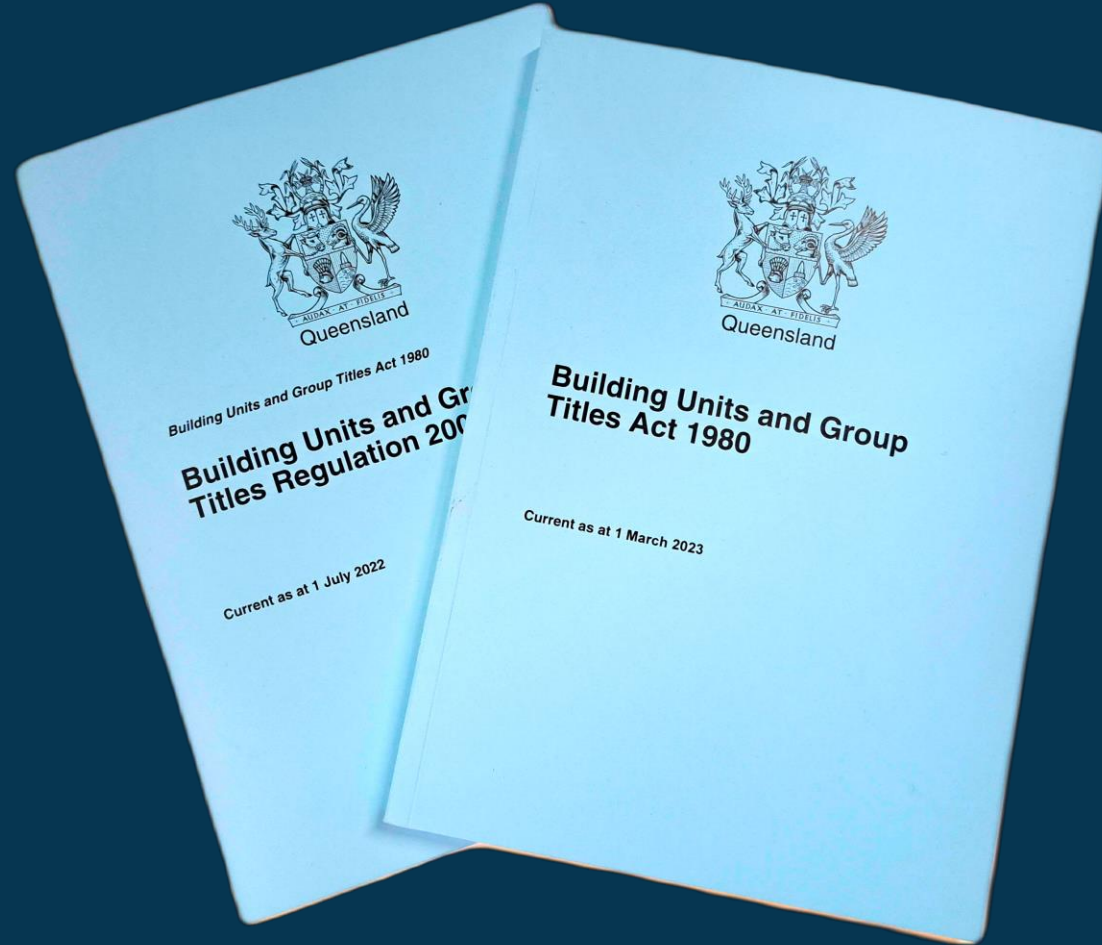


BUGT Act Amendments

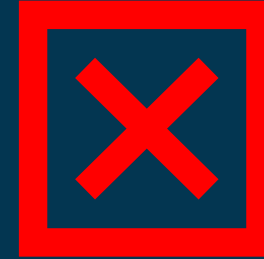


Office of the Commissioner for Body Corporate and Community Management

Who does the BUGT Act apply to?



Bodies corporate
registered as:
Group Title Plan (GTP) or
Building Unit Plan (BUP)



No community
management statement
(CMS) and community
titles scheme (CTS)
number recorded at Titles
Queensland.

