

(Reprint No. 7)

South Australia

COMMUNITY TITLES REGULATIONS 1996

These regulations are reprinted pursuant to the Subordinate Legislation Act 1978 and incorporate all amendments in force as at 7 April 2003.

REGULATIONS UNDER THE COMMUNITY TITLES ACT 1996

COMMUNITY TITLES REGULATIONS 1996

being

No. 237 of 1996: *Gaz.* 31 October 1996, p. 1559¹

as varied by

No. 109 of 1997: *Gaz.* 13 May 1997, p. 1924²

No. 63 of 1998: *Gaz.* 28 May 1998, p. 2311³

No. 74 of 1999: *Gaz.* 27 May 1999, p. 2843⁴

No. 143 of 1999: *Gaz.* 1 July 1999, p. 55⁴

No. 65 of 2000: *Gaz.* 25 May 2000, p. 2723⁵

No. 147 of 2000: *Gaz.* 29 June 2000, p. 3494⁶

No. 95 of 2001: *Gaz.* 31 May 2001, p. 2049⁷

No. 90 of 2002: *Gaz.* 20 June 2002, p. 2595⁸

No. 14 of 2003: *Gaz.* 20 February 2003, p. 700⁹

¹ Came into operation 4 November 1996: reg. 2.

² Came into operation 1 July 1997: reg. 2.

³ Came into operation 1 July 1998: reg. 2.

⁴ Came into operation 1 July 1999: reg. 2.

⁵ Came into operation 1 July 2000: reg. 2.

⁶ Came into operation 29 June 2000: reg. 2.

⁷ Came into operation 1 July 2001: reg. 2.

⁸ Came into operation 1 July 2002: reg. 2.

⁹ **Came into operation 7 April 2003: reg. 2.**

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the regulations see Appendix.

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Part 1—Preliminary

Citation

1. These regulations may be cited as the *Community Titles Regulations 1996*.

Commencement

2. These regulations will come into operation on 4 November 1996.

Interpretation

3. In these regulations, unless the contrary intention appears—

"**the Act**" means the *Community Titles Act 1996*.

Community Titles Regulations 1996**Part 2—Requirements relating to plans****Scale of plans**

4. (1) The following scales are prescribed for the purposes of sections 14(4)(h), 52(4)(f)(ii), 58(3)(e) and 60(3)(f) of the Act:

1:100	1:125	1:150	1:200	1:250
1:300	1:400	1:500	1:750	1:800
1:1000 or any greater number that is a multiple of 10.				

(2) The plans referred to in sections 14, 52, 58 and 60 of the Act must include a bar scale that is at least 100 millimetres in length.

Lot entitlements (s. 20(3))

5. The aggregate of the lot entitlements of all community lots defined on a plan of community divisions may be any whole number between 2 and 100 000 but must not be a number that exceeds 100 000.

Encroachments

6. For the purposes of section 27(1)(b)(ii) of the Act—

- (a) associated structures are all structures (including a roof) that are supported by footings that protrude beyond the boundaries of the community parcel and include all things attached to those structures;
- (b) the prescribed distance for the protrusion of footings and associated structures is 200 millimetres or such other distance as the Registrar-General may determine in a particular case.

Minor amendment of plan

7. The minor amendment of the delineation of lots or common property referred to in section 54(3) of the Act is a change in the position of the boundary of a lot or the common property by 200 millimetres or less.

Submission of outer boundary survey plan

8. (1) Subject to subregulation (2), a person who intends making an application for the division of an allotment or allotments by a primary plan of community division must, before making the application, submit to the Registrar-General—

- (a) an outer boundary survey plan of the land to be divided in a form approved by the Registrar-General; and
- (b) the appropriate fee prescribed by Schedule 2.

(2) Subregulation (1) does not apply in relation to an application for the division of land in respect of which the Registrar-General has determined that subregulation (1) should not apply.

(3) The Registrar-General must examine the outer boundary survey plan and must, if satisfied that the requirements of these regulations have been met and the information on the plan appears to be adequate and accurate, send a copy of the plan to:

- (a) the applicant or the applicant's agent; and
- (b) the council (if any) for the area in which the land is situated.

Examination of plans

9. The Registrar-General must not deposit a plan under the Act unless he or she has examined the plan and is satisfied with it.

Additional information as to applications

10. The Registrar-General may require a person who has made an application to him or her under the Act to provide him or her with any information that the Registrar-General requires to consider the application.

Certification of irregular boundaries

11. Where a plan shows land bounded by a watercourse, lake, the sea or some other irregular boundary, the Registrar-General may require the accuracy of the boundary as shown on the plan to be certified by a licensed surveyor.

Notification on deposit of plan

12. After the Registrar-General deposits a plan in the Lands Titles Registration Office under the Act he or she must—

- (a) notify the applicant or the applicant's agent in writing of the deposit; and
- (b) notify the council (if any) for the area in which the land is situated in writing of the deposit and send a copy of the deposited plan to the council.

