
LANDS

LA301

Electricity Act 1945
Fair Trading Act 2010
Plumbers Licensing Act 1995
Real Estate and Business Agents Act 1978
Residential Tenancies Act 1987
Retirement Villages Act 1992
Settlement Agents Act 1981

Commerce Regulations Amendment (Community Titles) Regulations 2021

SL 2021/71

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Commerce Regulations Amendment (Community Titles) Regulations 2021*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Community Titles Act 2018* section 187 comes into operation.

Part 2 — *Electricity Regulations 1947* amended

3. Regulations amended

This Part amends the *Electricity Regulations 1947*.

4. Regulation 12 amended

In regulation 12 in the definition of *common property* after paragraph (a) insert:

- (aa) if the premises are part of a community titles scheme as defined in the *Community Titles Act 2018* section 3(1) — means common property as defined in that section; or

Part 3 — *Fair Trading (Retirement Villages Interim Code) Regulations 2021* amended

5. Regulations amended

This Part amends the *Fair Trading (Retirement Villages Interim Code) Regulations 2021*.

6. Schedule 1 clause 14 amended

In Schedule 1 clause 14(1) in the definition of *reserve fund*:

- (a) in paragraph (b) delete “that Act;” and insert:

section 100(2)(a) of that Act; and

- (b) after paragraph (b) insert:

- (c) if the village is comprised in a scheme plan for a community titles scheme registered under the *Community Titles Act 2018*, includes the reserve fund established by the community corporation for the community titles scheme under section 85(1)(b) of that Act;

7. Schedule 1 clause 26 amended

(1) In Schedule 1 clause 26(13):

(a) in paragraph (b) delete “2015.” and insert:

2015; or

(b) after paragraph (b) insert:

(c) a meeting held under the *Community Titles Act 2018* if the retirement village is comprised in a scheme plan for a community titles scheme registered under that Act.

Note:

1. The 1st boxed and shaded paragraph after the heading to Schedule 1 is to be altered by deleting “strata title, or” and inserting:
strata title, community title or
2. The 1st boxed and shaded paragraph after Schedule 1 clause 5(3) is to be altered by deleting “also apply.” and inserting:
apply. If residential premises in a retirement village are community titles under the *Community Titles Act 2018* then the provisions of that Act and any relevant by-laws apply.

Part 4 — Plumbers Licensing and Plumbing Standards Regulations 2000 amended**8. Regulations amended**

This Part amends the *Plumbers Licensing and Plumbing Standards Regulations 2000*.

9. Regulation 55 amended

In regulation 55 delete the definition of *proposed scheme plan* and insert:

proposed scheme plan, in relation to land, means —

- (a) a scheme plan proposed to be registered for a survey-strata scheme (as defined in the *Strata Titles Act 1985* section 9) under the *Strata Titles Act 1985*; or
- (b) a scheme plan proposed to be registered for a community titles (land) scheme (as defined in the *Community Titles Act 2018* section 11(8)) under the *Community Titles Act 2018*;

10. Regulation 59 amended

In regulation 59(1)(b) and (c) delete “the proposed scheme plan for the land shows that”.

Part 5 — *Real Estate and Business Agents (General) Regulations 1979* amended

11. Regulations amended

This Part amends the *Real Estate and Business Agents (General) Regulations 1979*.

12. Schedule 1A amended

(1) In Schedule 1A after item 6 insert:

6A. Community titles management

(2) In Schedule 1A delete items 11 and 12 and insert:

11. Legislation regulating the carrying on of business as an agent in Western Australia

12. Managing agency risk

Part 6 — *Residential Tenancies Regulations 1989* amended

13. Regulations amended

This Part amends the *Residential Tenancies Regulations 1989*.

14. Regulation 12B amended

Delete regulation 12B(7) and insert:

(7) Subregulation (6) does not apply to the following residential premises —

- (a) if the strata company relating to the premises provides and maintains adequate lighting, outside of daylight hours, to the main entry to the premises — residential premises to which the provisions of the *Strata Titles Act 1985* apply;
- (b) if the community corporation for the community titles scheme relevant to the premises provides and maintains adequate lighting, outside of daylight hours, to the main entry to the premises — residential premises to which the provisions of the *Community Titles Act 2018* apply.