BUGT Act Amendments - TOPICS



New definitions



Levy payment and body corporate debts



Committee eligibility, membership, vacancies and benefits



Levy payment and body corporate debts



Committee meetings and voting



Dispute resolution



BUGT Act Amendments overview



Commenced 1 December 2022



Make BUGT Act fairer and more transparent for owners



Provide more protection to owners



Bring BUGT Act into line with BCCM Act



Explanatory notes:
<https://www.legislation.qld.gov.au/view/html/bill.first.exp/bill-2021-069>

New Definitions

Usage See note at *definitive*.

definite article *n.* the word (*the* in English) preceding a noun and implying a specific instance.

definition /,defr'nɪʃ(ə)n/ *n.* **1** a definition
b statement of the meaning of a word etc. **2** distinctness in outline, esp. of a photographic image. [Latin: related to DEFINE]

definitive /dɪ'fɪnɪtɪv/ *adj.* **1** (of a definition) stating the true meaning of a word



Associated body corporate

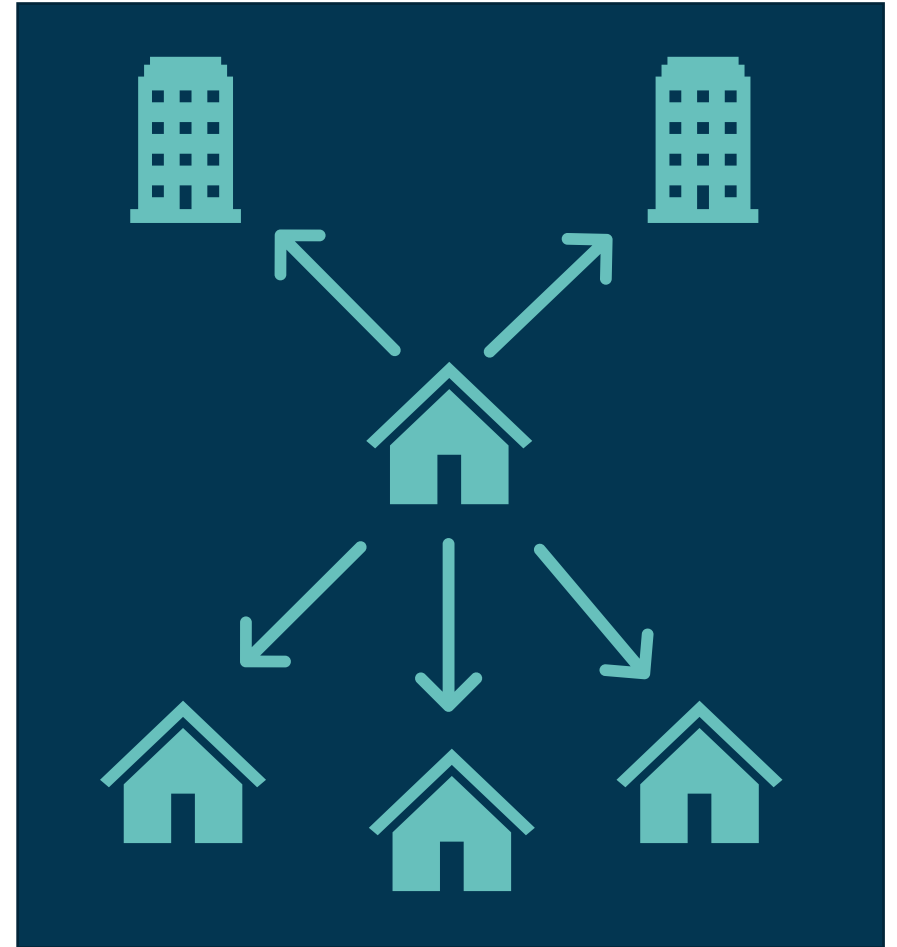
Associated body corporate –

means another body corporate, including a body corporate incorporated under a Specified Act, for a lot within the development site for the body corporate.

(s41A BUGT Act)

Specified Acts –

- Mixed Used Development Act
- Sanctuary Cove Resort Act
- Integrated Resort Development Act



Development site

Development site –
for a body corporate, means a site developed under a specified Act that includes lots for which the body corporate is constituted.
(s41A BUGT Act)



Body corporate manager

Body corporate manager –

for a body corporate incorporated under a specified Act - means a body corporate manager for the body corporate under that Act.

