

Notes of Guidance for Form 9

[These are for general guidance only and applicants must refer to the actual provisions in the Act for their full meaning and effect]

Section of Building Maintenance and Strata Management Act	Person Entitled To Apply
<p style="text-align: center;">101</p> <p>Order to settle a dispute or rectify a complaint with respect to defects, etc.</p>	<p>management corporation, subsidiary proprietor, mortgagee in possession, lessee or occupier</p>
<p style="text-align: center;">108</p> <p>Order to vary the amount of contributions levied or manner of payment thereof in respect of lot where planning approval was granted prior to 15th April 1976 or of lot subdivided from another lot or derived from amalgamation of 2 or more lots</p>	<p>management corporation, subsidiary proprietor or mortgagee in possession</p>
<p style="text-align: center;">114</p> <p>Order for entry to lot</p>	<p>management corporation</p>
<p style="text-align: center;">115</p> <p>Order to resolve dispute between management corporations and subsidiary management corporations</p>	<p>management corporation</p>

\* In these Notes, “management corporation” includes “subsidiary management corporation”.

Notes of Guidance for possible Respondent(s).

[\*\*These are for general guidance only and applicants must refer to the actual provisions in the Act for their full meaning and effect. Applicants should ensure they name the correct party as Respondent(s) in their application. If Applicants are unsure who the Respondent(s) should be, they should consult their own lawyers for legal advice. ]

Section of Building Maintenance and Strata Management Act	Possible Respondent(s)**
<p style="text-align: center;">101</p> <p>Order to settle a dispute or rectify a complaint with respect to defects, etc.</p>	<p>subsidiary proprietor, mortgagee in possession, lessee or occupier, the chairperson, secretary or treasurer of a management corporation, or its council or executive committee</p>
<p style="text-align: center;">108</p> <p>Order to vary the amount of contributions levied or manner of payment thereof</p>	<p>(Board makes order for payment of contributions of different amount or in a different manner)</p>
<p style="text-align: center;">114</p> <p>Order for entry to lot</p>	<p>subsidiary proprietor or occupier</p>
<p style="text-align: center;">115</p> <p>Order to resolve dispute between management corporations and subsidiary management corporations</p>	<p>management corporation</p>

\* In these Notes, “management corporation” includes “subsidiary management corporation”.

## **Extract from the Building Maintenance and Strata Management Act**

### ***Division 2 — Types of orders by Board***

#### **General power to make orders to settle disputes or rectify complaints, etc.**

**101.** —(1) Subject to subsections (4), (6) and (7), a Board may, pursuant to an application by a management corporation or subsidiary management corporation, a subsidiary proprietor, mortgagee in possession, lessee or occupier of a lot in a subdivided building, make an order for the settlement of a dispute, or the rectification of a complaint, with respect to —

(a) any defect in a lot, a subdivided building or its common property or limited common property;

(b) the liability of a subsidiary proprietor to bear the costs of or any part thereof for any work carried out by a management corporation or subsidiary management corporation, as the case may be, in the exercise of its powers or performance of its duties or functions conferred or imposed by this Act or the by-laws relating to the subdivided building or limited common property, as the case may be; or

(c) the exercise or performance of, or the failure to exercise or perform, a power, duty or function conferred or imposed by this Act or the by-laws relating to the subdivided building or limited common property, as the case may be.

(2) An order under subsection (1) may be made on —

(a) any person entitled to make an application under this section; or

(b) the chairperson, secretary or treasurer of a management corporation or subsidiary management corporation, or its council or executive committee.

(3) Any order made under subsection (1), except an order made with respect to the exercise or performance of, or the failure to exercise or perform, a power, duty or function conferred or imposed by this Act or the by-laws, may provide for the payment of damages not exceeding an amount that may be ordered by a District Court if the dispute had been the subject of civil proceedings in that Court.

(4) For the purposes of this section, where a management corporation or subsidiary management corporation has a discretion as to whether or not to exercise or perform a power, duty or function conferred or imposed on it by this Act or the by-laws, it shall be deemed to have refused or failed to exercise or perform that power, duty or function only if it has decided not to exercise or perform that power, duty or function.

(5) For the purposes of subsection (4), where an application is made to a management corporation or subsidiary management corporation to exercise a discretion referred to in that subsection, and the management corporation or subsidiary management corporation does not, before the expiration of 2 months after the making of the application —

- (a) exercise or perform a power, duty or function in accordance with the application; or
- (b) inform the applicant that it has decided not to exercise or perform that power, duty or function in accordance with the application,

the management corporation or subsidiary management corporation, as the case may be, shall be deemed to have decided not to exercise or perform that power, duty or function.

