



ACTIVE LAW
DELIVERING SOLUTIONS



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BY-LAWS

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What are By-Laws?

Rules that govern living in a CTS

Ideally By-Laws should promote harmonious living

By-Laws may only provide for:

- a) the administration, management and control of common property and body corporate assets;
- b) Regulation of, including conditions applying to, the use and enjoyment of –
 - Lots;
 - Common Property; and
 - Body Corporate Assets;

Effective from date CMS is recorded in Land Titles Office.

What By-Laws cannot do!

By-Laws must not:

- Be inconsistent with the Act or the Module applying to the Scheme
Eg. A by-law cannot give a caretaker exclusive use of common property where the common property is to be used to facilitate the Caretaking duties
- If a Lot may lawfully be used for residential purposes, the By-Laws cannot restrict the type of residential use
Eg. A by-law cannot prevent a Lot from being used for short term letting
- A by-law must not discriminate between type of occupiers
Eg. A by-law cannot say only owners (on opposed to tenants) can use the recreation facilities
- A by-law (other than an exclusive use by-law) must not impose monetary liability

What are By-Laws?

- A By-Law must not be oppressive or unreasonable – having regard to the interest of all owners and occupiers and the use of Common Property
- “Ban the Banner: - A By-Law must not offend its sustainable housing provision of the Building Act

Eg. A By-Law cannot restrict the installation of solar hot water systems on roof merely to preserve the external appearance of the building

Contentious By-Laws

- Towing
- Pets
- Smoking
- Security Bonds
- Air BnB

Who enforces By-Laws?

- The Committee
- The Caretaker
 - Caretaker might be obliged to “Monitor” observations of By-Laws
- Owner/occupiers
 - Only in limited circumstances