(s41A BUGT Act)



Letting arrangement

Letting arrangement –
means an agreement or arrangement for the conduct of a letting business upon a lot or common property for letting lots for proprietors in the body corporate or an associated body corporate.
(s41A BUGT Act)



Service arrangement

Service arrangement –

means an agreement or arrangement for carrying out the maintenance duties for the body corporate

(s41A BUGT Act)



Committee Eligibility

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Committee eligibility

A person is eligible to be elected to the committee if they are an electable person (s42(6) BUGT Act)



New definition of electable person (s41B BUGT Act)



Electable person – Part A



Individual who is any of the following:



An owner



Company nominee of corporate owner



Not an owner but nominated by individual owner



s41B(a), BUGT Act

Electable person – Part B



Person or associate nominated for the committee:



Cannot owe a body corporate debt.



Owner still eligible if associate with debt is a close family relationship (marriage, defacto, parent or child, parent or grandparent in common)



s41B(b), BUGT Act

Electable person – Part C - 1



Individual or associate who is not in any of the following roles for:



the body corporate or



another body corporate in the same development or resort –
called an **associated body corporate**.



s41B(c), BUGT Act

Electable person – Part C - 2



Not an electable person if they:



Are the body corporate manager



Have a service arrangement or letting arrangement



Have another agreement or arrangement for providing services or amenities to owners - EG utility services



s41B(c), BUGT Act

Electable person - Scenario 1



Dave, an owner within a body corporate, intends to nominate Mary, another owner within the same body corporate, for a position on the committee. However, Mary is also engaged as the body corporate manager for a separate body corporate within the same development.



Electable person - Scenario 1



Outcome:
Mary is ineligible for election
in Dave's body corporate,
as well as any other body
corporate within the same
development.



Associates – Part 1

An associate is a relationship, or a series of relationships can be linked through them to another person.

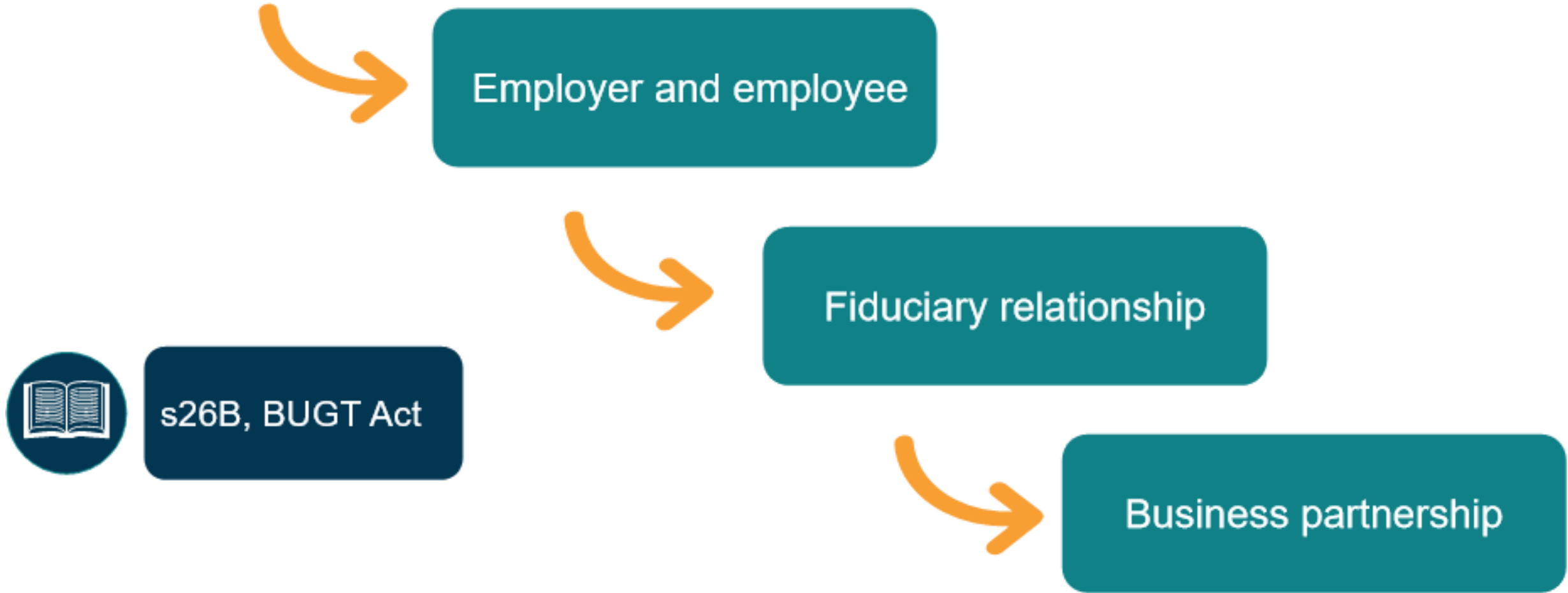
Marriage or de facto partnership

The relationship of parent and child or persons who have a parent or grandparent in common



