Authorised Version No. 003

Owners Corporations Regulations 2007

S.R. No. 130/2007

Authorised Version incorporating amendments as at
1 October 2014

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1 Objective

The objective of these Regulations is to prescribe—

(a) the classes of prescribed owners corporations for the purposes of the **Owners Corporations Act 2006**;

(b) certain insurance requirements relating to owners corporations;

(c) when an existing owners corporation must establish an owners corporation register and information to be included on owners corporation certificates;

(d) fees, costs and charges payable under the **Owners Corporations Act 2006**;

(e) model rules for owners corporations;

(ea) offences in respect of which an infringement notice may be issued;

Reg. 1(ea) inserted by S.R. No. 33/2011 reg. 3.

(f) other matters authorised or required to be prescribed for the purposes of the **Owners Corporations Act 2006**.

2 Authorising provision

These Regulations are made under section 204 of the **Owners Corporations Act 2006**.

3 Commencement

These Regulations come into operation on 31 December 2007.

Reg. 4 substituted by S.R. No. 114/2014 reg. 4.

4 Definitions

In these Regulations—

GST has the same meaning as it has in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;

the Act means the **Owners Corporations Act 2006**.

5 Prescribed owners corporations

For the purposes of the definition of ***prescribed owners corporation*** in section 3 of the Act, the following classes are prescribed—

(a) an owners corporation that levies annual fees in excess of $200 000 in a financial year;

(b) an owners corporation that consists of more than 100 lots.

6 Proxy authorisation

For the purposes of section 87(3) of the Act, the prescribed form is the form in Schedule 1.

7 Professional indemnity insurance

For the purposes of section 119(5) of the Act, the prescribed amount is $1 500 000.

8 Model rules

For the purposes of section 139(1) of the Act, the rules set out in Schedule 2 are prescribed as model rules for an owners corporation.

9 Maximum fee for copy of owners corporation record

Reg. 9 substituted by S.R. No. 114/2014 reg. 5.

For the purposes of section 146(3) of the Act, the prescribed maximum fee for a copy of any record of an owners corporation is the total of—

(a) in respect of the first record requested at any one time—

(i) 1·15 fee units; and

(ii) if a printed copy of the electronically provided record is also requested, 20 cents per page; and

(b) in respect of each additional record provided in relation to the same request—

(i) $7.60; and

(ii) if a printed copy of any additional record electronically provided is also requested, 20 cents per page.

9A Maximum fee for copy of owners corporation register

Reg. 9A inserted by S.R. No. 114/2014 reg. 5.

For the purposes of section 150(3) of the Act, the prescribed maximum fee for a copy of the register or any part of the register of the owners corporation is the total of—

(a) 3·03 fee units; and

(b) if a request is also made for a printed copy of the electronically provided register or a part of the register, 20 cents per page.

10 Maximum fee for owners corporation certificate

Reg. 10 substituted by S.R. No. 114/2014 reg. 5.

(1) For the purposes of section 151(2) of the Act, the relevant prescribed maximum fee to accompany an application for an owners corporation certificate is the total of—

(a) for an owners corporation certificate that is issued within—

(i) 2 business days after the owners corporation receives the application, 17·35 fee units; or

(ii) 3 to 5 business days after the owners corporation receives the application, 14·46 fee units; or

(iii) 6 to 10 business days after the owners corporation receives the application, 9·64 fee units; and

(b) for each additional application for an owners corporation certificate made by the same applicant paying a fee under paragraph (a) (but only if the owners corporations to whom the fees paid under paragraph (a) and this paragraph are managed by the same owners corporation manager) that is issued within—

(i) 2 business days after the owners corporation receives the application, 9·54 fee units; or

(ii) 3 to 5 business days after the owners corporation receives the application, 7·95 fee units; or

(iii) 6 to 10 business days after the owners corporation receives the application, 5·3 fee units.

(2) If a person uses an intermediary to apply for an owners corporation certificate, the relevant prescribed maximum fee that applies is—

(a) in respect of the first application for an owners corporation certificate made on behalf of that person, the relevant prescribed maximum fee specified in subregulation (1)(a); and

(b) in respect of each additional application for an owners corporation certificate made on behalf of that person, the relevant prescribed fee specified in subregulation (1)(b) but only if—

(i) the person is the same person paying a fee in accordance with paragraph (a); and

(ii) the owners corporations to whom the fees are paid in accordance with paragraph (a) and this paragraph are managed by the same owners corporation manager.

(3) In this regulation, ***intermediary*** means a person who obtains an owners corporation certificate on behalf of another person.

10A GST payable

Reg. 10A inserted by S.R. No. 114/2014 reg. 5.