Issue of certificates of title on deposit of plan

13. On depositing a plan of community division in the Lands Titles Registration Office the Registrar-General must issue a separate certificate of title for each lot and the common property created by the plan.

Lease of part of a lot or common property

14. A lease of part of a lot or common property must identify the land let by reference to a plan deposited in the General Registry Office unless the Registrar-General authorises some other method of identification.

Part 3—Administration of community schemes

Division 1—General

Delegation (s. 75(5))

15. (1) A community corporation may delegate any of its functions and powers (except this power of delegation) to a member or employee of the corporation or to a member of a secondary or tertiary corporation within the same community scheme.

(2) A corporation may delegate the following functions and powers to any person:

- (a) the receipt and holding of money and other personal property on behalf of the corporation; and
- (b) payment of money on behalf of the corporation; and
- (c) the preparation of statements of expenditure and statements of accounts; and
- (d) the collection of money due to the corporation; and
- (e) entering into contracts of insurance with insurers on behalf of the corporation; and
- (f) maintaining and keeping records on behalf of the corporation; and
- (g) issuing and signing notices on behalf of the corporation; and
- (h) preparing minutes of meetings of the corporation; and
- (i) providing information as required by the Act on behalf of the corporation; and
- (j) investing money on behalf of the corporation; and
- (k) arranging for the maintenance and repair of the common property on behalf of the corporation.

(3) A corporation cannot delegate a function or power under subregulation (1) or (2) if the function or power is of a kind that can only be performed or exercised by the corporation by passing a special or unanimous resolution.

(4) A delegation by a corporation—

- (a) may be absolute or conditional;
- (b) does not derogate from the power of the corporation to act in any matter.

Matters to be addressed at first general meeting

16. The following are prescribed under section 80(2)(e) of the Act as matters that must be addressed at the first general meeting of a corporation:

- (a) whether the policies of insurance taken out by the developer are adequate;
- (b) whether the corporation should establish a management committee;
- (c) the delegation of functions and powers by the corporation;

- (d) whether the by-laws of the scheme need amendment.

Agenda for annual general meeting (s. 81(5)(d))

17. The agenda for each annual general meeting must include consideration of the policies of insurance required by the Act to be held by the corporation.

Proof of insurance

18. A person who is required by section 106(1) of the Act to insure a building must provide the community corporation with a photocopy of the current certificate of the insurance that he or she has taken out to satisfy that requirement.

Unanimous or special resolution for acquisition of property

19. (1) A community corporation's acquisition of a freehold or leasehold interest in a lot must be authorised by a unanimous resolution of the corporation (see section 112(3)(a) of the Act).

(2) If the cost of the acquisition by a community corporation of property (other than property referred to in subregulation (1))—

- (a) is \$5 000 or more the acquisition must be authorised by a unanimous resolution of the corporation; or
- (b) is less than \$5 000 the acquisition must be authorised by a special resolution of the corporation.

Interest on arrears of contributions by lot owners (s. 114(4)(b))

20. A community corporation, when fixing interest payable by the owner of a community lot in respect of a contribution, or an instalment of a contribution, that is in arrears must not—

- (a) exceed a rate of 15 per cent per annum; and
- (b) must not demand payment of interest on unpaid interest.

Notice for payment of contribution or instalment (s. 114(6)(a))

21. A notice of a contribution or instalment of a contribution served by a community corporation on the owner of a lot must include the following information:

- (a) identification of the lot in relation to which the contribution or instalment is payable; and
- (b) the amount of the contribution or instalment; and
- (c) in the case of a contribution that is payable in instalments—the amount of each instalment and the day on which each instalment is payable; and
- (d) the day on or before which the contribution or instalment must be paid (being a day not less than 14 days after the notice is served); and
- (e) the total amount that the corporation has decided to raise by way of contributions by the owners of community lots; and
- (f) the purpose or purposes for which the money raised will be used; and
- (g) the rate of interest payable in respect of a contribution or instalment that is in arrears; and

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- (h) the name of the person to whom the contribution or instalment should be sent or delivered.

Resolutions authorising expenditure (s. 119)

22. Expenditure by a community corporation—

- (a) of less than an amount that is equivalent to \$2 000 multiplied by the number of community lots in the scheme must be authorised by an ordinary resolution of the corporation;
- (b) of the amount referred to in paragraph (a) or more but less than an amount that is equivalent to \$5 000 multiplied by the number of community lots in the scheme must be authorised by a special resolution;
- (c) of the larger of the two amounts referred to in paragraph (b) or more must be authorised by a unanimous resolution.

Register of owners of community lots (s. 135(2))

23. A community corporation must keep a record of information used to compile its register of the names and addresses of the owners of the community lots for a period of at least seven years.

Records (ss. 136 and 137)

24. (1) Documents of the following kinds must be kept by community corporations:

- (a) receipts for the expenditure of money; and
- (b) passbooks, deposit books and all other documents providing evidence of the deposit or investment of money; and
- (c) ADI statements and all other documents providing evidence of dealing with money invested or on deposit.