s26B, BUGT Act

Associates – Part 2



Associates – Part 3

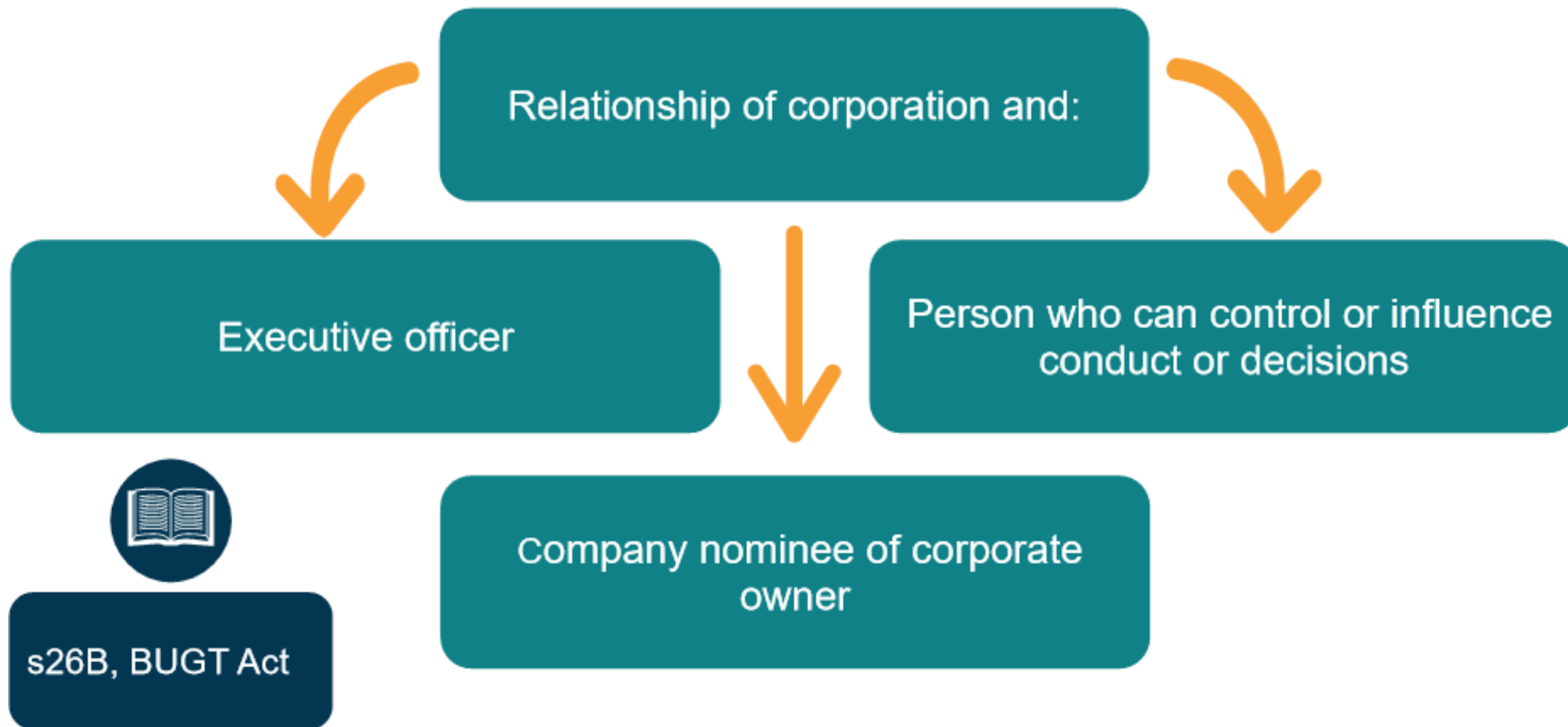


The relationship of persons, one of whom is accustomed, or under an obligation (whether formal or informal), to act under the directions, instructions or wishes of the other person.



s26B, BUGT Act

Associates – Part 4



Associates – Part 5

Exception to associates:



Owner who uses the letting agent's services to manage their lot is not an associate of the letting agent

Nomination of other person:



A person who nominates another person becomes the associate of their nominee



s26B, BUGT Act

Associates - Scenario 2



Sally, an owner within a body corporate, seeks to nominate herself for the committee. However, her brother Dan, who is also a lot owner in the same body corporate, has an outstanding debt to the body corporate.



