

Body Corporate & Community Management And Other Legislation Act 2023

Legislation was passed on 14 November 2023. It amends the existing community titles legislation. No statement yet as to when the legislation is likely to commence.

The changes made include:

New Method for Terminating a Scheme

- New basis for terminating a scheme based on a resolution of not less than 75% of lot owners. (Current requirement is a resolution without dissent.)
- Motion can only be put once a process is complied with. Process includes:
 - o preparation of pre-termination report;
 - o majority resolution that there are economic reasons justifying termination;
 - o preparation of termination plan which covers minimum compensation for lot owners and other affected parties.
- Even once motion passes a member can make an application to appoint a specialist adjudicator to review or apply directly to the District Court to overturn the motion.

Sunset Dates in Off the Plan Contracts

- Termination upon expiry of sunset dates in off the plan contracts is now only possible with buyer's consent or under an order of the Supreme Court.
- Buyer must act reasonably in responding to a request for consent.
- Buyer deemed to give consent if they don't respond to the notice.
- Applies retrospectively to all unsettled off the plan contracts.
- Developers will still have plenty of clauses in their off the plan contracts that give them termination triggers.

Pets

- By-laws can no longer prohibit the keeping of animals or the number and size of animals.
- Conditions can still be imposed on pet approvals.

Smoking

- Second hand smoke declared a hazard. Effectively bans smoking anywhere in the scheme.

Towing

- Body corporates are now able to tow vehicles parked on common property without authority.
- Only applies to vehicles belonging to owners and occupiers. Not applied to visitors cars.

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Corporate Law.



Argon Law is here to help.

We hope you are now better prepared for when the new changes come into effect.

Please note this article is to be used as a guide only and we encourage you to get in touch with one of our experienced body corporate lawyers to ensure your matter is handled in your best interest.

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