

Topic 5 - Amending motions and Use of proxies

How to amend a motion at a general meeting (SM. S94)

A voter may seek to **amend** a motion at the meeting provided the subject matter of the motion is not changed. A motion which seeks to amend the subject matter cannot be proposed.

The proposer proposes a "motion to amend the motion" and those present at the meeting or present by proxy, vote on the motion to amend. In counting the votes for the proposal to amend the motion, if a voter who is not present has already cast a [written or electronic](#) vote on the original motion as it stood, then his or her vote on the proposal to amend must be recorded as a vote **against**. A voter who is not present and who has not cast a written or electronic vote on the original motion must not be counted as voting for or against the proposal to amend.

Equally, if the proposal to amend is successful, and the original motion is amended, those who have previously cast a written or electronic vote on the original motion must be recorded as having cast a vote **against** the amended motion.

For example:

Adam in Lot 6 casts a written vote on the motion to install a barbeque by the east end of the pool on common property. He does not attend the meeting. At the meeting Eve, owner of Lot 3, who is present, agrees to the purchase of a new barbeque but proposes it be installed at the west end of the pool area instead. She therefore proposes that the motion is amended. It does not matter whether Adam has voted for or against the new barbeque being installed. Adam must be taken to have voted against the proposal to amend the motion, even if he has voted for the original motion for the installation of the barbeque at the east end, and those present know that he would not have cared where the new barbeque was positioned.

Those present at the meeting think that Eve's proposal is a good idea, and there is a majority in favour of the amendment, even though there are written votes which must be counted against. When the amended motion (for a barbeque to be installed at the west end) is voted on, Adam's vote must be counted against, regardless of how he voted on the original motion.

Amendment or revocation of resolutions already passed.

A resolution of a particular type may only be amended or revoked by a resolution of the same type, e.g. a special resolution may only be amended or revoked by a special resolution. The same applies to a resolution without dissent and an ordinary resolution. SM. S95)

Use of proxies for general meetings

A proxy must be given in the approved form (BCCM Form 6: Proxy form for body corporate general meetings). The appointment of the proxy is only effective if the voter or holder of the proxy gives the approved form to the secretary before the start of the meeting, (or such earlier time fixed by the body corporate however, this cannot be more than 24 hours before the meeting). The giving of the proxy may be by hand, by post or by fax.

The proxy holder may vote by show of hands at the meeting or by completing a written or electronic vote before the start of, or at, a general meeting.

Neither a body corporate manager, nor an associate of the original owner/developer or a body corporate manager can hold a proxy for a voter. (SM. S110(2))

If there are 20 or more lots in a scheme, a person cannot hold proxies for more than 5% of the lots, and if there are fewer than 20 lots in a scheme, a person can only hold one proxy.

A person who exercises a proxy for a voter or purports to vote on behalf of someone else at a general meeting without the right to do so, commits an offence liable to a fine in the Magistrates Court of a maximum of 100 penalty points (\$7,500).

The body corporate may at a general meeting prohibit the use of proxies altogether or for particular motions. The motion to restrict or prohibit the use of proxies must be carried by special resolution (SM. S107). To vote on such a motion, votes by proxy are prohibited (SM. S109(3)(d)(i)).

Restrictions

While a member of the body corporate (the member) may appoint a person to act as their proxy (the proxy), there are a number of restrictions on their use. A proxy cannot be exercised:

- if the member is present personally at the meeting, unless the member consents at the meeting;
- on a motion, if the member has exercised a written or electronic vote on the motion;
- on the election of, or for otherwise choosing a member of the committee;
- on a vote to prohibit the use of proxies in any way at committee or general meetings;
- on a vote to change the regulation module for the scheme;
- on a vote decided by majority resolution;
- on a vote to engage a body corporate manager or a service contractor or an amendment or termination of either engagement;
- on a vote to authorise a person as a letting agent or an amendment or termination of the authorisation;
- on a motion decided by secret ballot;
- for general meeting of a principal scheme in a layered arrangement;
- if the general meeting is called to fill a vacancy under SM. s38;
- when a regulation provides that a proxy cannot be exercised for a particular vote.