Associates - Scenario 2



Outcome:
Despite Dan's debt, Sally remains an electable person as her association with Dan is as a close family member.



Associates - Scenario 3



Joe, an owner within the body corporate, aims to nominate another owner, Mike, for a committee position. However, Mike also serves as the director of the company providing utility services to the body corporate.



Associates - Scenario 3



Outcome:
Despite being an owner,
Mike is ineligible for election
as he is associated with the
company that has the
prescribed arrangement to
provide utility services to the
body corporate.



Associates - Scenario 4



Marcie, an owner within the body corporate, is employed by the company providing letting services under an agreement with the body corporate. She seeks to nominate Julie, another owner, who occasionally works for her.



Associates - Scenario 4



Outcome:

Due to Marcie's involvement in a letting arrangement with the body corporate, she is ineligible for election. Julie, as an associate working for Marcie, is also ineligible.



Membership, vacancies, benefits

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Non-voting committee members

Automatically a non-voting committee member without election:

The body corporate manager

Person with both a service AND letting arrangement (i.e. both caretaker and letting agent)



s42A, BUGT Act

Cannot vote at committee meetings or vote in writing

Does not affect maximum number for committee or the number for a quorum



Committee vacancies – part 1

A person's position becomes vacant if:



they were an electable person as an owner but are no longer an owner



body corporate manager

Or they become a:



service provider or letting agent



party to another agreement with the body corporate relating to services or amenities



s43, BUGT Act

Committee vacancies – part 2

A person's position becomes vacant if they were nominee of an owner and:

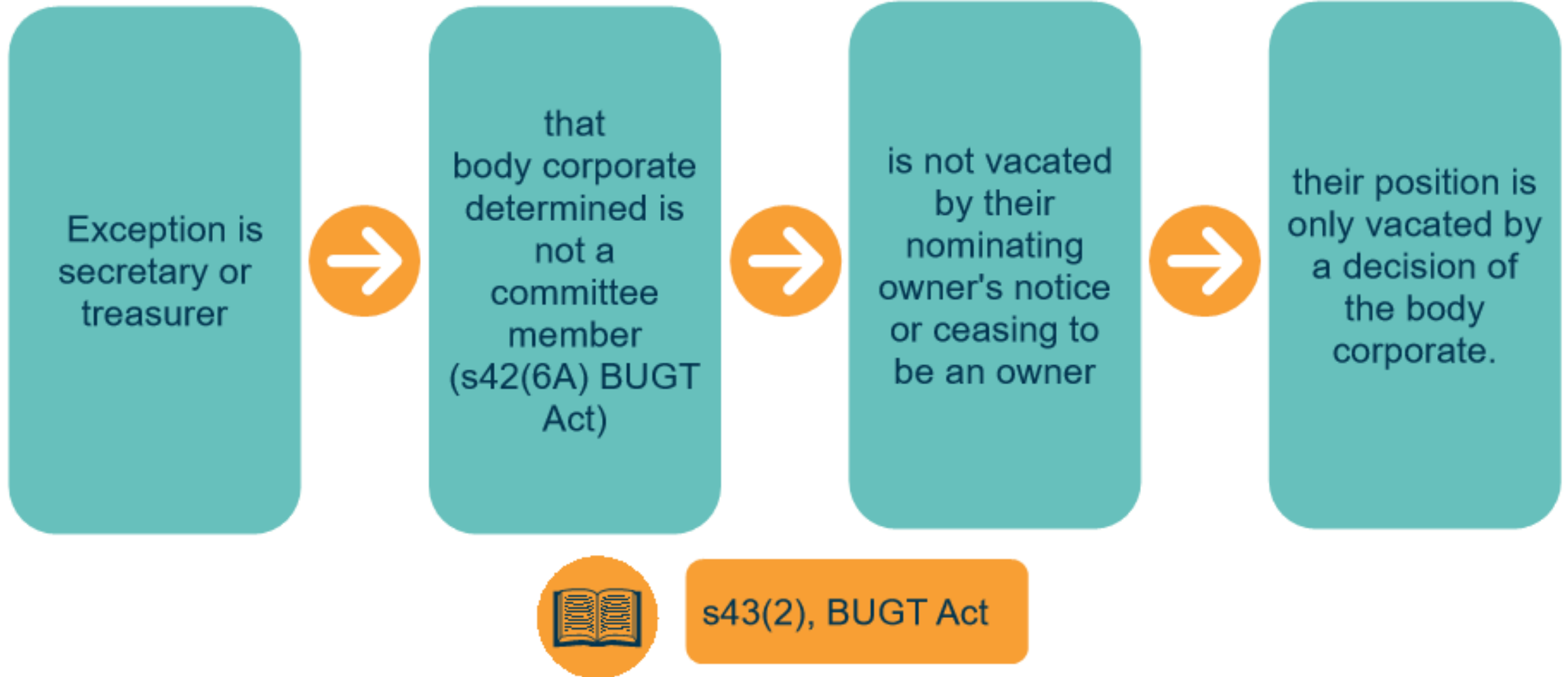
the owner notifies the body corporate in writing that their nominee's position is vacated, or