If any GST is chargeable on the supply to which a maximum fee prescribed by these Regulations relates, the maximum fee is increased by an amount that is equivalent to that GST.

11 Prescribed information for owners corporation certificate

For the purposes of section 151(4)(a) of the Act, the prescribed information is—

(a) the current fees for the lot for each quarter or annually or other period;

(b) the date up to which the fees for the lot have been paid;

(c) the total of any unpaid fees or charges for the lot;

(d) any special fees or levies which have been struck, and the dates on which they were struck and are payable;

(e) any repairs, maintenance or other work which has been or is about to be performed which may incur additional charges to those set out in paragraphs (a) to (d);

(f) in relation to the owners corporation's insurance cover—

(i) the name of the company;

(ii) the number of the policy;

(iii) the kind of policy;

(iv) the buildings covered;

(v) the building amount;

(vi) the public liability amount;

(vii) the renewal date.

(g) if the owners corporation has resolved that the members may arrange their own insurance under section 63 of the Act, the date of this resolution;

(h) the total funds held by the owners corporation;

(i) whether the owners corporation has any liabilities (in addition to any such liabilities specified in paragraphs (a) to (d)) and, if so, the details of those liabilities;

(j) details of any current contracts, leases, licences or agreements affecting the common property;

(k) details of any current agreements to provide services to lot owners, occupiers or the public;

(l) details of any notices or orders served on the owners corporation in the last 12 months that have not been satisfied;

(m) details of any legal proceedings to which the owners corporation is a party and any circumstances of which the owners corporation is aware that are likely to give rise to proceedings;

(n) whether the owners corporation has appointed, or has resolved to appoint, a manager and, if so, the name and address of the manager;

(o) whether an administrator has been appointed for the owners corporation, or whether there has been a proposal for the appointment of an administrator;

(p) the minutes of the most recent annual general meeting of the owners corporation.

12 Prescribed statement to accompany owners corporation certificate

For the purposes of section 151(4)(b)(ii) of the Act, the prescribed form of statement is the form in Schedule 3.

13 Referral of disputes

For the purposes of section 161(3) of the Act, the following persons and bodies are prescribed—

(a) the Ombudsman appointed under section 3 of the **Ombudsman Act 1973**;

(b) the Health Services Commissioner under the **Health Services (Conciliation and Review) Act 1987**;

(c) the Legal Services Board established under section 6.2.1 of the **Legal Profession Act 2004**;

(d) the Victorian Equal Opportunity and Human Rights Commission continued in existence under section 160 of the **Equal Opportunity Act 1995**;

(e) the Private Health Insurance Ombudsman established under section 238-1 of the Private Health Insurance Act 2007 of the Commonwealth.

14 Registration application fee

For the purposes of section 180(2)(d) of the Act, the prescribed fee for an application for registration as a manager is 14·26 fee units.

15 Annual registration fee

For the purposes of section 183(1) of the Act, the prescribed annual fee for registration as a manager is 10·01 fee units.

16 Late lodgement fee

For the purposes of section 185(1) of the Act, the prescribed late lodgement fee is 1 fee unit.

17 Letterbox or other indication of owners corporation

(1) Unless an owners corporation has appointed a manager, the owners corporation must maintain a letterbox and a sign labelled with its postal address.

(2) The owners corporation address on the sign required under subregulation (1) must correspond with the address held on the register kept by the Registrar of Titles.

(3) It is sufficient compliance with subregulation (1) if the sign is placed on the letterbox of a lot owner who is responsible for the owners corporation's mail.

(4) If the owners corporation appoints a manager, the owners corporation must erect and maintain a sign giving the manager's name and postal address in a place clearly visible from either—

(a) the main group of letterboxes; or

(b) the main entrance to the land.

18 Infringement offences and penalties

Reg. 18 inserted by S.R. No. 33/2011 reg. 4.

(1) Sections 127, 178 and 188 of the Act are prescribed as infringement offences for the purposes of section 203A(1) of the Act.

(2) For the purposes of section 203A(3) of the Act, the infringement penalty for an offence—

(a) against section 127 or 178 of the Act is 6 penalty units;

(b) against section 188 of the Act is 1 penalty unit.