(6) Nothing in subsection (1) shall empower a Board to make an order with respect to the exercise or performance of, or the failure to exercise or perform, a power, duty or function of a management corporation or subsidiary management corporation where that power, duty or function may, in accordance with any provision of this Act or the by-laws, only be exercised or performed pursuant to a unanimous resolution, a special resolution, a 90% resolution, a comprehensive resolution or a resolution by consensus.

(7) An order in respect of any matter dealt with in any other section in this Part shall not be made under this section.

(8) In any proceedings under this section with respect to any alleged defect in a lot or in any common property or limited common property situated immediately (whether wholly or partly) above another lot or any common property or limited common property, it shall be presumed, in the absence of proof to the contrary, that the defect is within that lot or common property or limited common property, as the case may be, above if there is any evidence of dampness, moisture or water penetration —

(a) on the ceiling that forms part of the interior of the lot, common property or limited common property, as the case may be, immediately below; or

(b) on any finishing material (including plaster, panel or gypsum board) attached, glued, laid or applied to the ceiling that forms part of the interior of the lot, common property or limited common property, as the case may be, immediately below.

*[LT(S)A, s. 103]*

### **Order to convene meetings**

**102.** —(1) A Board may, on application and if it considers it to be in the interest of the management corporation or subsidiary management corporation, as the case may be, make an order appointing a person nominated by the applicant (and who has consented to that nomination) to convene —

(a) a meeting of the management corporation or subsidiary management corporation, as the case may be, if, after the first annual general meeting —

(i) there is no council or executive committee; or

(ii) the council or executive committee, as the case may be, does not appoint a person to fill the vacancy or vacancies in any office of that council or executive committee and have not convened a general meeting of the management corporation or subsidiary management corporation, as the case may be, for that purpose; or

(b) a meeting of the council of a management corporation or the executive committee of a subsidiary management corporation, as the case may be, if there is not elected a chairperson, secretary and treasurer of the council or executive committee after the first meeting of the council of the management corporation or the executive committee of the subsidiary management corporation, as the case may be,

for the purpose of electing or appointing a person or persons to fill the vacancy or vacancies in that office or those offices.

(2) Without prejudice to subsection (1), where a default is made by a management corporation or subsidiary management corporation in holding any general meeting (other than the first annual general meeting), a Board may, on application, order the management corporation or subsidiary management corporation, as the case may be, to convene a general meeting.

(3) Any meeting ordered under subsection (1) or (2) shall be convened and held within such time as is specified in the order.

(4) A meeting held under subsection (1)(b) shall be taken to be held by the council of the management corporation or the executive committee of the subsidiary management corporation, as the case may be.

(5) An order made under this section may include such ancillary or consequential provisions as the Board thinks fit.

(6) If an order under this section so provides —

(a) the person appointed to convene a general meeting of a management corporation or subsidiary management corporation by the order shall preside at the meeting and, while the person so presides, is taken to be the chairperson of the management corporation or (as the case may be) the subsidiary management corporation; and

(b) notice of that meeting may be given in the manner specified in the order.

(7) Only a subsidiary proprietor or other person entitled to vote at a meeting may make an application under this section for an order to convene that meeting.

*[LT(S)A, s. 94]*

### **Order to invalidate proceedings**

**103.** —(1) Where, pursuant to an application by a subsidiary proprietor or first mortgagee of a lot, a Board considers that the provisions of this Act have not been complied with in relation to a meeting of the management corporation or subsidiary management corporation, the Board may, by order —

(a) invalidate any resolution of, or election held by, the persons present at the meeting;  
or

(b) refuse to invalidate any such resolution or election.

(2) A Board shall not make an order under subsection (1) refusing to invalidate a resolution or election unless it considers —

(a) that the failure to comply with the provisions of this Act did not prejudicially affect any person; and

(b) that compliance with the provisions of this Act would not have resulted in a failure to pass the resolution, or have affected the result of the election, as the case may be.

*[LT(S)A, s. 97]*

**Order where voting rights denied or due notice of item of business not given**

**104.** —(1) Where, pursuant to an application by a person under this section, a Board is satisfied that a particular resolution would not have been passed at a general meeting of a management corporation or subsidiary management corporation but for the fact that the applicant —

(a) was improperly denied a vote on the motion for the resolution; or

(b) was not given due notice of the item of business pursuant to which the resolution was passed,

the Board may order that the resolution be treated as a nullity on and from the date of the order.