the nominating owner ceases to be an owner



s43, BUGT Act

Committee vacancies – part 3



Committee benefits

Committee member cannot receive direct or indirect benefits from a party to a service or letting arrangement unless:



Authorised by ordinary resolution of the body corporate



a service the body corporate has engaged the party to provide or

If not approved at general meeting, the benefit can only be for the supply of or payment for the following:



a service the owner has engaged the party to provide at market price or



a letting agent business service



s45C, BUGT Act

Committee Meetings

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Notice of committee meetings

Secretary must give notice to all committee members:



at least 7 days prior (or 2 days if all voting members have agreed)



state when and where



include agenda of issues to be considered



sent to lot owners unless requested in writing not to receive them



and put on notice board at least 24 hours prior



Schedule 4, Item 6, BUGT Act

Committee minutes

Secretary must give to all owners full and accurate:



s45, BUGT Act



Minutes of meetings



Resolutions made in writing



Within 21 days of decision



Unless owner has written to tell secretary they do not want minutes

Committee Voting

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Voting at committee meetings

Quorum for committee meeting:



more than half the determined number of committee members (or all members if a number has not been determined)

A motion passes if:



a motion passes if decided by a majority of members present at the meeting where there is a quorum



s45(1) & (2), BUGT Act

Notice of opposition

A committee decision at a meeting or in writing has no effect if:



Before the decision is made

the secretary is given a notice opposing the decision

by 50% or more of owners with lot entitlements of more than 50% of the total



s45(3), BUGT Act

Debtor member definition

A voting member of the committee is a 'debtor member' if they are:



Owner who owes a relevant body corporate debt, or

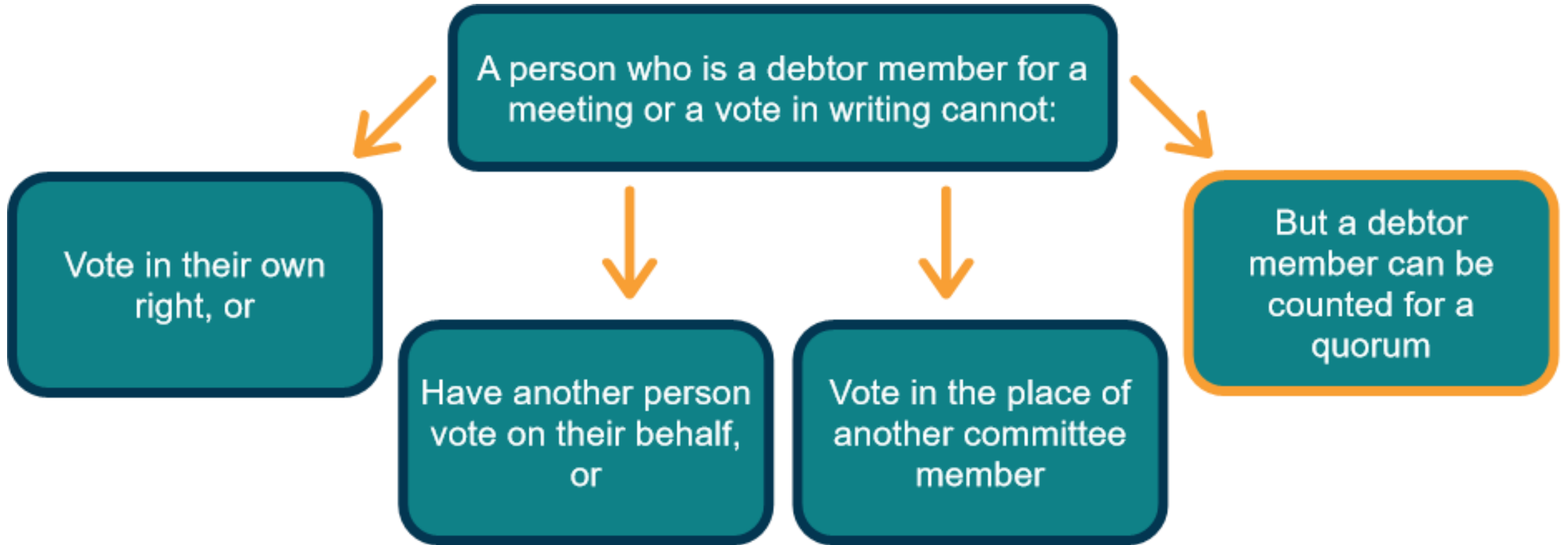
Nominee of an owner that owes a relevant body corporate debt