(2) All documents and records kept by a corporation must be kept in an orderly manner to enable them to be found easily for the purposes of inspection or copying.

(3) The following periods are prescribed under sections 136 and 137(2) of the Act as the period for which a corporation must keep its records and documents:

- (a) minutes of meetings—30 years;
- (b) accounting records—7 years;
- (c) any statements of account—7 years;
- (d) notices or orders served on the corporation—7 years;
- (e) correspondence—7 years;
- (f) notices of meetings—7 years.

Audit (s. 138(1) and (4))

25. A community corporation is exempted from the requirement to have the annual statement of accounts audited if—

- (a) all of the community lots of the community scheme are owned by the same person; or

- (b) all money payable to the corporation is received and held by an agent on behalf of the corporation in accordance with the Act and these regulations; or
- (c) the number of community lots in the community scheme is six or less and during the financial year to which the exemption will relate, the corporation has passed a unanimous resolution exempting the corporation from that requirement; or
- (d) the aggregate of the contributions made, or to be made, by members of the corporation in respect of the year to which the statement relates does not exceed \$3 000 and the balance standing to the credit of the administrative fund and the sinking fund at the commencement of that year does not exceed \$3 000 for each fund.

Fee for provision of information

26. (1) Subject to subregulation (1a), the following fees are prescribed for the purposes of section 139(2) of the Act:

- (a) in the case of an application for all or any of the information referred to in section 139(1)(a)—
 - (i) where the applicant is the owner of a community lot—no fee;
 - (ii) in any other case—\$25 per application;
- (b) in the case of an application for copies of all or any of the documentary material referred to in section 139(1)(b)—
 - (i) where the applicant is the owner of a community lot—\$5 per application;
 - (ii) in any other case—\$25 per application, plus an additional fee of \$10 where the application is for, or includes a request for, a copy of current policies of insurance taken out by the corporation;
- (c) where an application is made to inspect all or any of the documentary material referred to in section 139(1)(c)—
 - (i) where the applicant is the owner of a community lot—no fee;
 - (ii) in any other case—\$5 per application.

(1a) Where GST is payable in relation to goods, services or other things supplied in response to an application referred to in subregulation (1), the fee prescribed by that subregulation is increased so that, after deduction of the GST, the amount of the fee remaining is equal to the fee prescribed by subregulation (1).

(2) A community corporation may reduce or waive any fees under subregulation (1).

(3) In this regulation—

"GST" means the tax payable under the GST law;

"GST law" means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth)*; and

- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods, services and other things.

Services provided by corporations

27. (1) A community corporation may, pursuant to section 143 of the Act, provide to the owner or occupier of a lot any kind of service that relates to the ownership or occupation of the lot.

(2) The provision of a service under subregulation (1) is subject to the following restrictions:

- (a) a service must not be provided to a person who has not agreed with the corporation to accept the service;
- (b) the cost of the service must be paid for by the persons who have agreed to accept it and must not be subsidised by the corporation.

Division 2—Agent’s trust accounts

Authorisation of fees, costs and disbursements (s. 123(b))

28. (1) An agent may withdraw money from a trust account held on behalf of a community corporation in satisfaction of a claim that the agent has against the corporation for fees, costs or disbursements if the corporation has agreed in writing to pay to the agent those fees, costs or disbursements.

(2) An agent who becomes entitled to money held in the agent’s trust account in or towards satisfaction of the agent’s fees, costs or disbursements must, as soon as practicable (and in any event within three months), transfer the money to an account maintained by the agent for receipts other than trust money.

Maximum penalty: \$500.

Authorised trust accounts (s. 124)

29. Accounts for the time being approved by the Commissioner for Consumer Affairs in relation to the holding of trust money under the *Land Agents Act 1994* and the *Conveyancers Act 1994* are prescribed for the purposes of section 124 of the Act.

General duty with respect to electronic records

29A. If an agent uses a computer program to keep records under this Division, the agent must ensure that—

- (a) an electronic copy of all the records is made within 24 hours of any alteration of the records; and
- (b) at least once in each week, an electronic copy of all the records is made and kept in a safe place at a location other than the premises where the computer program is operating; and
- (c) before any information is deleted from the computer records, a hard copy of the information is made and kept by the agent as part of the agent’s records; and
- (d) an up-to-date electronic copy of the computer program is made and kept in a safe place at a location other than the premises where the computer program is operating.

Cash books

30. (1) For the purposes of section 126(1)(c) of the Act, the detailed accounts of receipts and disbursements of trust money to be compiled by an agent must comply with the following requirements:

- (a) a cash receipts book must be kept in which the agent records the following information in respect of each receipt of trust money:
 - (i) the date and reference number of the receipt;
 - (ii) the name of the person from whom the money is received;
 - (iii) the name of the community corporation or reference to which the transaction relates;
 - (iv) brief particulars of the purpose of the receipt;
 - (v) the amount of the receipt;
- (b) a cash payments book must be kept in which the agent records the following information in respect of each payment of trust money:
 - (i) the date and reference number of the cheque or electronic transfer of funds by which the payment was made;
 - (ii) the name of the payee;
 - (iii) the community corporation's name or reference to which the transaction relates;
 - (iv) brief particulars of the purpose of the payment;
 - (v) the amount of the cheque or electronic transfer of funds.