15. Schedule 4 Form 1AA amended

In Schedule 4 Form 1AA:

- (a) in Part A delete “by-laws are attached:” and insert:

by-laws is attached:

- (b) in Part A before the heading “PETS” insert:

SCHEME BY-LAWS FOR A COMMUNITY TITLES SCHEME

belongs, community titles scheme, scheme by-laws, tier 2 scheme and tier 3 scheme have the meanings given in the *Community Titles Act 2018* section 3(1).

Scheme by-laws for a community titles scheme ARE/ARE NOT* (* *delete as appropriate*) applicable to the residential premises. A copy of the scheme by-laws is attached.

Yes /No

If scheme by-laws for a community titles scheme are applicable to the residential premises, and the premises is in a tier 2 scheme or a tier 3 scheme, the scheme by-laws to be attached must include the scheme by-laws for a community titles scheme to which that tier 2 scheme or tier 3 scheme belongs.

- (c) in Part B clause 9 delete “The lessor is responsible for any contribution levied under the *Strata Titles Act 1985* and any contribution levied on an owner under the *Strata Titles Act 1985*.”;
- (d) after Part B clause 9 insert:

9A. The lessor is responsible for any of the following contributions in respect of the premises:

- 9A.1 contributions (as defined in the *Strata Titles Act 1985* section 3(1)) imposed on the owner of the premises under the *Strata Titles Act 1985* section 100;
- 9A.2 contributions (as defined in the *Community Titles Act 2018* section 3(1)) determined by a community corporation as the amount it requires from the owner of the premises (as a member of the community corporation) under the *Community Titles Act 2018* section 88.

- (e) in Part B clause 33B.4 delete “by-laws; and” and insert:
- by-laws or scheme by-laws for a community titles scheme;
and

16. Schedule 4 Form 1AB amended

In Schedule 4 Form 1AB:

- (a) in Part A delete “by-laws are attached.” and insert:

by-laws is attached.

- (b) in Part A before the heading “PETS” insert:

SCHEME BY-LAWS FOR A COMMUNITY TITLES SCHEME

belongs, community titles scheme, scheme by-laws, tier 2 scheme and tier 3 scheme have the meanings given in the *Community Titles Act 2018* section 3(1).

Scheme by-laws for a community titles scheme ARE/ARE NOT* (* *delete as appropriate*) applicable to the residential premises. A copy of the scheme by-laws is attached.

Yes /No

If scheme by-laws for a community titles scheme are applicable to the residential premises, and the premises is in a tier 2 scheme or a tier 3 scheme, the scheme by-laws to be attached must include the scheme by-laws for a community titles scheme to which that tier 2 scheme or tier 3 scheme belongs.

- (c) in Part B clause 11 delete “The lessor is responsible for any contribution levied under the *Strata Titles Act 1985* and any contribution levied on an owner under the *Strata Titles Act 1985*.”;
- (d) after Part B clause 11 insert:

11A. The lessor is responsible for any of the following contributions in respect of the premises:

- 11A.1 contributions (as defined in the *Strata Titles Act 1985* section 3(1)) imposed on the owner of the premises under the *Strata Titles Act 1985* section 100;
- 11A.2 contributions (as defined in the *Community Titles Act 2018* section 3(1)) determined by a community corporation as the amount it requires from the owner of the premises (as a member of the community corporation) under the *Community Titles Act 2018* section 88.

- (e) in Part B clause 35B.4 delete “by-laws; and” and insert:

by-laws or scheme by-laws for a community titles scheme;
and

17. Schedule 4 Form 1AD amended

In Schedule 4 Form 1AD:

- (a) in clause 8 delete “The lessor is responsible for any contribution levied under the *Strata Titles Act 1985* and any contribution levied on an owner under the *Strata Titles Act 1985*.”;
- (b) after clause 8 insert:
 - 8A. The lessor is responsible for any of the following contributions in respect of the premises:
 - 8A.1 contributions (as defined in the *Strata Titles Act 1985* section 3(1)) imposed on the owner of the premises under the *Strata Titles Act 1985* section 100;
 - 8A.2 contributions (as defined in the *Community Titles Act 2018* section 3(1)) determined by a community corporation as the amount it requires from the owner of the premises (as a member of the community corporation) under the *Community Titles Act 2018* section 88.
 - (c) in clause 32B.4 delete “by-laws; and” and insert:
 - by-laws or scheme by-laws for a community titles scheme;
 - and

Part 7 — Retirement Villages Regulations 1992 amended**18. Regulations amended**

This Part amends the *Retirement Villages Regulations 1992*.

