

In confidence

Office of the Minister of Housing
Chair, Cabinet Legislation Committee

UNIT TITLES AMENDMENT ACT 2022 COMMENCEMENT ORDER

Proposal

- 1 This paper seeks authorisation for submission of the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act Commencement Order 2022 (the Commencement Order) to the Executive Council.

Policy

- 2 The Unit Titles Act 2010 (the Act) provides a regulatory framework for the ownership and management of building developments where multiple owners hold a type of property ownership known as a unit title. In 2016, sector leaders presented a Working Group's report on the issues with the Act and possible solutions to the Government. In response, the previous Government undertook a review of the Act.
- 3 The Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 (the Amendment Act), which received Royal assent on 9 May 2022, makes changes to the Act to address identified issues.
- 4 The provisions of the Amendment Act can come into force via Order in Council. Any provisions not brought into force via an Order in Council will come into force no later than two years after the date of Royal assent.
- 5 The Commencement Order provides that the provisions in the Amendment Act be brought into force one year after Royal assent, on 9 May 2023, except as set out in paragraph 6.
- 6 The Commencement Order provides that the following provisions be brought into force at different dates:
 - 6.1 The Unit Titles Act 2010 includes a temporary amendment to allow remote attendance at body corporate general and committee meetings, which will be repealed 12 weeks after the expiry of the Epidemic Preparedness (COVID-19) Notice 2020. The Amendment Act includes permanent amendments to provide for remote attendance at meetings. The Commencement Order provides that the sections relating to remote attendance (sections 12, 16 and 54(2)) will come into force on 9 December 2022.
 - 6.2 The long-term maintenance provisions (sections 23, 34 (new section 157C), 58, 59), the terms of body corporate manager agreements

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(regulation 28C), the provisions which rely on regulations (sections 17, 24, 37, and 41 (new section 202A)), and the enforcement provisions (sections 26, 29, 35(4), 35(5), 38 (new sections 176A-176E), 39, 40, 41 (new sections 202B-202F)) will come into force two years after Royal assent, on 9 May 2024.

- 7 The provisions of the Commencement Order are routine and do not require new policy decisions.

Timing and 28-day rule

- 8 The timing of the commencement of regulations is as follows:

- 8.1 Remote attendance provisions – 9 December 2022.
- 8.2 Long-term maintenance provisions, the terms of body corporate manager agreements, the provisions which rely on regulations, and the enforcement provisions – 9 May 2024.
- 8.3 All remaining provisions – 9 May 2023.

- 9 No waiver of the 28-day rule is sought.


Compliance

- 10 The regulations comply with:

- 10.1 the principles of the Treaty of Waitangi;
- 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
- 10.3 the principles and guidelines set out in the Privacy Act 2020;
- 10.4 relevant international standards and obligations;
- 10.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

- 11 There are no statutory prerequisites for the making of the regulations.

Regulations Review Committee

- 12 s 9(2)(h)
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s 9(2)(h)

- 13 Regulation 28C sets out the terms that must be included in an agreement engaging a body corporate manager. Once this provision comes into force, all body corporate managers will need to amend their agreements. The policy justification for the separation is that if this provision is brought into force too soon, this may create undue pressure throughout the sector.

Certification by Parliamentary Counsel

- 14 The draft regulations were certified by the Parliamentary Counsel Office as being in order for submission to Cabinet on the basis of the assurances in paragraph 12.

Impact Analysis

- 15 The Treasury's Regulatory Impact Analysis team has determined that the Commencement Order is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it provides solely for the commencement of existing legislation or legislative provisions.
- 16 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Publicity

- 17 Either I or Te Tūāpapa Kura Kāinga – the Ministry of Housing and Urban Development will make a public announcement advising the sector of the commencement dates.

Proactive release

- 18 I intend to proactively release this paper within 30 days of its consideration by Cabinet.

Consultation

- 19 The Ministry of Business, Innovation and Employment, the Ministry of Justice, Kāinga Ora – Homes and Communities, the Treasury, Land Information New Zealand, the Department of the Prime Minister and Cabinet, and Parliamentary Counsel Office have been consulted.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 provides that the provisions in that Act come into force on one or more dates set by Order in Council, or to the extent

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not brought into force earlier, on the second anniversary of the date of Royal assent.

- 2 **note** that the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 Commencement Order 2022 will bring the provisions relating to remote attendance at general meetings and committee meetings into force on 9 December 2022.
- 3 **note** that the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 Commencement Order 2022 will bring the long-term maintenance provisions, the terms of body corporate manager agreements, the provisions which rely on regulations, and the enforcement provisions into force on 9 May 2024.
- 4 **note** that the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 Commencement Order 2022 will bring all other provisions in the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 into force on 9 May 2023.
- 5 **authorise** the submission to the Executive Council of the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022 Commencement Order 2022.

Authorised for lodgement

Hon Dr Megan Woods
Minister of Housing