(2) However, an agent need not keep a cash receipts book or a cash payments book as required by subregulation (1) if the agent uses a computer program to record the information referred to in that subregulation in respect of each receipt or payment of trust money and the program—

- (a) requires input in each field of a data entry screen intended to receive information in respect of a receipt or payment so that all of the information referred to in subregulation (1) is recorded in respect of each receipt and payment; and
- (b) is capable, at any time, of producing—
 - (i) a report of the information in respect of receipts of trust money in the order in which they were received; and
 - (ii) a report of the information in respect of payments of trust money in the order in which they were made.

(3) An agent who uses a computer program as referred to in subregulation (2) must ensure that—

- (a) at the end of each month, hard copies of each of the following reports are produced:

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- (i) a report of the information in respect of receipts of trust money received during that month in the order in which they were received;
- (ii) a report of the information in respect of payments of trust money made during that month in the order in which they were made; and

(b) those hard copies are kept as part of the agent's records.

(4) The records of receipts and payments must be made by the agent in accordance with this regulation in the order in which they are received or made, each such record being made within 2 working days after the receipt or payment in question.

(5) Subregulation (4) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the agent receives official confirmation that the transfer has occurred.

Separate trust ledger accounts

30A. (1) An agent must ensure that the agent's trust ledger accounts are kept separately—

- (a) in respect of each of the agent's clients; and
- (b) if the agent performs services for a corporation in respect of a number of transactions between different parties—in respect of each such transaction.

(2) The agent must record in each of the separate accounts the following details:

- (a) the name and address of the corporation to whom the accounts relate;
- (b) a brief description of the service provided and the transaction to which the accounts relate;
- (c) in respect of each receipt or disbursement of trust money—
 - (i) the date and reference number of the receipt or disbursement;
 - (ii) the name of the person from whom the money is received or to whom the money is disbursed;
 - (iii) brief particulars of the purpose of the receipt or disbursement;
 - (iv) the amount received or disbursed.

(3) The agent must ensure that any changes in the details referred to in subregulation (2)(a) or (b) are recorded in a manner that enables the changes and the order in which they occurred to be identified.

(4) If the agent transfers money between any of the separate accounts, the agent must clearly record the transfer—

- (a) in both accounts; and
- (b) in a transfer journal,

in sufficient detail that the transfer may be clearly understood.

(5) The records of receipts, disbursements and transfers must be made by the agent in accordance with this regulation in the order in which the receipts, disbursements or transfers are received or made, each such record being made within 2 working days after the receipt, disbursement or transfer in question.

(6) Subregulation (5) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the agent receives official confirmation that the transfer has occurred.

(7) If an agent uses a computer program to keep trust ledger accounts or a transfer journal, the agent must ensure that—

- (a) the program is incapable of—
 - (i) recording a transaction that would result in a debit balance in a trust ledger account unless a separate contemporaneous record of the transaction is also made so that, at any time, a hard copy may be produced of all such transactions in chronological order; and
 - (ii) deleting from its records the information relating to a trust ledger account unless—
 - (A) the balance of the account is zero; and
 - (B) a hard copy of all of the information required under this Division relating to the account has been produced; and
 - (iii) changing existing information relating to a transaction otherwise than by making a further entry showing a separate transaction to effect the change; and
- (b) the program automatically inserts consecutive page numbers into any hard copy report produced by use of the program; and
- (c) the program requires input in each field of a data entry screen intended to receive information for the purposes of a trust ledger account or transfer journal so that the entry contains all of the information required by this regulation; and
- (d) hard copies of the trust ledger accounts and transfer journal are produced within 2 days of a request from the Minister or the agent's auditor.

Reconciliation statements

30B. At the end of each month, reconciliation statements must be prepared—

- (a) reconciling the balance of the agent's cash books, or equivalent computer records, kept under regulation 30 with the balance of the agent's trust account; and
- (b) reconciling the balances of the ledgers comprised in the agent's trust ledger accounts with the balance of the agent's trust account,

(but the agent is not required to set out in a statement a list of individual balances, or the names of the corporations on whose behalf money is held).

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Receipt of trust money

31. (1) For the purposes of section 126(2)(a) of the Act, the receipt that an agent must make available to a person making a payment of trust money must—

- (a) be legibly written on a form comprised in a series of consecutively pre-numbered duplicate receipt forms marked with the name of the agent and the words "Trust Account"; and
- (b) contain the following information:
 - (i) —
 - (A) in the case of a payment made by electronic transfer of funds into an agent's trust account—the date on which the agent makes out the receipt;
 - (B) in any other case—the date of the payment;
 - (ii) the name of the person making the payment;
 - (iii) whether the payment is by cash, cheque, bank cheque or electronic transfer of funds into the agent's trust account and, if the payment is by cheque or bank cheque, the name of the drawer of the cheque;
 - (iv) the name of the corporation for whom the money is received;
 - (v) brief particulars of the purpose of the payment;
 - (vi) the amount of the payment.