SCHEDULES

SCHEDULE 1

Regulation 6

OWNERS CORPORATION PLAN NO. PROXY FORM

Under regulation 6 of the Owners Corporations Regulations 2007,

I/We

of (address)

being the owner/s of lot/s authorise

of

as *my/*our proxy

A *to attend, speak and vote in person on *my/*our behalf up until ___/___/___ [*insert date until which proxy authorisation will be valid, up to a maximum period of 12 months*]

OR

*to attend, speak and vote in person on *my/*our behalf at the annual or special general meeting of the owners corporation to be held on ___/___/___ [*insert date*]

OR

*to vote for *me/*us and on *my/*our behalf at the ballot having a closing date of ___/___/___ [*insert date*]

OR

*I/*we direct the proxy to vote in relation to the following resolutions or matters as follows—

[*If relevant, set out specific instructions to your proxy concerning how to vote in relation to particular resolutions or matters*]

B *To represent *me/*us on the committee of the owners corporation—

DATED

Signed (by member/s giving proxy)

Print Name

*Delete if inapplicable

SCHEDULE 2

Regulation 8

MODEL RULES FOR AN OWNERS CORPORATION

1 Health, safety and security

1.1 Health, safety and security of lot owners, occupiers of lots and others

A lot owner or occupier must not use the lot, or permit it to be used, so as to cause a hazard to the health, safety and security of an owner, occupier, or user of another lot.

1.2 Storage of flammable liquids and other dangerous substances and materials

(1) Except with the approval in writing of the owners corporation, an owner or occupier of a lot must not use or store on the lot or on the common property any flammable chemical, liquid or gas or other flammable material.

(2) This rule does not apply to—

(a) chemicals, liquids, gases or other material used or intended to be used for domestic purposes; or

(b) any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

1.3 Waste disposal

An owner or occupier must ensure that the disposal of garbage or waste does not adversely affect the health, hygiene or comfort of the occupiers or users of other lots.

2 Management and administration

2.1 Metering of services and apportionment of costs of services

(1) The owners corporation must not seek payment or reimbursement for a cost or charge from a lot owner or occupier that is more than the amount that the supplier would have charged the lot owner or occupier for the same goods or services.

(2) If a supplier has issued an account to the owners corporation, the owners corporation cannot recover from the lot owner or occupier an amount which includes any amount that is able to be claimed as a concession or rebate by or on behalf of the lot owner or occupier from the relevant supplier.

(3) Subrule (2) does not apply if the concession or rebate—

(a) must be claimed by the lot owner or occupier and the owners corporation has given the lot owner or occupier an opportunity to claim it and the lot owner or occupier has not done so by the payment date set by the relevant supplier; or

(b) is paid directly to the lot owner or occupier as a refund.

3 Use of common property

3.1 Use of common property

(1) An owner or occupier of a lot must not obstruct the lawful use and enjoyment of the common property by any other person entitled to use the common property.

(2) An owner or occupier of a lot must not, without the written approval of the owners corporation, use for his or her own purposes as a garden any portion of the common property.

(3) An approval under subrule (2) may state a period for which the approval is granted.

(4) If the owners corporation has resolved that an animal is a danger or is causing a nuisance to the common property, it must give reasonable notice of this resolution to the owner or occupier who is keeping the animal.

(5) An owner or occupier of a lot who is keeping an animal that is the subject of a notice under subrule (4) must remove that animal.

(6) Subrules (4) and (5) do not apply to an animal that assists a person with an impairment or disability.

3.2 Vehicles and parking on common property

An owner or occupier of a lot must not, unless in the case of an emergency, park or leave a motor vehicle or other vehicle or permit a motor vehicle or other vehicle—

(a) to be parked or left in parking spaces situated on common property and allocated for other lots; or

(b) on the common property so as to obstruct a driveway, pathway, entrance or exit to a lot; or

(c) in any place other than a parking area situated on common property specified for that purpose by the owners corporation.

3.3 Damage to common property

(1) An owner or occupier of a lot must not damage or alter the common property without the written approval of the owners corporation.

(2) An owner or occupier of a lot must not damage or alter a structure that forms part of the common property without the written approval of the owners corporation.

(3) An approval under subrule (1) or (2) may state a period for which the approval is granted, and may specify the works and conditions to which the approval is subject.

(4) An owner or person authorised by an owner may install a locking or safety device to protect the lot against intruders, or a screen or barrier to prevent entry of animals or insects, if the device, screen or barrier is soundly built and is consistent with the colour, style and materials of the building.

(5) The owner or person referred to in subrule (4) must keep any device, screen or barrier installed in good order and repair.

4 Lots

4.1 Change of use of lots

An owner or occupier of a lot must give written notification to the owners corporation if the owner or occupier changes the existing use of the lot in a way that will affect the insurance premiums for the owners corporation.

Example

If the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes.

5 Behaviour of persons

5.1 Behaviour of owners, occupiers and invitees on common property

An owner or occupier of a lot must take all reasonable steps to ensure that guests of the owner or occupier do not behave in a manner likely to unreasonably interfere with the peaceful enjoyment of any other person entitled to use the common property.

