

- (b) supply the Director-General with a certificate in accordance with clause 2 of Schedule 4,
on being informed by the Director-General that the inspection or certificate is required in order to assist the Director-General in the exercise of his or her functions.
- (5) A certificate given in accordance with clause 2 of Schedule 4 is, in favour of a person taking for valuable consideration an estate or interest in a lot to which the certificate relates, conclusive evidence of the matters certified.

Division 2 – Executive committee of association

27 Executive committee of association with 3 members or fewer

- (1) If an association has 3 members or fewer, it has an executive committee consisting of:
- (a) the nominee of each member that is a subsidiary association or other corporation, and
 - (b) each other member or the nominee of the member.
- (2) A member may not have more than 1 nominee and a nominee must not be a corporation.
- (3) For the executive committee constituted by this section for a community association or a precinct association, the nominee of a subsidiary body must be a member of the subsidiary body who would be eligible under section 29 for election to the executive committee if the association had 4 members or more.
- (4) The executive committee constituted by this section:
- (a) takes office at the first annual general meeting of the association or at such earlier time as the persons who would constitute the committee decide, and
 - (b) ceases to hold office on the election of an executive committee under section 28 following an increase in the membership of the association.
- (5) The executive committee constituted by this section continues in office until the election of an executive committee at the general meeting, or at the special general meeting, called to elect the executive committee following an increase to 4 or more in the number of members of the association.

28 Executive committee of association with 4 members or more

- (1) If the membership of an association increases to 4 or more:
- (a) it may, if the increase occurs before the first annual general meeting, elect its executive committee at the first annual general meeting or at an earlier special general meeting called for the purpose, or
 - (b) it must, if the increase occurs after the first annual general meeting, elect its executive committee at a special general meeting called for the purpose.
- (2) An association must elect its executive committee at each annual general meeting that succeeds the first election of the committee.
- (3) The size of an elected executive committee must be decided by the association but the number of its members:
- (a) must not be more than the number of members of the association, and
 - (b) must not exceed 9.
- (4) For the purpose of electing an executive committee before the first annual general meeting:
- (a) a general meeting may be called as provided by Schedule 6 for the calling of a special general meeting of the association, and
 - (b) except in relation to the agenda, Schedule 5 applies to the general meeting as if it were the first annual general meeting of the association.

29 Candidates for election to community or precinct executive committee

- (1) To be eligible for election to the executive committee of a community association or a precinct association, a person must be:
- (a) a member of the association (other than a subsidiary body or other corporation), or

- (b) the only nominee of a member of the association that is a corporation but is not a subsidiary body, or
 - (c) the only nominee of a member of the association who is eligible to be, but is not, a candidate, or
 - (d) a member of, or of the executive committee of, a subsidiary body who is nominated by an ordinary resolution of the subsidiary body and is the only person nominated by it.
- (2) A joint proprietor of a development lot may not be a candidate for election to the executive committee of the relevant association unless nominated as a candidate by:
- (a) a member of the association other than a joint proprietor of the development lot, or
 - (b) a joint proprietor of the development lot who is not a candidate.
- (3) A member of the association who is not a joint proprietor of a development lot and is not a corporation may nominate himself or herself as a candidate.
- (4) Under this section:
- (a) a corporation may not be nominated as a candidate, and
 - (b) a corporation or other person entitled to nominate a candidate may not nominate more than 1, and
 - (c) of joint proprietors, not more than 1 may be nominated as a candidate.

30 Candidates for election to neighbourhood executive committee

- (1) To be eligible for election to the executive committee of a neighbourhood association, a person must be:
- (a) a member of the association (other than a corporation), or
 - (b) the only nominee of a member of the association that is a corporation, or
 - (c) the only nominee of a member of the association who is eligible to be, but is not, a candidate.
- (2) A joint proprietor of a neighbourhood lot may not be a candidate for election unless nominated as a candidate by:
- (a) a member of the association other than a joint proprietor of the lot, or
 - (b) a joint proprietor of the lot who is not a candidate.
- (3) A member of the association who is not a joint proprietor of a neighbourhood lot and is not a corporation may nominate himself or herself as a candidate.
- (4) Under this section:
- (a) a corporation may not be nominated as a candidate, and
 - (b) a corporation or other person entitled to nominate a candidate may not nominate more than 1, and
 - (c) of joint proprietors, not more than 1 may be nominated as a candidate.