(2) An agent need not comply with subregulation (1)(a) if the agent uses a computer program to make out the receipt and the program—

- (a) automatically produces in chronological sequence consecutively numbered receipts marked with the name of the agent and the words "Trust Account"; and
- (b) automatically makes a separate contemporaneous record of the receipt so that, at any time, a hard copy of the receipt may be produced; and
- (c) requires input in each field of a data entry screen intended to receive information for the purposes of producing the receipt so that each receipt contains all of the information required by subregulation (1)(b).

(3) An agent must make out a receipt in accordance with this regulation—

- (a) in the case of a payment made by electronic transfer of funds into an agent's trust account—immediately the agent receives official confirmation that the payment has been made (whether that is by way of receipt by the agent or a statement from a financial institution or some other way, whichever occurs sooner); or
- (b) in any other case—immediately on receipt of payment.

Payment of trust money

32. (1) An agent must not make a payment of trust money in cash.

Maximum penalty: \$500.

- (2) When an agent makes a payment of trust money by cheque, the agent—
- (a) must ensure that the cheque is marked with the name of the agent and the words "Trust Account"; and
 - (b) must—
 - (i) cause the cheque to be crossed and endorsed "Not negotiable"; or
 - (ii) obtain from the person receiving the cheque a receipt that complies with subregulation (3) and keep the receipt as part of the agent's records.

Maximum penalty: \$500.

(2a) When an agent makes a payment of trust money by cheque, the agent must prepare and keep as part of the agent's records a cheque stub or voucher containing the following information:

- (a) the date and reference number of the cheque;
- (b) the name of the payee;
- (c) the client name or reference and brief particulars of the purpose of the payment;
- (d) the amount of the cheque.

(3) The receipt must be legible and contain the following information:

- (a) the date and reference number of the cheque; and
- (b) particulars identifying the trust account against which the cheque is drawn; and
- (c) the name of the payee; and
- (d) brief particulars of the purpose of the payment; and
- (e) the amount of the cheque.

(4) When an agent authorises the payment of trust money by electronic transfer of funds, the agent—

- (a) must prepare and keep as part of the agent's records the following information:
 - (i) the date and reference number of the payment;
 - (ii) the name of the payee;
 - (iii) the corporation name or reference and brief particulars of the purpose of the payment;
 - (iv) the name or style of the ADI account to which the payment is made, its number and the identifying numbers of the receiving ADI and its branch;
 - (v) the amount of the payment; and

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- (b) must, on receiving official written confirmation that the payment has been made, keep that confirmation as part of the agent's records.

Audit of trust accounts

33. (1) For the purposes of section 127(1)(a) of the Act, the audit period in respect of which an agent must have the accounts and records audited is each financial year.

(2) In carrying out an audit, the auditor must—

- (a) make checks that will enable the auditor to give an opinion as to whether the agent has, during the period covered by the audit, complied with the Act and these regulations relating to the agent's accounts and records; and
- (b) ascertain what trust accounts were kept by the agent during that period; and
- (c) make a general test examination of any trust account kept by the agent and of the pass books and statements relating to any such account during that period; and
- (d) make a comparison as to no fewer than two dates (one to be the last day of the period of the audit and one other to be a date within that period selected by the auditor) between—
 - (i) the liabilities of the agent to the agent's clients as shown by the agent's trust ledger accounts and the records kept under these regulations; and
 - (ii) the aggregate of the balances standing to the credit of the agent's trust account; and
- (e) ask for such information and explanations as the auditor may require for the purposes of this regulation.

(3) For the purposes of section 127(1)(b) of the Act, the statement relating to the audit must be prepared by the auditor and must include all matters relating to the agent's accounts and records that should, in the auditor's opinion, be communicated to the community corporation and, in particular, deal with each of the following matters:

- (a) whether the accounts and records appear to have been kept regularly and properly written up at all times;
- (b) whether the accounts and records have been ready for examination at the periods appointed by the auditor;
- (c) whether the agent has complied with the auditor's requirements;
- (d) whether, at any time during the period of the audit, the agent's trust account was overdrawn and, if so, the full explanation for that given by the agent;
- (e) whether the agent has, or has had, any debit balances in his or her trust account and the explanation or reason for such a debit given by the agent;
- (f) whether the auditor has received and examined the notice given to the auditor under regulation 34 and the result of that examination;
- (g) if the agent uses a computer program to keep the agent's accounts and records, whether the program allows for the accounts and records to be conveniently and properly audited.

(4) The auditor must attach to the auditor's statement a copy of the agent's notice delivered to the auditor under regulation 34(1).

(5) The auditor must verify the statement by statutory declaration and give a signed copy of the statement to the agent.

