



Strata Titles Amendment Act 2018 Fact Sheet

SECTION 135

FUNCTIONS AND CONSTITUTION OF COUNCIL OF OWNERS

SECTION 136

CORPORATE BODY MAY BE OFFICER OR COUNCIL MEMBER

SECTION 137

COUNCIL MEMBERS: GENERAL DUTIES AND CONFLICTS OF INTEREST

135. Functions and constitution of councils

- (1) The functions of a strata company, subject to this Act and to any restriction imposed or direction given by ordinary resolution, are to be performed by the council of the strata company.
- (2) The council of a strata company must be constituted and perform its functions in accordance with this Act and the scheme by-laws.
- (3) On an election of the council at a general meeting of the strata company —
 - (a) a person who is entitled to vote in the election and who is present in person or by proxy at the meeting may demand that the votes in the election be counted by unit entitlement of the lots; and
 - (b) if no such demand is made, the votes in the election are to be counted by number.
- (4) 1 of the members of the council of a strata company must hold office as the chairperson of the strata company.

Note for this section:

Section 143 provides that the functions of a strata company or the council or an officer of a strata company may be performed by a strata manager.

136. Corporate body may be officer or council member

- (1) A corporation is eligible to be an officer of a strata company or a member of the council of a strata company.
- (2) A corporation may authorise an individual to perform on its behalf a function conferred under this Act on the corporation as an officer of the strata company or as a member of the council and may revoke the authority of an individual so authorised.
- (3) If an individual performs a function that the individual is authorised to perform by a corporation under subsection (2), the function is taken to be performed by the corporation.

137. Council members: general duties and conflicts of interest

- (1) This section applies to a person who is —
 - (a) a member of the council of a strata company (including when acting as an officer of the strata company); or
 - (b) an individual authorised under section 136(2) by a corporation to perform the corporation’s functions as a member of the council, or an officer, of a strata company.
- (2) A person to whom this section applies —
 - (a) must at all times act honestly, with loyalty and in good faith in the performance of functions as a member of the council or an officer of the strata company; and
 - (b) must at all times exercise the degree of care and diligence in the performance of those functions that a reasonable person in the person’s position and the circumstances of the strata company would reasonably be expected to exercise; and
 - (c) must not make improper use of the person’s position —
 - (i) to gain, directly or indirectly, an advantage for the person or any other person; or
 - (ii) to cause detriment to the strata company.
- (3) A person to whom this section applies —
 - (a) must inform the council in writing of any direct or indirect pecuniary or other interest that the person has that conflicts or may conflict with the performance of a function as a member of the council or, if applicable, as an officer of the strata company; and
 - (b) must do so as soon as is practicable after the person becomes aware of the relevant facts; and
 - (c) in the case of a member of the council, must not vote on a matter in which the member has an interest required to be disclosed under paragraph (a).
- (4) Subsection (3) does not apply to an interest arising solely from the fact that the member is the owner of a lot in the scheme.