(2) An application for an order under subsection (1) may not be made after 21 days after the date of the meeting at which the resolution was passed.

(3) Where —

(a) an order under subsection (1) is made in respect of a resolution making a by-law amending, adding to or repealing another by-law; and

(b) the by-law made pursuant to that resolution is in force,

the by-law shall, subject to its having been or being amended, added to or repealed under section 32, 33 or 82, as the case may be, have force and effect on and from the date the order is so made to the same extent as it would have had if the resolution had not been passed.

*[LT(S)A, s. 100]*

**Order revoking amendment of by-law**

**105.** —(1) Where, pursuant to an application by any person entitled to vote at a meeting of the management corporation or subsidiary management corporation (including both a first mortgagee and a mortgagor of a lot), a Board considers that, having regard to the interest of all subsidiary proprietors in the use and enjoyment of their lots or the common property or (as the case may be) limited common property, an amendment or repeal of a by-law or addition of a new by-law should not have been made or effected, the Board may order that the amendment be repealed, that the revoked by-law be revived or that the additional by-law be repealed.

(2) When making an order under subsection (1) in respect of an exclusive use by-law referred to in section 33 or 82 (in relation to limited common property), a Board may direct the payment by the management corporation or subsidiary management corporation, as the case may be, of compensation to the subsidiary proprietor of the lot referred to in the by-law.

(3) A payment ordered to be made under subsection (2) is recoverable by the subsidiary proprietor as a debt in a court of competent jurisdiction.

*[LT(S)A, s. 95]*

#### **Order invalidating purported by-law**

**106.** Where, pursuant to an application by a person entitled to vote at a meeting of a management corporation or subsidiary management corporation (including both a first mortgagee and a mortgagor of a lot), a Board considers that the management corporation or subsidiary management corporation, as the case may be, did not have the power to make a by-law purporting to have been made by it, the Board may make an order declaring the by-law to be invalid.

*[LT(S)A, s. 96]*

#### **Order varying certain rates of interest**

**107.** Where, pursuant to an application by a subsidiary proprietor or a mortgagee in possession, a Board considers that the management corporation or subsidiary management corporation to which the application relates has determined an unreasonable rate as the rate of interest chargeable for the late payment of a contribution levied under section 40(6) or 79, as the case may be, the Board may, in respect of such contributions as are specified in the order, order that no interest be so chargeable or that the rate so chargeable be a rate specified by the Board in the order instead of the rate so determined.

*[LT(S)A, s. 98]*

#### **Order varying contributions, etc.**

**108.** —(1) Where, pursuant to an application by a management corporation, a subsidiary management corporation, a subsidiary proprietor or a mortgagee in possession (whether by himself or another person), a Board considers that any amount levied or proposed to be levied by way of contributions —

(a) under section 40 or 41(3) or (4) in respect of a lot in a subdivided building where planning permission for the development of land was granted prior to 15th April 1976;  
or

(b) under section 41(3) or (4) in respect of a lot in a subdivided building where planning permission for the development of land was granted on or after 15th April 1976,

is inadequate or excessive or the manner of payment of contributions is unreasonable, the Board may make either or both of the following orders:

(i) an order for the payment of contributions of a different amount with effect from such date as the Board determines;

(ii) an order for the payment of contributions in a different manner.

(2) Where an order of a Board under subsection (1) takes effect in relation to a contribution levied by a management corporation or subsidiary management corporation, as the case may be, that has been wholly or partly paid in respect of a lot, the management corporation or subsidiary management corporation shall be deemed to have imposed a levy of the amount determined by the Board with effect from such date as the Board determines.

(3) Notwithstanding section 40(2), an order may be made by a Board under subsection (1) for the payment of any amount which the Board thinks is fair and adequate.

(4) For the avoidance of doubt, nothing in this section shall authorise any Board to alter the share value of any lot shown in a strata title plan in any manner on or after the date the management corporation is constituted.

*[LT(S)A, s. 99]*

#### **Order varying amount of insurance**

**109.** —(1) Where, pursuant to an application by a subsidiary proprietor or the mortgagee of a lot, a Board considers that the amount for which the management corporation for the subdivided building concerned has insured under section 75 is not reasonable, the Board may order the management corporation to vary that amount to a specified amount.

(2) Where, pursuant to an application by an interested subsidiary proprietor or the mortgagee of a lot, a Board considers that the amount for which the subsidiary management corporation concerned has insured under section 79(6) is not reasonable, the Board may order the subsidiary management corporation to vary that amount to a specified amount.

