

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

# Practice Direction 17

## Administrator appointments

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. An adjudicator may make an order appointing an administrator to perform the obligations of the body corporate, the committee or a member of a committee [Act, *section 278* and *301*].
2. An administrator has the powers given to them under the order.
3. An administrator's remuneration must be paid by the body corporate [Act, *section 301(5)*].
4. Appointing an administrator is a significant and serious action, as it effectively takes responsibility and control away from the body corporate, committee or member of a committee. Adjudicators must be satisfied the circumstances warrant taking such a step. For these reasons, owners should carefully consider lodging an application for the appointment of an administrator.

### Term of appointments

5. Administrators are often appointed for a period of up to three months to enable them to call and convene a general meeting for a body corporate.
6. Such orders may be appropriate where a body corporate has failed to hold its annual general meeting within three months of the end of the financial year applying to the scheme. In some cases a body corporate may not have held an annual general meeting for many years or at all.
7. In these circumstances there may be no-one in the scheme who is authorised to convene a general meeting and an adjudicator's order is necessary to authorise a person to convene the meeting.
8. In certain circumstances, an adjudicator may consider it appropriate to appoint an administrator to administer a scheme for a longer period of time.

### Requirements for nomination

9. An applicant who seeks an order to appoint an administrator must nominate a person who they seek to have appointed as administrator. The applicant may choose to nominate multiple alternative administrators.
10. The person nominated may be a member of the body corporate or an external person, as appropriate. Often administrators are (but not always) body corporate managers. The Commissioner's Office cannot nominate, recommend or suggest an administrator to an applicant.



11. A nomination should include the following information:
  - a. the name and contact details of the nominee;
  - b. a statement from the nominee consenting to the appointment;
  - c. details of the nominee's qualifications, experience or other basis for appointment;
  - d. if the nominee will seek remuneration from the body corporate for the appointment, full details of the remuneration sought;
  - e. details of any possible or perceived conflict of interest in relation to the appointment of the nominee, including in relation to the purpose of the appointment, any power to be exercised by the nominee under the appointment, or the proposed remuneration for the appointment; and
  - f. any other terms and conditions which the nominee may have in relation to the appointment (such as an administration agreement).
12. The respondent and other affected persons may raise reasonable objections in their submission either to the appointment of an administrator or to the specific nominee proposed by an applicant.
13. If an applicant seeks the appointment of an administrator with the consent of other owners in the scheme, the applicant should include the signed agreement of each owner with the application. If the owners of all lots in the scheme consent in writing to the appointment, the application may be able to be expedited.

## **COMMISSIONER FOR BODY CORPORATE AND COMMUNITY MANAGEMENT**

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