31 Substitute members of executive committee

- (1) A member of the executive committee of an association may, with the consent of the committee, appoint a person who is eligible for election to, or is a member of, the committee to act in his or her place at a meeting of the committee.
- (2) While acting in the place of a member of the committee, a person appointed under subsection (1) has the functions of the member.
- (3) A person appointed under subsection (1) who is already a member of the committee may vote both as a member and as a substitute member.

32 Vacation of office by member of community or precinct executive committee

- (1) An elected member of the executive committee of a community association or precinct association vacates office as such a member if he or she:
- (a) having been a member of the association when elected, ceases to be such a member, or
 - (b) was nominated by a corporation other than a subsidiary body and the nominator ceases to be a member of the association or withdraws the nomination

- by written notice given to the executive committee, or
- (c) was nominated by a member of the association who was eligible to be, but was not, a candidate and the nominator withdraws the nomination, or
- (d) was nominated by a subsidiary body on the basis of being a member of the subsidiary body or of its executive committee or its council and ceases to be such a member, or
- (e) was nominated by a subsidiary body which withdraws the nomination by written notice given to the committee after being authorised by an ordinary resolution of the subsidiary body, or
- (f) resigns from the committee by written notice given to the committee, or
- (g) is declared by special resolution of the association to have vacated the office.

(2) On the occurrence under subsection (1) of a vacancy in the office of a member of the executive committee of a community association or a precinct association, the committee must, as soon as practicable, appoint to the office a person who would be eligible for election to the committee.

(3) Each person holding office as a member of the executive committee (including a person appointed under subsection (2)) holds office until the next succeeding election of the committee unless the office is earlier vacated.

33 Vacation of office by member of neighbourhood executive committee

(1) An elected member of the executive committee of a neighbourhood association vacates office as such a member if he or she:

- (a) having been a member of the association when elected, ceases to be such a member, or
- (b) is a nominee and the nominator ceases to be a member of the association or withdraws the nomination by written notice given to the committee, or
- (c) resigns from the committee by written notice given to the committee, or
- (d) is declared by special resolution of the association to have vacated the office.

(2) On the occurrence under subsection (1) of a vacancy in the office of a member of the executive committee of a neighbourhood association, the committee must, as soon as practicable, appoint to the office a person who would be eligible for election to the committee.

(3) Each person holding office as a member of the executive committee (including a person appointed under subsection (2)) holds office until the next succeeding election of the committee unless the office is earlier vacated.

34 Officers of executive committee

(1) The executive committee of an association must, at its first meeting after taking office, appoint from among its members a chairperson, secretary and treasurer as the officers of the committee.

(2) The committee may appoint the same member to more than one office.

(3) The person appointed to an office vacates the office if he or she:

- (a) ceases to be a member of the executive committee, or
- (b) resigns the office by written notice to the committee, or
- (c) is replaced by the committee.

35 Chairperson to preside at meetings

The chairperson or, in the absence of the chairperson, another member of the committee elected for the purpose by the persons present and entitled to vote is to preside at a meeting of the executive committee of an association.

36 Functions relating to money and accounts

(1) This section applies to any function of an association, its executive committee or its treasurer that relates to:

- (a) the receipt or spending of money, or

- (b) accounting for money, or
 - (c) the keeping of books of account.
- (2) A person who exercises a function to which this section applies is guilty of an offence unless the person is:
- (a) the treasurer exercising a function that is not the subject of an order referred to in paragraph (b) or is exercised in accordance with such an order, or
 - (b) a person with whom the treasurer is required by order of the executive committee to exercise the function jointly and who is exercising the function to enable the treasurer to exercise the function, or
 - (c) a managing agent or registered public accountant authorised by the association to exercise the function, or
 - (d) during the initial period only--a person authorised by the developer to exercise the function.
- (3) The treasurer may, in accordance with an approval given by the executive committee, delegate any of his or her functions to another member of the executive committee.

