</i> (Qld) to exercise some or all of the powers of the secretary of the body corporate.</p> <p><i>This section has been introduced to regularise the common practice of lot owners giving voting papers to a body corporate manager, the validity of which was cast into doubt in Whitsunday Waters Resort [2020] QBCCMCmr 84.</i></p>	<p>Section 211 AM Section 168 CM Section 139 SSM</p>
Section 223 Notices of transfer and other matters	Section 193	<p>The timeframe for giving notices of significant changes about a lot (including changes of ownership, leases for more than 6 months, a letting agent appointment or termination or a mortgagee taking possession) has been reduced from 2 months to 1 month.</p> <p><i>This is aimed at ensuring body corporate rolls are kept up to date.</i></p>	<p>Section 212 AM Section 169 CM Section 140 SSM Section 64 STLSM</p>
Section 225 When body corporate must record information on the roll	No previous equivalent	<p>The body corporate must record the information that is required for the roll within 14 days of receiving the information. There is currently no timeframe applied.</p> <p><i>Again, this is aimed at ensuring body corporate rolls are kept up to date.</i></p>	<p>Section 214 AM Section 171 CM Section 142 SSM</p>