(6) If the auditor in the course of auditing the agent's accounts and records discovers—

- (a) that they are not kept in a manner that enables them to be properly audited; or
- (b) a matter that appears to the auditor to involve dishonesty or a breach of the law by the agent; or
- (c) a loss or deficiency of trust money or a failure to pay or account for trust money; or
- (d) a failure to comply with the Act or these regulations,

the auditor must, as soon as possible, give a report in respect of the discovery to the Minister and the agent concerned.

Maximum penalty: \$500.

(6a) However, the auditor is not required to give a report to the Minister in respect of the discovery of a loss, deficiency or failure if the auditor is satisfied that—

- (a) bringing the discovery to the attention of the agent or community corporation will adequately deal with the matter; and
- (b) the loss, deficiency or failure does not involve dishonesty or a breach of the law.

(7) For the purposes of section 127(2)(b) of the Act, an agent must lodge an audit statement or declaration within two months after the end of each audit period.

Agent's statement

34. (1) An agent who is required to have accounts and records audited must, before the completion of the audit, certify—

- (a) under his or her hand; or
- (b) in the case of a firm of agents—under the hands of not less than two partners of the firm; or
- (c) in the case of a body corporate agent—under the hands of not less than two directors of the body,

and deliver to the auditor a notice setting out in detail, as of the last day of the period to which the audit relates, particulars of—

- (d) the names of all corporations on whose behalf the agent is holding trust money and the amount of the credit of each such corporation; and
- (e) all negotiable or bearer securities or deposit receipts in the name of the agent which represent money drawn from the agent's trust account and which were held by the agent on that day; and

Community Titles Regulations 1996

- (f) —
 - (i) the names of the trust accounts in which the balance of the agent's trust money is lodged and the balances on that date of those accounts; and
 - (ii) if the trust account balances are not in agreement with the balances of the agent's ledger accounts—a statement reconciling those balances.

Maximum penalty: \$500.

(2) The notice must be verified by statutory declaration—

- (a) of the agent; or
- (b) in the case of a firm of agents—of not less than two of the partners of the firm; or
- (c) in the case of a body corporate agent—of not less than two directors of the body.

(3) The agent must give the auditor making the next succeeding audit of the agent's accounts and records—

- (a) at the request of the auditor, a copy of the notice, together with a signed copy of the auditor's statement of the last preceding audit of the agent's accounts and records; or
- (b) if the agent's accounts and records are being audited for the first time or, if for any other reason a copy of the notice cannot be produced for the purpose of the audit—before completion of the audit, a notice containing the same particulars as to money, negotiable or bearer securities and deposit receipts held on the first day of the period to which the audit relates.

Maximum penalty: \$500.

Certain persons may not audit accounts and records of agent

35. A person must not audit the accounts and records of an agent if the person—

- (a) is, or has been within two years, an employee or partner of the agent; or
- (b) is an employee of another agent actually carrying on business as an agent; or
- (c) is, himself or herself, an agent carrying on business as an agent.

Maximum penalty: \$500.

Schedule 1—Forms

Form No. 1—Sections 14(4)(h), 52(4)(f)(ii), 58(3)(e) and 60(3)(f)

CERTIFICATE OF LICENSED SURVEYOR

I,, a licensed surveyor under the Survey Act 1992, certify that—

- (a) I am uncertain about the location of that part of the service infrastructure shown between the points marked > and < on the plan; and*
- (b) this community plan has been correctly prepared in accordance with the Community Titles Act 1996 to a scale prescribed by regulation.*

Dated the day of 20

.....
Licensed Surveyor

*Form No. 2—Sections 14(4)(i), 21(2)(b), 52(4)(g),
58(3)(f), 60(3)(g), 65(d)(ii) and 67(2)(f)(ii)*

CERTIFICATE OF LAND VALUER

I being a land valuer within the meaning of the Land Valuers Act 1994 certify that this Schedule is correct for the purposes of the Community Titles Act 1996.

Dated the day of 199

.....
[Signature of land valuer]

Note: The certificate must be endorsed on the Schedule of lot entitlements.

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Form No. 3—Section 52(4)(h)

CERTIFICATE OF LAND VALUER

I being a land valuer within the meaning of the Land Valuers Act 1994 certify that the application [here identify the application] for the amendment of deposited community plan No. does not affect the relative value of the lots into which the plan as amended divides the community parcel.

Dated the day of 199

.....
[Signature of land valuer]

Form No. 4—Section 31(2)

CERTIFICATION OF SCHEME DESCRIPTION AS AMENDED

(Pursuant to Section 31(2) of the Community Titles Act 1996)

To the Registrar-General

I, [name and address of person certifying], being an officer of Community Corporation No Incorporated, certify that:

(1) in accordance with section 31 of the Community Titles Act 1996, Community Corporation No Incorporated has by unanimous resolution at a duly convened meeting of the corporation held at on day of [year] amended Scheme Description No and a true copy of the scheme description as amended is attached to this certificate.

(2) the persons whose consents are required by section 32 of the Community Titles Act 1996 have consented to the amendment.

