

Office of the Commissioner for Body Corporate and Community Management

Practice Direction 15

Application time limits

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. For most types of disputes there is no time limit on the lodging of a dispute resolution application with the Commissioner.
2. However, where a lengthy period of time has elapsed between the 'dispute' and lodgement of the application, the Commissioner may invite the applicant to demonstrate the dispute is still ongoing.
3. A lengthy delay in pursuing a dispute may also be a factor considered by an adjudicator when determining an application. An applicant may wish to explain the reasons for a delay in the statement of grounds supporting their application.

Time limit for meeting disputes

4. Certain applications relating to body corporate meetings must be lodged within three months of the meeting in question [Act, *section 242*]. Applications covered by this time limit are an application to invalidate:
 - a. a general meeting;
 - b. a resolution at a general meeting;
 - c. the election of a committee member;
 - d. a committee meeting; or
 - e. a committee resolution.
5. The time limit does not apply in relation to a motion that failed to pass.
6. The time limit will have been complied with if a conciliation application for the same dispute is lodged within the time limit.
7. The basis for the time limit for meeting decisions is to give a body corporate certainty in its actions.

Waiver of the time limit for meeting disputes

8. An adjudicator may waive the requirement to lodge a meeting application covered by the time limit within three months for "good reason" [Act, *section 242(4)(b)*].



9. Where a meeting application is lodged outside the time limit, the Commissioner will treat the application as if it were lodged in time. It will, in due course, be for the adjudicator to determine whether to waive the time limit.
10. Applicants should include the reasons the application was not lodged within the time limit in the statement of grounds for their application for the adjudicator to consider.
11. There are a range of factors an adjudicator will weigh up when deciding whether to waive the non-compliance with the time limit. These include the:
 - a. length of the delay;
 - b. reasons for the delay;
 - c. effect of the delay on other parties affected by the disputes; and
 - d. whether, apart from the non-compliance with the time limit, the applicant would have been entitled to the outcome sought.

COMMISSIONER FOR BODY CORPORATE AND COMMUNITY MANAGEMENT

Version 2
Effective 1 June 2016

The material presented in this publication is distributed by the State of Queensland for general information only, it is not legal advice. The State of Queensland reserves the right to change and update the material without notice. The State of Queensland makes all reasonable efforts to ensure the material presented in this publication is current, accurate and complete. The State of Queensland makes no warranties that the material in this publication is free from infection by computer viruses or other forms of contamination.

To the extent permitted by law, the State of Queensland makes no statement, representation or warranty whether expressed or implied regarding the quality, accuracy, context regarding the material presented in this publication. The State of Queensland disclaims all responsibility and liability (including liability in negligence) for all expenses, losses, damages and costs incurred as a result of the information being inaccurate or incomplete in any way and for any reason. © State of Queensland (Department of Justice and Attorney-General) 2016