19. Regulation 6 amended

- (1) In regulation 6(1):
 - (a) in paragraph (d)(ii) delete “section 107(1).” and insert:
 - section 107(1);
 - (b) after paragraph (d) insert:
 - (e) if the residence contract relates to premises that are comprised in a scheme plan for a community titles scheme registered under the *Community Titles Act 2018* —
 - (i) a copy of the scheme by-laws for the community titles scheme; and

- (ii) if the community titles scheme is a tier 2 scheme or a tier 3 scheme — a copy of the scheme by-laws for a community titles scheme to which that tier 2 scheme or tier 3 scheme belongs; and
- (iii) an authority to apply, under the *Community Titles Act 2018* section 94(1), to the community corporation established for the community titles scheme; and
- (iv) if the community titles scheme is a tier 2 scheme or a tier 3 scheme — an authority to apply, under the *Community Titles Act 2018* section 94(1), to a community corporation for a community titles scheme to which that tier 2 scheme or tier 3 scheme belongs.

Note for this paragraph:

1. Under paragraph (e)(ii), if the community titles scheme applicable to the residential premises is a tier 2 scheme or a tier 3 scheme, the scheme by-laws of the community titles scheme or schemes to which it belongs must also be given by the owner to the person entering into the residence contract in accordance with the *Retirement Villages Act 1992* section 13(2).
2. The *Community Titles Act 2018* section 94 allows a person with a proper interest in information about a community titles scheme, or a person authorised in writing by such a person, to apply to the community corporation for the community titles scheme to obtain or inspect particular information, materials or documents. Under paragraphs (e)(iii) and (iv), the authority to apply under the *Community Titles Act 2018* section 94 must be given by the owner (as the person with a proper interest in information about a community titles scheme) to the person entering into the residence contract in accordance with the *Retirement Villages Act 1992* section 13(2).

(2) After regulation 6(2) insert:

- (3) In subregulation (1)(e), each of the following terms has the meaning given in the *Community Titles Act 2018* section 3(1) —

belongs

community corporation

community titles scheme

scheme by-laws

scheme plan

tier 2 scheme

tier 3 scheme

20. Regulation 7A amended

In regulation 7A(1) in the Table item 7:

- (a) in paragraph (c) delete “village.” and insert:

village;

- (b) after paragraph (c) insert:

(d) as the owner of the premises in a community titles (building) scheme or a community titles (land) scheme (as defined in the <i>Community Titles Act 2018</i> section 3(1)).

21. Regulation 7H amended

In regulation 7H(3) delete “1985.” and insert:

1985 or the *Community Titles Act 2018*.

22. Schedule 1 Form 1 amended

- (1) In Schedule 1 Form 1 item 3B after “ Strata title (owner resident)” insert:

Community title (owner resident)

- (2) In Schedule 1 Form 1 item 5B:

- (a) delete “[strata title/purple title]” and insert:

[strata title/community title/purple title]

- (b) delete “strata title levy adjustments,” and insert:

strata title contribution adjustments, community title certificate fees, community title contribution adjustments,

(3) Delete Schedule 1 Form 1 item 6D and insert:

D	<i>This item only applies to strata titled or community titled villages.</i>	
<p>Are there contributions (as defined in the <i>Strata Titles Act 1985</i> section 3(1) or the <i>Community Titles Act 2018</i> section 3(1) (as the case requires)) payable by the owner of the lot containing the residential premises?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p><i>If there is a contribution for the lot containing the residential premises:</i></p> <p>The current contributions for the lot containing the residential premises are per [week/fortnight/month/quarter] \$</p> <p>The contributions are:</p> <p><input type="checkbox"/> incorporated as a separate item in the recurrent charges to be paid by the resident</p> <p><input type="checkbox"/> charged to the resident separately from the recurrent charges</p>	
<p>Do communal amenities form part of the common property in the village such that they are managed by a strata company or a community corporation?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p><i>If the communal amenities do not form part of the common property in the village, state who owns the lots containing those amenities:</i></p> <p>The communal amenities are on lots owned by:</p> <p><input type="checkbox"/> the administering body</p> <p><input type="checkbox"/> a third party</p> <p>Residents pay contributions in relation to the lots containing the communal amenities through:</p> <p><input type="checkbox"/> an item in the recurrent charges</p> <p><input type="checkbox"/> an amount that is charged separately</p> <p><input type="checkbox"/> an amount that is included in the recurrent charges at item 6A</p>	