Dated the day of 199

.....
[Signature of person certifying]

Note: The copy of the scheme description attached to the certificate must be endorsed and signed by the person certifying as follows:

"This is the copy of the scheme description referred to in the attached certificate"

.....
[Signature of person certifying]

Community Titles Regulations 1996

Form No. 5—Section 39(5)

**CERTIFICATION OF COPY OF BY-LAWS AS VARIED
AND RESOLUTION**

*I [name and address of person certifying] being an officer of Community Corporation No.
Incorporated certify—*

- (a) that the copy of the by-laws attached to this certificate is a true copy of the by-laws as varied by special or unanimous (strike out whichever is not applicable) resolution of the corporation on the day of [year]; and*
- (b) that the copy of the resolution attached to this certificate is a true copy of the resolution referred to in paragraph (a).*

Dated the day of 199

.....
[Signature of person certifying]

Note: The copy of the by-laws attached to a certificate must be endorsed and signed by the person certifying as follows:

"This is the copy of the by-laws referred to in the attached certificate"

.....
[Signature by the person certifying]

Note: The copy of the resolution attached to the certificate must be endorsed and signed by the person certifying as follows:

"This is the copy of the resolution of the corporation referred to in the attached certificate".

.....
[Signature by the person certifying]

Form No. 6—Section 50(10)

CERTIFICATION OF COPY OF DEVELOPMENT CONTRACT AS VARIED

*I [name and address of person certifying] being an officer of Community Corporation No.
Incorporated certify that the copy of the development contract attached to this certificate is a true
copy of the contract as varied pursuant to section 50 of the Act by agreement made on the
day of [year] between the developer and the corporation.*

Dated the day of 199

.....
[Signature of person certifying]

Note: The copy of the contract attached to the certificate must be endorsed and signed by the person certifying as follows:

"This is the copy of the development contract referred to in the attached certificate"

.....
[Signature of person certifying]

Community Titles Regulations 1996

Form No. 7—Section 50(10)

**CERTIFICATION OF COPY OF DEVELOPMENT CONTRACT THAT
HAS BEEN TERMINATED**

*I [name and address of person certifying] being an officer of Community Corporation No.
Incorporated certify that the copy of the development contract attached to this certificate is a true
copy of the contract terminated pursuant to section 50 of the Act by agreement made on the
day of [year] between the developer and the corporation.*

Dated the day of 199

.....
[Signature of person certifying]

Note: The copy of the contract attached to the certificate must be endorsed and signed by the person certifying as follows:

"This is the copy of the development contract referred to in the attached certificate".

.....
[Signature of person certifying]

Form No. 8—Clause 2(2) of the Schedule of the Act

**CERTIFICATION OF COPY OF RESOLUTION OF STRATA CORPORATION THAT
THE COMMUNITY TITLES ACT 1996 WILL APPLY TO, AND IN
RELATION TO THE STRATA SCHEME**

*I [name and address of person certifying] being an officer of Strata Corporation No.
Incorporated certify that the copy of the resolution attached to this certificate is a true copy of the
resolution by which the corporation decided that the Community Titles Act 1996 and not the Strata
Titles Act 1988 will apply to, and in relation to, the corporation and the strata scheme.*

Dated the day of 199

.....
[Signature of person certifying]

Note: The copy of the resolution attached to the certificate must be endorsed and signed by the person certifying as follows:

"This is the copy of the resolution of the corporation referred to in the attached certificate".

.....
[Signed by the person certifying]

Community Titles Regulations 1996

Form No. 9—Notice under section 154(2) of the Act

To [insert name(s) and address(es)]¹ of person(s) to whom notice is given].

I/We [insert name and address of each person giving notice] give you notice that I/we [intend to make] have made an application to the Registrar-General under [insert reference to provision of the Act] of the Community Titles Act 1996 [here state the subject matter of the application] in respect of the land comprised in Certificate of Title Register Book Volume Folio

If you do not consent to the Registrar-General granting the application you must lodge a written objection with the Registrar-General.

I/We are required by section 154(2) of the Community Titles Act 1996 to—

- (a) post this notice to you; and
- (b) publish a copy of this notice in a newspaper circulating generally throughout the State; and
- (c) if the subject matter of the application relates to or involves an encroachment—leave a copy of this notice in a conspicuous place on or near the land over which the encroachment has occurred.

If 28 days have passed since I/we complied with paragraphs (a), (b) and (c) and you have not lodged an objection to the application with the Registrar-General before he or she grants the application, the Registrar-General may grant the application without your consent. After consent has been granted it will be too late for you to lodge an objection.

Dated this day of [year]

.....
[Signature(s) of person(s) giving notice]

¹ Note: the address(es) of the person(s) to whom the notice is given must be the last address(es) of the person(s) known to the Registrar-General — see section 154(2)(a) of the Act.

