

CONDUCT OF MEETINGS OF MANAGEMENT CORPORATIONS, SUBSIDIARY MANAGEMENT CORPORATIONS AND COLLECTIVE SALE COMMITTEES

Introduction

Historically, under the Building Maintenance and Strata Management Act 2004 (“BMSMA”) and the Land Titles (Strata) Act 1967 (“LTSA”), general meetings of the Management Corporation (“MCST”), Subsidiary Management Corporation and Collective Sales Committee (“CSC”) were conducted physically.

In response to the COVID-19 pandemic, when physical meetings were not feasible, the authorities introduced legislation permitting such meetings to be held electronically with voting by electronic means. These temporary changes were initially introduced in April 2020, pursuant to the COVID-19 (Temporary Measures) (Alternative Arrangements for Meetings of Management Corporations, Subsidiary Management Corporations and Collective Sales Committees) Order 2020 (“Meetings Order”). Although initially supposed to expire on 30 September 2020, the Meetings Order was extended to 30 June 2021 and then indefinitely until revoked or amended.

As Singapore transitions towards living with COVID-19 and meetings can now take place physically, the Meetings Order has been revoked on 1 July 2023. However, the authorities have now introduced amendments to both the BMSMA and the LTSA to permanently allow meetings of the MCST and CSC to be held electronically with voting by electronic means. The Building Maintenance and Strata Management Act 2004 (Amendment of First and Second Schedules) Order 2023 and the Land Titles (Strata) Act 1967 (Amendment of Second and Third Schedules) Order 2023 both came into operation on 1 July 2023.¹

These amendments reflect the evolving landscape and recognize the importance of flexibility in conducting meetings, considering the preferences and needs of MCST and CSC members. The changes allow for a broader range of options when it comes to meeting formats, including having fully or partially virtual meetings, in order to promote convenience, efficiency and inclusivity.

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¹ Building Maintenance and Strata Management Act 2004 (Amendment of First and Second Schedules) Order 2023 at paragraph 1; Land Titles (Strata) Act 1967 (Amendment of Second and Third Schedules) Order 2023 at paragraph 1.
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Application of the New Meeting Arrangements

The new meeting arrangements apply only to meetings for which notice have been served on or after 1 July 2023. In respect of meetings of the MCST under the BMSMA, for purposes other than collective sales, if the notice of meeting had been served before 1 July 2023 for the general meeting to take place on or after 1 July 2023, then: -

- No new notice of meeting is required if there are no changes to the meeting arrangements (including the mode of conducting the meeting);
- A new notice of meeting (in compliance with the amended BMSMA including notice period) is required if the MCST intends to covert the meeting from a full physical meeting to a partial virtual meeting; and
- A meeting using virtual meeting technology only is not allowed.²

In respect of meetings of the MCST under the LTSA, for collective sales, if the notice of meeting had been served before 1 July 2023 for the general meeting to take place on or after 1 July 2023, the same rules apply except that it appears that the MCST can hold the meeting using virtual meeting technology only, if the MCST so resolves.³

Types of Meetings that can be Held

General meetings under the amended BMSMA and LTSA, along with meetings of the CSC, can now be held:

1. at a physical place (i.e., physical meeting);
2. at a physical place and using virtual meeting technology (i.e., hybrid meeting); or
3. using virtual meeting technology only (i.e., virtual meeting).⁴

It should be noted that “*virtual meeting technology*” is defined as any technology that allows a person to participate in a meeting without being physically present at the place of meeting. Hence, a meeting held “*at a physical place and using virtual meeting technology*” is referring to a hybrid meeting rather than a physical meeting using some form of electronic voting technology.⁵

However, a general meeting must not be held using virtual meeting technology only if not all of the members who wish to participate at the meeting have access to the virtual meeting technology needed to participate in the meeting.⁶ This means that if the MCST wishes to hold a fully virtual meeting, it must ensure that all members who wish to attend the meeting have access to the technology required. This may mean providing members with access to electronic devices required for attending and voting at the meeting, and having support in place for these members.

If the MCST has decided by ordinary resolution that there can only be physical or hybrid meetings, then the MCST cannot hold fully virtual meetings.⁷

² Building Maintenance and Strata Management Act 2004 (Amendment of First and Second Schedules) Order 2023 at paragraph 4.

³ Land Titles (Strata) Act 1967 (“**LTSA**”), 2nd Schedule, at paragraph 2A(3).

⁴ Building Maintenance and Strata Management Act 2004 (“**BMSMA**”), 1st Schedule, at paragraph 1C(1); LTSA, 2nd Schedule, at paragraph 2A(1); 3rd Schedule, at paragraph 7A(1).

⁵ BMSMA, 1st Schedule, at paragraph 1(1); LTSA, 2nd Schedule, at paragraph 1(1).

⁶ BMSMA, 1st Schedule, at paragraph 1C(2)(a); LTSA, 2nd Schedule, at paragraph 2A(2)(a).

⁷ BMSMA, 1st Schedule, at paragraph 1C(2)(b); LTSA, 2nd Schedule, at paragraph 2A(2)(b).

