

FACT SHEET

FORMING A BODY CORPORATE COMMITTEE

This Fact Sheet has been created to provide owners more information on the requirements for forming a Body Corporate Committee in accordance with the Body Corporate and Community Management Act 1997 & the relevant Regulation Modules.

How do members nominate

At least 3 weeks prior to the end of the financial year for the scheme, but not more than 6 weeks prior, the Secretary must give each lot owner a notice inviting the nomination of an individual for committee membership.

All completed nominations must be returned to the Secretary by the end of the financial year, which will be set out on the nomination form. The secretary must then forward written notice to the candidate acknowledging the nomination has been received.

Following this, at each Annual General Meeting, Bodies Corporate must elect the Committee. For the Standard, Accommodation & Commercial Modules this includes election of a Chairperson, Secretary, Treasurer and Ordinary Members however under the Small Schemes Module the requirement exists to elect only a Secretary & Treasurer. The Chairperson, Secretary, Treasurer and Ordinary Members are "voting members" of the Committee.

Once elected, the Committee is responsible for the administrative and day-to-day requirements of the body corporate. The Committee acts on behalf of the body corporate and puts in place the lawful decisions of the body corporate (Section 100 & 101 of the Body Corporate and Community Management Act 1997).

Under the Standard, Accommodation & Commercial Module, Bodies Corporate must have a minimum of three, but no more than seven "voting members" if there are seven or more lots in the scheme.

If the number of lots in the scheme is less than 7 lots, then the maximum number of Committee Members becomes the number of lots in the scheme e.g. if there are 5 lots in the scheme, the maximum number for the committee becomes 5, but still must have a minimum of 3 voting members.

What is a voting member

Members of the body corporate (lot owners) are eligible to be voting members and may either nominate themselves to become a Committee Members or can nominate another eligible person. This is defined more in the regulation modules

An individual may nominate one of the following for each lot they own (up to a maximum of 3)

- Themselves
- Another member of the body corporate
- A person they have appointed under a power of attorney
- A member of their immediate family e.g. a spouse, children over the age of 18 (including a step child or adopted child), their parents or step parents, their siblings.

A corporation may nomination may nominate

- A director of the corporation
- The secretary of the corporation
- Another nominee of the corporation

A body corporate for a subsidiary scheme may nominate a representative to sit on the committee of the principal scheme however the representative must be a committee member for the subsidiary scheme and if no representative is appointed the Chairperson automatically fills this role.

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What is a non-voting member

The Committee may also contain “non-voting members” of the Committee and is set out according to the relevant Regulation Module for the scheme. Section 12 of the Body Corporate and Community Management (Standard Module) Regulation 2008 states:

- (1) *The following persons are, without further election or appointment, members of the committee -*
 - (a) *A body corporate manager for the community titles scheme;*
 - (b) *A caretaking service contractor for the scheme.*
- (2) *A person who is a member under this section is a non-voting member of the committee.*
- (3) *Subsection (2) applies even if the person is a member of the body corporate*
- (4) *A non-voting member is not entitled to vote at a meeting of the Committee*

Engagement of Body Corporate Manager

In circumstances where the Body Corporate fails to form a Committee in accordance with the requirements under the Act and the Regulation Modules, the Body Corporate may engage a Body Corporate Manager to carry out the functions of the Committee including the executive positions.

This type of engagement is known as a Chapter 3 Part 5 engagement and is a separate appointment to the Body Corporate Manager engagement.

Under this type of engagement there will not be a Committee (Section 119 of the BCCM Act & Standard Module Sections 7, 13 & 58)

People who are not eligible to be voting members

The following list are not permitted, under the Body Corporate and Community Management Act & Regulation Modules, to be voting members of the Committee

- Body corporate managers
- Service contractors
- Letting agents
- Associates of body corporate managers, services contractors or letting agents
- A person (other than the authorized letting agent for the scheme) who conducts a letting business for a number of lots in the scheme
- A lot owner or a person nominated by the owner if the owner owes a debt to the body corporate at the time when the committee members are chosen. Additionally a lot owner is not able to nominate a person for committee membership if the lot owner owes a body corporate debt when the nomination is received by the Secretary.

SOURCES

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1997-028/lh>

Body Corporate and Community Management Act 1997

section 99-101, 119-121 Current as at 3 July 2017, Page 102-103, 122-123

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-2008-0273>

Body Corporate and Community Management (Standard Module) Regulation 2008

section 9-32, 58 Current as at 1 July 2018 Page 15-36, 57

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-2008-0270>

Body Corporate and Community Management (Accommodation Module) Regulation 2008

section 10-32, 56, Current as at 1 July 2018 Page 16-32, 52

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-2008-0271>

Body Corporate and Community Management (Commercial Module) Regulation 2008

section 10-14, Current as at 1 July 2018 Page 16-18

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-2008-0272>

Body Corporate and Community Management (Small Schemes Module) Regulation 2008,

Section 10-17, 23, Current as at 1 July 2018 Page 13-18, 23

<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/committees-meetings/form-change-committee>

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