5.2 Noise and other nuisance control

(1) An owner or occupier of a lot, or a guest of an owner or occupier, must not unreasonably create any noise likely to interfere with the peaceful enjoyment of any other person entitled to use the common property.

(2) Subrule (1) does not apply to the making of a noise if the owners corporation has given written permission for the noise to be made.

6 Dispute resolution

(1) The grievance procedure set out in this rule applies to disputes involving a lot owner, manager, or an occupier or the owners corporation.

(2) The party making the complaint must prepare a written statement in the approved form.

(3) If there is a grievance committee of the owners corporation, it must be notified of the dispute by the complainant.

(4) If there is no grievance committee, the owners corporation must be notified of any dispute by the complainant, regardless of whether the owners corporation is an immediate party to the dispute.

(5) The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the owners corporation, within 14 working days after the dispute comes to the attention of all the parties.

(6) A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.

(7) If the dispute is not resolved, the grievance committee or owners corporation must notify each party of his or her right to take further action under Part 10 of the **Owners Corporations Act 2006**.

(8) This process is separate from and does not limit any further action under Part 10 of the **Owners Corporations Act 2006**.

SCHEDULE 3

Regulation 12

STATEMENT OF ADVICE AND INFORMATION FOR PROSPECTIVE PURCHASERS AND LOT OWNERS

What is an owners corporation?

The lot you are considering buying is part of an owners corporation. Whenever a plan of subdivision creates common property, an owners corporation is responsible for managing the common property. A purchaser of a lot that is part of an owners corporation automatically becomes a member of the owners corporation when the transfer of that lot to the purchaser has been registered with Land Victoria.

If you buy into an owners corporation, you will be purchasing not only the individual property, but also ownership of, and the right to use, the common property as set out in the plan of subdivision. This common property may include driveways, stairs, paths, passages, lifts, lobbies, common garden areas and other facilities set up for use by owners and occupiers. In order to identify the boundary between the individual lot you are purchasing (for which the owner is solely responsible) and the common property (for which all members of the owners corporation are responsible), you should closely inspect the plan of subdivision.

How are decisions made by an owners corporation?

As an owner you will be required to make financial contributions to the owners corporation, in particular for the repair, maintenance and management of the common property. Decisions as to the management of this common property will be the subject of collective decision making. Decisions as to these financial contributions, which may involve significant expenditure, will be decided by a vote.

Owners corporation rules

The owners corporation rules may deal with matters such as car parking, noise, pets, the appearance or use of lots, behaviour of owners, occupiers or guests and grievance procedures. You should look at the owners corporation rules to consider any restrictions imposed by the rules.

Lot entitlement and lot liability

The plan of subdivision will also show your lot entitlement and lot liability. Lot liability represents the share of owners corporation expenses that each lot owner is required to pay. Lot entitlement is an owner's share of ownership of the common property, which determines voting rights. You should make sure that the allocation of lot liability and entitlement for the lot you are considering buying seems fair and reasonable.

Further information

If you are interested in finding out more about living in an owners corporation, you can contact Consumer Affairs Victoria. If you require further information about the particular owners corporation you are buying into you can inspect that owners corporation's information register.

Management of an owners corporation

An owners corporation may be self-managed by the lot owners or professionally managed by an owners corporation manager. If an owners corporation chooses to appoint a professional manager, it must be a manager registered with the Business Licensing Authority (BLA).

IF YOU ARE UNCERTAIN ABOUT ANY ASPECT OF THE OWNERS CORPORATION OR ANY DOCUMENTS YOU HAVE RECEIVED IN RELATION TO THE OWNERS CORPORATION YOU SHOULD SEEK EXPERT ADVICE.

ENDNOTES

1. General Information

The Owners Corporations Regulations 2007, S.R. No. 130/2007 were made on 4 December 2007 by the Governor in Council under section 204 of the **Owners Corporations Act 2006**, No. 69/2006 and came into operation on 31 December 2007: regulation 3.

The Owners Corporations Regulations 2007 will sunset 10 years after the day of making on 4 December 2017 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

This Version incorporates amendments made to the Owners Corporations Regulations 2007 by statutory rules, subordinate instruments and Acts.

Owners Corporations Amendment (Infringements) Regulations 2011, S.R. No. 33/2011

Date of Making: 7.6.11

Date of Commencement: 7.6.11

Owners Corporations Amendment Regulations 2014, S.R. No. 114/2014

Date of Making: 26.8.14

Date of Commencement: 1.10.14: reg. 3

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3. Explanatory Details

No entries at date of publication.