37 Delivery of property of association

- (1) The executive committee of an association may serve on a person in possession, or having control, of personal property of the association written notice of a resolution of the committee requiring the person to deliver the property to a named member of the committee not later than 7 days after service of the notice.
- (2) The person served with the notice is guilty of an offence unless the notice is complied with not later than the prescribed time after service of the notice.
- (3) If a managing agent appointed by an association is served with a written notice of a resolution of the executive committee ending the appointment, the managing agent is guilty of an offence unless, not later than the prescribed time after service of the notice, all personal property of the association in the possession or under the control of the managing agent is delivered to a member of the executive committee named in the notice.
- (4) If a person has a right to possession of property conferred by a lien or otherwise, this section does not apply to the property.
- (5) A notice under this section may be served:
- (a) personally or by post, or
 - (b) by leaving it at the place of residence or business of the person to be served with someone who seems to be at least 16 years old.
- (6) In this section: "**prescribed time**", in relation to a notice, means:
- (a) the time, being not less than 7 days, stated in the notice, or
 - (b) such further time as may be allowed by the person to whom the notice requires the property to be delivered.

38 Meetings of executive committee

- (1) A quorum at a meeting of the executive committee of an association is:
- (a) if there is only 1 member of the committee--the member, or
 - (b) if there are only 2 members of the committee--both of them, or
 - (c) if there are more than 2 members of the committee--at least one-half of them.
- (1A) If 2 executive committee meetings are held at the same time, both meetings are invalid.
- (2) A decision made at a meeting of the committee at which a quorum is present is a decision of the committee if:
- (a) the quorum is 1 member and the decision is made by the member, or
 - (b) the quorum is 2 members and the decision is made by both of them, or
 - (c) the quorum exceeds 2 members and the decision is made by a majority of those voting.
- (3) The committee may not make a decision on a matter that, before the decision is due, is opposed by a notice given to the secretary by members of the association who have a

majority of the unit entitlements.

(4) A subsidiary body may not join in a notice under subsection (3) to the secretary of a community association or a precinct association unless it has been authorised by an ordinary resolution to do so.

(5) Except in relation to a restricted matter, a decision of the committee is a decision of the association.

(6) An act or proceeding of an executive committee done in good faith is valid even if, at the time the act or proceeding was done, taken or commenced there was:

- (a) a vacancy in the office of a member of the committee, or
- (b) a defect in the appointment, or a disqualification, of a member of the committee.

(7) The committee must ensure that:

- (a) minutes of its meetings, and
- (b) records of its decisions, and
- (c) records of notices under subsection (3),

are properly kept.

(8) In this section: "**restricted matter**" means a matter:

- (a) that may be decided only by a unanimous or special resolution or at a general meeting, or
- (b) that a general meeting of the association has resolved may be decided only at a general meeting of the association.

38A Can members of the executive committee be paid?

An association may pay to a person who is the chairperson, secretary, treasurer or a member of the executive committee such amount as the association determines at an annual general meeting in recognition of services performed by the person for the association in the period since the last annual general meeting.

Division 3 – Insurance

39 Insurance against damage or destruction

(1) An association is guilty of an offence if any building or structure on its association property is not at all times fully insured, with an insurer approved by the Minister, against damage or destruction by fire, lightning, explosion or other prescribed risk.

(1A) Any such building or structure is to be insured for at least the value of the building or structure indicated by the last valuation obtained for the building or structure in accordance with this Division.

(2) Subsection (1) does not apply to an association to the extent that an Adjudicator exempts it from the operation of the subsection (whether or not subject to conditions) on application authorised by a unanimous resolution.

39A Valuations to be obtained for the purposes of insurance

(1) A valuation of a building or structure that is required to be insured under this Division must be obtained at least once every 5 years by the association.

(2) The valuation must be carried out by a person who has the qualifications prescribed by the regulations.

40 Other insurance required

(1) An association is guilty of an offence unless at all times it maintains insurances in accordance with this section.

(2) The association must effect insurance:

- (a) in respect of any event against which it is required by law to insure, including any insurance required to be effected under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*, and
- (b) in respect of damage to property and in respect of death and bodily injury (including damage, death and bodily injury occurring on an open access way or a