Schedule 2—Fees

1. Application to deposit plan of community division (excluding the fee for issue of certificates of title) (s. 14)	\$239.00
2. Fee for the issue of a certificate of title for each lot generated (including a development lot but not including a certificate of title generated for any road, street, reserve vesting in a council or other authority) by the deposit of a community plan or the amalgamation of two or more adjacent community plans or the cancellation of a community plan	\$ 53.00
3. Fee for the issue of each certificate of title for each lot (including a development lot) on amendment of a community plan	\$ 53.00
4. Fee for the examination of a plan of community division or amendment of a community plan pursuant to s. 58 (unless paid on pre-examination)—	
(a) where there are 5 lots or less	\$294.00
(b) where there are more than 5 lots	\$589.00
5. Fee for the deposit of a plan of community division	\$90.50
6. Fee for the examination of an outer boundary survey plan	\$589.00
7. Fee for filing an outer boundary survey plan	\$90.50
8. Fee for the Registrar-General to examine a plan to be lodged with an application under this Act before the application is lodged, to determine whether the Registrar-General approves the plan for lodging (s. 144)	
(a) where there are 5 lots or less	\$294.00
(b) where there are more than 5 lots	\$589.00
9. Fee for re-examination of plan when amended after approval for deposit is given	\$90.50
10. Fee for the examination of a plan to amend a plan of community division (s. 52)	\$294.00
11. Fee for the examination of a filed plan delineating the outer boundaries of a primary parcel for cancellation of a plan (s. 65)	\$294.00
12. Fee for filing plan for the cancellation of a community plan	\$90.50
13. Fee for the examination of a plan of amalgamation	\$294.00
14. Fee for the deposit of a plan of amalgamation	\$90.50
15. Lodgement of Scheme Description	\$90.50
16. Lodgement of By-Laws	\$90.50
17. Lodgement of Development Contract	\$90.50
18. Lodgement of resolution to elect to use the <i>Community Titles Act 1996</i>	\$90.50
19. Lodgement of application to amend Schedule of lot entitlements (s. 21)	\$90.50
20. Lodgement to amend a scheme description (s. 31)	\$90.50
21. Lodgement to vary by-laws (s. 39)	\$90.50

Community Titles Regulations 1996

22. Lodgement of agreement to vary or terminate a development contract (s. 50)	\$90.50
23. Maximum Fee for the purchase from a corporation of Scheme Description	\$30.25
24. Fee to be charged by Registrar-General for the purchase of Scheme Description by the public from the Lands Titles Office	\$6.00
25. Maximum Fee for the purchase from a corporation of by-laws (The inspection of by-laws must be free of charge) (s. 44)	\$30.25
26. Fee to be charged by Registrar-General for the purchase by the public of by-laws (s. 44)	\$6.00
27. Maximum Fee charged by corporation for the purchase of a development contract that is in force (inspection must be free of charge) (s. 51)	\$30.25
28. Fee charged by the Registrar-General for the purchase by the public of a copy of a development contract (s. 51)	\$6.00
29. Fee for an application for the amendment of a community plan (excluding issue of certificates of title) (s. 52)	\$179.00
30. Fee for an application for the amendment of a plan pursuant to a development contract (excluding issue of certificates of title) (s. 58)	\$179.00
31. Fee for an application for amalgamation of community plans (excluding fee for the issue of certificates of title) (s. 60)	\$179.00
32. Fee for Application to the Registrar-General for the cancellation of a community plan (excluding fee for issue of certificate of title) (s. 65)	\$179.00
33. Fee for Application to the Registrar-General for the cancellation of a community plan pursuant to order of court (excluding fee for issue of certificate of title) (s. 67)	\$179.00
34. Notice of appointment of administrator	\$90.50
35. Notice of removal or replacement of administrator	\$90.50
36. Lodgement of any other document required by the Act	\$90.50

APPENDIX

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Regulation 24(1):	varied by 143, 1999, reg. 3 (Sched. cl. 2)
Regulation 26(1):	varied by 147, 2000, reg. 3(a)
Regulation 26(1a):	inserted by 147, 2000, reg. 3(b)
Regulation 26(3):	inserted by 147, 2000, reg. 3(c)
Regulation 29A:	inserted by 14, 2003, reg. 4
Regulation 30:	substituted by 14, 2003, reg. 5
Regulations 30A and 30B:	inserted by 14, 2003, reg. 5
Regulation 31:	varied by 143, 1999, reg. 3 (Sched. cl. 2); substituted by 14, 2003, reg. 5
Regulation 32(2):	substituted by 14, 2003, reg. 6(1)
Regulation 32(2a):	inserted by 14, 2003, reg. 6(1)
Regulation 32(4):	inserted by 14, 2003, reg. 6(2)
Regulation 33(3):	varied by 14, 2003, reg. 7(1)
Regulation 33(6a):	inserted by 14, 2003, reg. 7(2)
Schedule 1	
Form 1:	substituted by 14, 2003, reg. 8
Schedule 2:	substituted by 109, 1997, reg. 3; 63, 1998, reg. 3; 74, 1999, reg. 3; 65, 2000, reg. 3; 95, 2001, reg. 3; 90, 2002, reg. 3