

## Office of the Commissioner for Body Corporate and Community Management

# Practice Direction 28

## Approval of alternative insurance

This Practice Direction is issued pursuant to *section 233* of the *Body Corporate and Community Management Act 1997*. Its purpose is to provide further information on the procedures and content requirements for dispute resolution applications lodged with the Commissioner's Office. Nothing in this Practice Direction supersedes or overrides the requirements of the legislation. The Commissioner retains the discretion to make decisions about the case management of individual dispute resolution applications as provided under Chapter 6 of the Act.

1. The legislation sets out the requirements for bodies corporate to obtain insurance.
2. *Section 179* of the *Body Corporate and Community Management (Standard Module) Regulation 2008* (and equivalent provisions in the other regulation modules) establish the insurance requirements for buildings that include lots in a community titles scheme created under a building format plan or volumetric format plan of subdivision.
3. *Section 179(4)* of the Standard Module, and equivalent provisions in the other regulation modules, provide that if the body corporate cannot comply with the required level of insurance, it may apply in writing to the Commissioner for authorisation to put in place alternative insurance in a form approved by the Commissioner.
4. The Commissioner must be satisfied that the alternative insurance provides cover that is as close as practicable to the cover required under the section.
5. A written request for authorisation of alternative insurance is not a dispute resolution application under Chapter 6 of the Act. However, in making a written request the following steps must be followed:
  - a. the request must be made using the adjudication application form [BCCM Form 15];
  - b. the request must be accompanied by the prescribed fee for a dispute resolution application;
  - c. the applicant must be the body corporate;
  - d. no respondent should be named; and
  - e. the request must be accompanied by a committee resolution authorising the making of the written request.



6. The grounds supporting the written request, and the accompanying documentation, should demonstrate:
  - a. why the body corporate is unable to obtain the required level of insurance;
  - b. the attempts made to obtain the required level of insurance;
  - c. the proposed alternative insurance;
  - d. how the proposed alternative insurance is as close as practical to the required level of insurance;
  - e. whether the period for which the alternative insurance is proposed is only the current financial year for the scheme, or whether the body corporate proposes to continue the alternative insurance arrangements for future financial years;
  - f. that the proposed alternative insurance has been submitted to a general meeting as a motion for approval as an ordinary resolution by owners or that the body corporate has obtained the written agreement of all owners of the lots to which the alternative insurance arrangement are proposed to apply; and
  - g. if the proposed alternative insurance has been submitted to a general meeting but not approved by ordinary resolution, why the proposed alternative insurance should be authorised by the Commissioner in the absence of a body corporate resolution to adopt the alternative insurance.
7. The Commissioner may make further investigations and seek submissions from affected parties to determine whether the proposed alternative insurance is appropriate and is as close as practicable to the required cover.
8. The Commissioner will provide a written decision outlining whether the proposed alternative insurance is authorised or not and giving reasons for the decision.



Chris Irons  
**COMMISSIONER**

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