Voting by Electronic Means

Voting by electronic means is now expressly allowed so long as certain conditions are satisfied. The system used must be capable of providing records for auditing and verification. The Chairperson must declare the result of voting on any proposal and his declaration of the voting results of council elections must be recorded.⁸

However, in relation to meetings of the MCST under the BMSMA, for purposes other than collective sales, it appears that voting by electronic means is only allowed for fully virtual or hybrid meetings. There is no provision for voting by electronic means for fully physical meetings.⁹

This may come as a disappointment to many as the MCST may find voting by electronic means to be useful, even for fully physical meetings. A practical solution may be to allow voting by electronic means for members who wish to vote by electronic means but at the same time provide physical voting slips for members who do not wish to vote by electronic means.

Interestingly, the same restriction is not present in the amendments to the LTSA.¹⁰ In relation to meetings of the MCST under the LTSA for collective sales, it appears that voting by electronic means is allowed for all meetings.

Provision of Documents to Members

The amendments to the BMSMA now allow the minutes of the latest general meeting, statement of accounts and auditor's report on the accounts to be made available at an online location instead being served by way of printed copies.¹¹

However, these provisions allowing online copies do not extend to the notice of the general meeting itself. They also do not extend to the other documents that may be part of the notice of general meeting. Printed copies of the notice of general meeting, together with all the other documents, must still be served on all members in accordance with the provisions in the BMSMA.

A case may be made that these provisions allowing online copies should also be extended to all other documents that may form part of the notice of meeting. Some of these documents (e.g., proposed upgrading works or private resolutions by members) come with voluminous supporting documents including drawings, and are even more suited to be made available online.

There is also a complex set of requirements which determine whether a member should be provided a printed copy of the minutes of the latest general meeting, statement of accounts and auditor's report.¹²

Insofar as the minutes of the latest general meeting are concerned, a member should be provided a printed copy of the minutes if the member had before the notice of meeting is given, made a request for a printed copy but was not given one.¹³ In any event, a printed copy of the minutes or the

⁸ BMSMA, 1st Schedule, at paragraph 5A; LTSA, 2nd Schedule, at paragraph 7A.

⁹ BMSMA, 1st Schedule, at paragraph 5A.

¹⁰ See: LTSA, 2nd Schedule, at paragraph 7A.

¹¹ BMSMA, 1st Schedule, at paragraph 1A(2)(d)(ii); (3)(a)(ii).

¹² See: BMSMA, 1st Schedule, at paragraphs 1A(2)(da) and 1A(3A).

¹³ BMSMA, 1st Schedule, at paragraph 1A(2)(da).

statement of accounts and auditor's report must be sent without charge to any member who requests for such printed copies at least 48 hours before the time at which the meeting is to be held.¹⁴

It is quite troublesome for both the MCST to print and post such documents on request and it is also improbable that the documents will reach the member by the time of the meeting if the request is made only 48 hours before the meeting, especially since most general meetings are held on weekends. Perhaps a simpler solution would be to allow members access to one printed copy without charge, if no printed copy had been provided, as follows: -

- (a) by picking up a copy from the general office of the MCST, if any, at any time; or
- (b) by requesting a copy by post at least 72 hours before the meeting

Instrument of Proxy

The amendments now allow the instrument of proxy to be submitted by electronic mail to an electronic mail address of the MCST or subsidiary MCST.¹⁵ However, the amendments are silent on the submission of letters of authority by subsidiary proprietors who are companies.

Most MCSTs treat instruments of proxy and letters of authority alike. If instruments of proxy are allowed to be submitted electronically, it makes sense to allow the same for letters of authority. Otherwise, companies can get around the problem by appointing a proxy, and submitting both the instrument of proxy and the letter of authority electronically.

Minutes of General Meetings

Where the meeting is held virtually or in hybrid format, the minutes must state that fact, the technology used and the name of each member attending virtually.¹⁶

For meetings of the MCST for the purpose of collective sales, the LTSA was previously silent on whether it is the duty of the MCST or the CSC to keep the minutes of general meetings of the MCST. The amendments now expressly state that the MCST must keep or cause to be kept minutes of every general meeting of a MCST under the LTSA.¹⁷

Conclusion

COVID-19 has changed the way we live and work. Even after COVID-19, meetings by electronic means will be a way of life. These amendments provide flexibility to MCSTs and CSCs in conducting meetings to facilitate greater participation by members, according to the needs and circumstances of the estate, especially for those members who are unable to attend the meetings in person. Safeguards are in place to ensure that members who may not have access to virtual meeting technology are not prejudiced.

It is hoped that the regulations will be further refined and streamlined for the benefit of MCSTs, CSCs and members, promoting convenience, efficiency and inclusivity.

¹⁴ BMSMA, 1st Schedule, at paragraph 1A(3A).

¹⁵ BMSMA, 1st Schedule, at paragraph 18(1)(b); LTSA, 2nd Schedule, at paragraph 14(1)(b).

¹⁶ BMSMA, 1st Schedule, at paragraph 10A(2); LTSA, 2nd Schedule, at paragraph 11A(3).

¹⁷ LTSA, 2nd Schedule, at paragraph 11A(1).

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