

Amendments to the Unit Titles Act 2010: What this means for owners

New amendments to the Unit Titles Act 2010 will shortly come into force, and it is important you are aware of both your obligations and rights as an owner of a unit title property.

What changes have been made to the decision-making process of a body corporate?

The changes made to the Act clarify the decision-making process for a body corporate. Matters are to be decided by ordinary resolution (simple majority of eligible voters present) at a general meeting by default unless the Act requires the matter to be decided by special resolution (75% of eligible voters present) or the body corporate gives the committee delegated authority to decide that particular matter. It is open for the body corporate to decide matters within its function and powers regardless of whether they have been delegated to the committee.

The matters that must be decided by special resolution include, for example, a reassessment of ownership interests for each unit, a proposed sale of common property or a decision not to establish a long-term maintenance fund. These reserved matters cannot be delegated by the body corporate to the committee.

Owners are now also expressly allowed to remotely attend and vote at a general meeting, even if the body corporate operational rules say otherwise. However, the Act also clarifies that an owner can only vote once they have paid their levies and expressly requires that in order to be elected chairperson the unit owner must have also paid their levies.

What changes have been made to resolving body corporate disputes?

The Tenancy Tribunal's jurisdiction has increased from \$50,000 to \$100,000.

There is also a significant reduction in filing fees for proceedings at the Tribunal, from a maximum of \$3,300 down to \$500.

When a body corporate attempts to recover reasonable costs from owners relating to recovering unpaid levies, legal costs are now a fixed amount.

These changes are likely to increase efficiency and reduce costs when it comes to pursuing and resolving disputes in the Tenancy Tribunal.

What if I want to sell my unit title property?

The disclosure regime, applicable when buying or selling a unit, has changed slightly. Vendors are still required to provide pre-contract and pre-settlement disclosure statements to the potential purchaser, but the information to be disclosed is now more comprehensive, as discussed below.

Purchasers no longer have the ability to request an additional disclosure statement. This ability is instead replaced by the more stringent requirements on the seller to provide complete and accurate disclosure statements. Failure to provide complete and accurate disclosure statements within the strict timeframes set out in the Act may give the purchaser the ability to delay settlement or cancel the agreement.

What must be included in a disclosure statement?

There are additional matters that must now be included in both the pre-contract and the pre-settlement disclosure statements. These include, for example, whether the body corporate or the committee has knowledge of any weathertightness or earthquake-prone issues, or any other significant defects in the land, whether the body corporate is involved in any legal proceedings, the body corporate's financial statements and audit reports, and minutes of general meetings. There are also separate requirements for statements of "off-the-plan" units which acknowledge that many of the matters will only be estimates at that stage.

The changes recognises that pre-contract and pre-settlement disclosure statements should only contain information to the extent that an owner is able to provide at that time.

These new requirements were intended to provide greater transparency for purchasers.

What are the changes to the body corporate committee?

If an owner is on the body corporate committee, they will be subject to a new code of conduct: to act honestly, fairly, in confidence, in the body corporate’s best interests and in accordance with the Act and regulations. Members must also commit to understanding the Act and the code of conduct.

Members must also declare any conflicts of interest which are to be recorded in a register and produced upon request to owners and other interested parties (depending on the operational rules).

What are the changes to the body corporate managers?

Similarly to the new requirements on members of the body corporate committee, a body corporate manager will now be subject to a new code of conduct. They will also be required to declare any conflicts of interest.

What are the changes in respect of the long-term maintenance plan?

A body corporate will be required to have a long-term maintenance plan covering at least 10 years of maintenance. If the unit title complex contains more than 10 units, the long-term maintenance plan must cover a period of 30 years and the plan must be reviewed every three years. The long-term maintenance plan must cover a number of additional matters, including, for example, the current state of the common property and the sources of funding for the plan.

Utility interests and charges to unit owners

While a utility interest of a unit is usually the same as the ownership interest, a body corporate may decide otherwise. The amendments will give a body corporate the ability to assign either a single utility interest or multiple utility interests relating to a service or amenity, for example, if some units (but not all) in a complex share a pool.

When do these changes come into force?

The amendments have passed into law but most have not yet come into force. The permanent ability to hold virtual meetings took effect on 9 December 2022.

The following amendments will take effect on 9 May 2023: the new requirements for the pre-contract and pre-settlement disclosure documents, the changes to

the governance of a body corporate, and the changes to the dispute resolution processes and fees. The changes to the long-term maintenance plans, and the new powers of the Ministry of Business, Innovation and Employment in enforcing the Act will take effect on 9 May 2024.

We can help

If you intend to sell your unit title property in the future, or join a body corporate committee, it is important that you are aware of your obligations and duties. If you would like our assistance in ensuring that you comply with the new amendments, or would like our advice on a potential sale or purchase of a unit title property, please get in touch with us.

[James McDougall](#)
[Pavee Patanasiri](#)