*[LT(S)A, s. 101]*

#### **Order to make or pursue insurance claim**

**110.** Where, pursuant to an application by a subsidiary proprietor, a Board considers that the management corporation or subsidiary management corporation to which the application relates has unreasonably refused to make or pursue an insurance claim in respect of damage to the building or any limited common property or other property insured by the management corporation or subsidiary management corporation under Division 6 or 7 of Part V, the Board may order the management corporation or subsidiary management corporation, as the case may be, to make or pursue the claim.

*[LT(S)A, s. 105]*

#### **Order with respect to consents affecting common property**

**111.** Where, pursuant to an application by a subsidiary proprietor, a Board considers that the management corporation or subsidiary management corporation to which the application relates —

(a) has unreasonably refused to consent to a proposal by that subsidiary proprietor to effect alterations to the common property or limited common property; or



(b) has unreasonably refused to authorise under section 37(4) any improvement in or upon a lot which affects the appearance of any building comprised in the strata title plan,

the Board may make an order that the management corporation or subsidiary management corporation, as the case may be, consents to the proposal.

*[LT(S)A, s. 104]*

**Order appointing managing agent to perform certain powers**

**112.** —(1) Where, pursuant to an application by a subsidiary proprietor, the mortgagee of a lot or a judgment creditor of a management corporation, a Board is satisfied that it is in the interests of the subsidiary proprietors of all the lots in the subdivided building concerned or the creditors of the management corporation or subsidiary management corporation, as the case may be, to appoint a managing agent for the management corporation or subsidiary management corporation, the Board may order the management corporation to appoint a managing agent to perform the duties specified in the order.

(2) Where a Board makes an order under subsection (1), it may also order that the managing agent shall have and may exercise and perform —

(a) all the powers, duties and functions of the management corporation or subsidiary management corporation to which the order relates or of the chairperson, secretary or treasurer thereof, or the council of that management corporation or the executive committee of that subsidiary management corporation;

(b) any one or more of those powers, duties or functions specified in the order; or

(c) all of those powers, duties and functions except those specified in the order.

*[LT(S)A, s. 102]*

**Order to supply information or documents**

**113.** Where, pursuant to an application by any person, a Board considers that the management corporation or subsidiary management corporation to which the application relates, or a managing agent or the chairperson, secretary or treasurer of that management corporation or subsidiary management corporation has wrongfully —

(a) withheld from the applicant any information to which the applicant is entitled under this Act; or

(b) failed to make available for inspection by the applicant or his agent any record or document that, under this Act, he is entitled to inspect,

the Board may order that management corporation, subsidiary management corporation, managing agent, chairperson, secretary or treasurer to supply or make available the information or to make so available the record or document, as the case may require, to the applicant.

*[LT(S)A, s. 106]*

### **Order for entry to lot**

**114.** —(1) A Board may make an order requiring a subsidiary proprietor or an occupier of any lot or part of a lot to allow a management corporation or subsidiary management corporation, as the case may be, access to the lot or part of the lot for the purpose of carrying out any work referred to in section 30 or determining whether any such work needs to be carried out.

(2) This section shall not limit the power of any management corporation or subsidiary management corporation to enter a lot under section 31 without applying for an order under this section.

(3) An application under this section may be made only by a management corporation or subsidiary management corporation.

### **Order to resolve dispute between management corporations and subsidiary management corporations, etc.**

**115.** —(1) Where, pursuant to an application by a management corporation or subsidiary management corporation (referred to in this section as the applicant corporation), a Board is satisfied that a management corporation or subsidiary management corporation to which the application relates —

(a) has unreasonably refused access to any common property or limited common property or unreasonably refused to furnish any information relating to any common property or limited common property or any subsidiary proprietor, to the applicant corporation or any of its delegates where such access or information is necessary for the effective discharge by the applicant corporation or its delegate of its duties imposed by or under this Act; or

(b) has done anything or permitted anything to be done in relation to any common property or limited common property in such a manner or for such a purpose as to interfere unreasonably with or unreasonably obstructs, hinders or delays the applicant corporation or any of its delegates from effectively discharging its duties imposed by or under this Act,  
the Board may make an order for the settlement of the dispute.

(2) Nothing in subsection (1) shall be deemed to authorise any Board to require a management corporation or subsidiary management corporation to disclose any confidential information.

(3) In this section, the delegates of a management corporation or subsidiary management corporation include —

(a) any member of its council or executive committee, as the case may be;

(b) any managing agent duly appointed by the management corporation or subsidiary management corporation; or

(c) any duly authorised employee of any such managing agent.