



Unit Titles (Unit Title Disputes—Fees) Regulations 2011

Anand Satyanand, Governor-General

Order in Council

At Wellington this 9th day of May 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 217(n) of the Unit Titles Act 2010, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Unit Titles (Unit Title Disputes—Fees) Regulations 2011.

2 Commencement

These regulations come into force on 20 June 2011.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

1986 Act means the Residential Tenancies Act 1986

2010 Act means the Unit Titles Act 2010

category 1 proceedings has the meaning given to it by regulation 6(2)

category 2 proceedings has the meaning given to it by regulation 6(4)

chief executive means the chief executive of the Department of Building and Housing

Tenancy Tribunal means a Tenancy Tribunal constituted by section 67 of the 1986 Act

unit title dispute has the meaning given to it by section 171(1) of the 2010 Act.

(2) Any term that is defined in the 2010 Act and used, but not defined, in these regulations has the meaning given to it by that Act.

4 Application of regulations

These regulations apply to proceedings for a unit title dispute.

5 Filing fee

(1) The fee payable for the filing of an application with the Tenancy Tribunal under section 86 of the 1986 Act in relation to a unit title dispute is—

(a) \$3,300 for category 1 proceedings; or

(b) \$850 for category 2 proceedings.

(2) The fee includes goods and services tax.

6 Categorisation of proceedings

- (1) For the purposes of regulation 5(1), proceedings for a unit title dispute must be classified as either category 1 proceedings or category 2 proceedings.
- (2) **Category 1 proceedings** means proceedings for a unit title dispute that, because of its average or high complexity, is likely to involve a hearing before the Tenancy Tribunal as the principal means of resolving the dispute.
- (3) Without limiting subclause (2), but subject to subclause (6), examples of category 1 proceedings are proceedings for unit title disputes relating to—
 - (a) the repair or maintenance of common property;
 - (b) the governance of a body corporate;
 - (c) the decisions and procedures of a body corporate.
- (4) **Category 2 proceedings** means proceedings for a unit title dispute of a straightforward nature that, because of its low complexity, is likely to involve mediation as the principal means of resolving the dispute.
- (5) Without limiting subclause (4), but subject to subclause (6), examples of category 2 proceedings are proceedings for unit title disputes relating to—
 - (a) the day-to-day management of a unit title development;
 - (b) the effect of the behaviour of an owner or occupier of a principal unit on the other owners and occupiers of the unit title development;
 - (c) non-compliance with body corporate operational rules.
- (6) Despite subclauses (2) to (5) and regulation 7(1), another example of category 2 proceedings are proceedings for unit title disputes relating to non-payment of body corporate levies (even though such disputes would ordinarily involve a hearing before the Tenancy Tribunal).

7 Determining categorisation of proceedings

- (1) If proceedings for a unit title dispute are capable of falling within category 1 proceedings and category 2 proceedings, the filing fee payable to the Tenancy Tribunal for the application relating to the dispute is the fee for category 1 proceedings set out in regulation 5(1)(a).

- (2) If there is any doubt about the categorisation of any proceedings for a unit title dispute, the chief executive may, subject to subclause (1) and regulation 6, determine the categorisation of the proceedings for the purposes of regulation 5(1).

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 20 June 2011, prescribe the fee payable for the filing of an application with the Tenancy Tribunal under section 86 of the Residential Tenancies Act 1986 in relation to a unit title dispute (within the meaning of section 171(1) of the Unit Titles Act 2010).

For the purposes of prescribing the Tenancy Tribunal application fee, these regulations provide for the categorisation of proceedings for a unit title dispute into category 1 proceedings or category 2 proceedings.

Category 1 proceedings relate to unit title disputes of an average or high complexity that are likely to involve a hearing before the Tenancy Tribunal as the principal means of dispute resolution (although these disputes may also be resolved through mediation if practicable). The Tenancy Tribunal application fee for category 1 proceedings is \$3,300 including goods and services tax.

Category 2 proceedings relate to disputes of a straightforward nature that are likely to involve mediation as the principal means of dispute resolution (although these disputes may also be resolved through adjudication if required). The Tenancy Tribunal application fee for category 2 proceedings is \$850 including goods and services tax.

If proceedings for a unit title dispute are capable of falling within category 1 proceedings and category 2 proceedings, the filing fee payable to the Tenancy Tribunal for the application relating to the

dispute is the fee for category 1 proceedings (ie, \$3,300 including goods and services tax).

Under these regulations, the chief executive of the Department of Building and Housing may determine the categorisation of any proceedings for a unit title dispute if there is any doubt in that regard.

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These regulations are administered by the Department of Building and Housing.
