

Unit Titles Legislation Amendment Act 2020

- Commencement Date - 1 November 2020. All amendments take place on 1 November 2020 unless stated otherwise
- Amends 11 Acts (incl Unit Titles (Management) Act 2011 (UTMA) as well as Unit Titles (Management) Regulation 2011 (UTMR))

Issue	Unit Titles (Management) Act 2011	Unit Titles Legislation Amendment Act 2020
Building Management Statements	N/A	Building management statements are agreements between two or more entities that share and maintain a particular area or service within a building. They: regulate shared areas and services and obligations between lots; contain detailed provisions relating to the supply of services, rights of access, rights of support and shelter and insurance arrangements as well as provisions that set out the cost proportions of lots with respect to the shared areas and services. Potentially applies to current and future OCs. Land Titles Act 1925 amended
Building Management Committees	N/A	Established via building management statements which also set out establishment and appointment of office holders, functions and dispute resolution process. Usually committee must meet at least once a year and decisions are valid only if it is a decision of the majority of members present and voting at the meeting where the decision is made
Developer Rules	N/A	Land Titles (Unit Titles) Act 1970 amended to facilitate developer rules
Common Seal	Required (s9(2)(b)); Execution by common seal (Default Rule 11 Sch4)	Optional (s9A)
Maintenance Schedule	N/A	For units plans registered after 1 July 2021, developer must prepare a schedule for common property maintenance (s24(1A and 1B), s25, s168, s3.4(c) Sch3, Reg4A and 4B UTMR)

NEED HELP?

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Maintenance Plan	N/A	After second AGM following 1 November 2020, OC must prepare maintenance plan taking into account developer's maintenance schedule (if any) (s24(1A and 1B), s25, s168, s3.4(c) Sch3, Reg4A and 4B UTMR)
Section 119 Certificates	(s119)	Significantly more information to be provided (s119). Fees likely to increase
Special Resolutions	OCs with more than 2 members (votes cast in favour of resolution greater than votes cast against it and votes cast against resolution number less than 1/3 of total number of votes that can be cast by people present at the meeting (including proxy votes)) (2 categories – more than 2 members and 1 or 2 members (note definition of member and different test for each category))(s3.16 Sch3)	OCs with more than 3 members (votes cast in favour of resolution greater than votes cast against it and votes cast against resolution number not more than 1/4 of total number of votes that can be cast by people present at the meeting (including proxy votes)) (3 categories – more than 3 members, 3 members and 1 or 2 members (note definition of member and different test for each category)) (s3.16, s3.16(1A) Sch3)
Special Privileges	Authorised by unopposed resolution; terminated by special resolution (registration not required) (s22)	Authorised and terminated by special resolution. Duration less than 3 months – a right and registration not required. Duration 3 months or more – a rule requiring registration, maintenance requirements, deemed to be validly made after 2 years, ACAT jurisdiction to make orders. Note - all special privilege rights existing immediately before 1 November 2020 will terminate on 1 July 2021 (s22, s112A, s112B, s128, s129(2B), s141, s167)

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Animals	A unit owner may keep an animal, or allow an animal to be kept, within the unit or the common property only with the consent of OC. OC may give consent with or without conditions. However, OC's consent must not be unreasonably withheld (s32, s126)	A unit owner or occupier may keep an animal, or allow an animal to be kept, within the unit or the common property — (a) if the animal is an assistance animal; or (b) if the animal is not an assistance animal, only if — (i) if the rules of OC include a pet friendly rule — the animal is kept in accordance with the pet friendly rule; or (ii) OC consents to animal being kept. OC is taken to consent if OC does not respond within 3 weeks of the day request was made (s32, s108(3)(h), s108(4), s112C, s129(1)(l), s133, s170, Default Rules 1.5 and 1.6)
Audit	N/A	Required if the number of units is more than 100 or the annual budget is more than \$250,000 (or another number or amount prescribed by UTMR). Audit obligation does not apply to an EC in relation to the first AGM held on or after 1 November 2020 (s171, s2.1(1)(g), s2.2(1)(b) Sch2 and s133)
Decisions about defective building work	N/A	Unless developer owns all units in units plan, developer not entitled to vote, or exercise a proxy vote, in relation to motion in relation to defective building work unless conditions met (s3.21A Sch3)
Proxy Votes	No limits	A person must not exercise more than the following number of proxy votes in a vote on a matter at a general meeting: (a) if there are more than 20 units in the units plan — a number that is not more than 5% of the total number of units; (b) in any other case — 1 (s3.26(4) Sch3)

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Executive committees (ECs)	N/A	ECs of mixed-use developments must include one non-residential unit owner (s39A)
Contributions	General/sinking fund contribution payable for each unit is — (a) the proportional share for the unit of the total general/sinking fund contribution; or (b) a proportion of the total general/sinking fund contribution worked out in accordance with a method set out in an unopposed resolution (s78/89)	General Fund: a special rather than unopposed resolution is required if an alternative non-unit entitlement basis of contribution is sought (s75(2), s78(2)-(4)) Sinking Fund: a special rather than unopposed resolution is required if an alternative non-unit entitlement basis of contribution is sought (s89(2) – (4)) Note additional requirements in relation to such resolutions
Rules	Up until 1 November 2020, the default articles or default rules applicable at the time of registration of the units plan continue to apply (as amended) notwithstanding amendments to the unit titles legislation	For OCs established before 1 November 2020, on 1 November 2020 the articles or rules of all OCs — (a)(i) are the default rules under schedule 1 UTMR and (ii) are taken to be rules for OC; and (b) if immediately before 1 November 2020 non-standard rules are in force for the OC - the default rules in (a)(i) apply as amended by the non-standard rules (s106-108A, s127, s169, s2.1(1)(h) Sch2). Note different transitional provision for Pet Rules (s170)
Consolidated Rules	N/A	OC must maintain an up-to-date consolidated version of the rules of OC (s2.1(1)(h) Sch2)
Default Rules	(Sch4 UTMA)	Two new rules (1.5 and 1.6) inserted – pets in units and assistance animals (Sch1 UTMR)

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Minutes of Meetings	EC must keep documents, records and books for at least 5 years (s2.1(2) Sch2)	EC must keep documents, records and books of account for at least 7 years and make copies available for inspection on request by any member of OC. EC must give a copy of EC and general minutes to each member of OC within 14 days after the day the meeting was held (s2.1(1A), s2.1(2) Sch2)
Electronic Meetings	N/A	EC may authorise EC meeting or general meeting to be held using a method of communication, or a combination of methods of communication, that allows a member taking part to hear or otherwise know what each other member taking part says without the members being in each other's presence. Examples include phone or satellite link and internet or intranet link. A member who takes part in a meeting is taken, for all purposes, to be present at the meeting (s2.8(3) Sch2, s3.1(2) Sch3)
Alternative Voting Mechanisms	This provision commenced on 30 April 2020 via Public Health (Emergency) Declaration (No 1)	OC may, by resolution passed at a general meeting, agree to a way of voting on a matter, or class of matters, to be decided by OC. A person is entitled to vote on a matter only if person would be entitled to vote on the matter if the matter was considered at a general meeting (s147(1A), s3.31A Sch3, reg10 UTMR)

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