(4) In Schedule 1 Form 1 item 7D:

- (a) delete “
- Reserve fund**
- ” and insert:

Administrative or reserve fund

- (b) delete “a reserve/sinking fund?” and insert:

an administrative fund or a reserve fund?

- (c) delete the passage that begins with “*If the village*” and ends with “*Act 1985:*” and insert:

If the residential premises is comprised in a scheme plan registered under the Strata Titles Act 1985 or the Community Titles Act 2018, information about an exit fee under the Retirement Villages Act 1992 must include any contribution payable in respect of an administrative fund or reserve fund under the Strata Titles Act 1985 or the Community Titles Act 2018:

Part 8 — Settlement Agents Regulations 1982 amended

23. Regulations amended

This Part amends the *Settlement Agents Regulations 1982*.

24. Schedule 1A amended

In Schedule 1A after item 18 insert:

19. Community title settlements

25. Schedule 3 amended

- (1) After Schedule 3 Part A item 2 insert:

3. “Contract for Sale of Community Title Property by Offer and Acceptance” incorporating the “1994 Joint Form of General Conditions for the Sale of Land”, as adopted jointly by the Law Society of Western Australia (Inc) and the Real Estate Institute of Western Australia (Inc) and approved by the Settlement Agents Association (Inc) and the Associated Settlement Agents of Western Australia (Inc).

- (2) In Schedule 3 Part B item 5:

- (a) in paragraph (j) delete “1985?” and insert:

1985;

- (b) after paragraph (j) insert:

- (k) *Community Titles Act 2018?*

(3) At the end of Schedule 3 Part C insert:

3. Under or for the purposes of the *Community Titles Act 2018* the following documents, subject to the condition that a licensee shall not draft a resolution of a community corporation under or for the purposes of that Act —

- (a) documents in the forms approved under the following provisions of that Act:

Provision	Description of document and purpose
s. 35(2)	Scheme notice, or an amendment of a scheme notice, for a community titles scheme
s. 40(5)	Notice of a proposed resolution for an amendment of a scheme plan
s. 43(6)	Scheme by-laws
s. 50(2)	Application for registration of a community titles scheme or an amendment of a community titles scheme and accompanying documents in approved forms
s. 141(6)	Notice to Registrar of Titles from tier 1 corporation of receipt of outline of a termination proposal
s. 145(5)	Notice to Registrar of Titles from tier 1 corporation of receipt of a full proposal
s. 149(10)(a)	Notice to Registrar of Titles from tier 1 corporation that a termination resolution is passed
s. 150(7)	Notice to Registrar of Titles from tier 1 corporation of application to the State Administrative Tribunal
s. 150(24)(a)	Notice to Registrar of Titles of State Administrative Tribunal decision
s. 153(5)	Application by proponent for termination of a community titles scheme and accompanying documents in approved forms
s. 156(3)	Notice to Registrar of Titles from tier 1 corporation of withdrawal of a termination proposal
s. 157(2)(a)	Notice to Registrar of Titles from tier 1 corporation that the termination proposal cannot proceed further
s. 161(1)	Application for termination of each community titles scheme in a community scheme by person who owns all lots in the community scheme

Provision	Description of document and purpose
s. 178	Application for registration of the termination or amendment of a community titles scheme to give effect to compulsory acquisition
(b)	a disposition statement under section 185 of that Act in the form approved under the <i>Community Titles Regulations 2021</i> ;
(c)	an application to register or record the most recent consolidated version of a community development statement that incorporates an approved amendment of the community development statement in the form approved under the <i>Community Titles Regulations 2021</i> regulation 18(3)(b).

N. HAGLEY, Clerk of the Executive Council.