At the time of the meeting or written vote



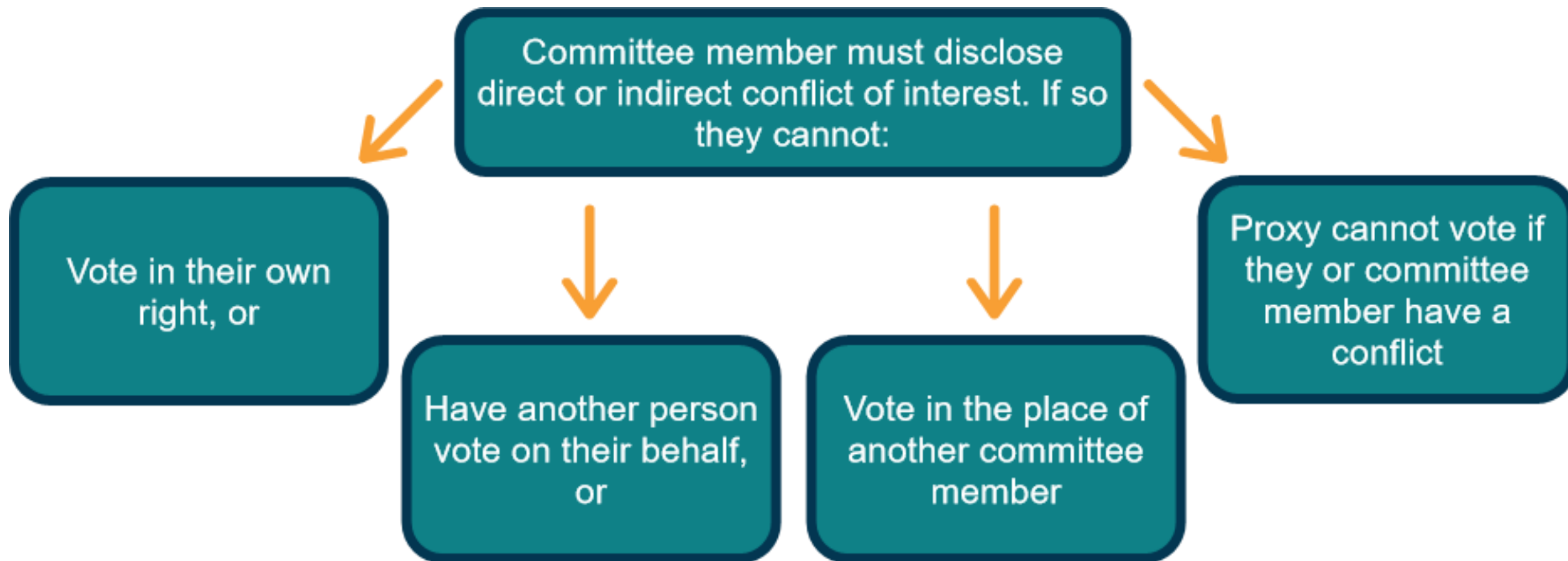
s45A, BUGT Act

Debtor member voting



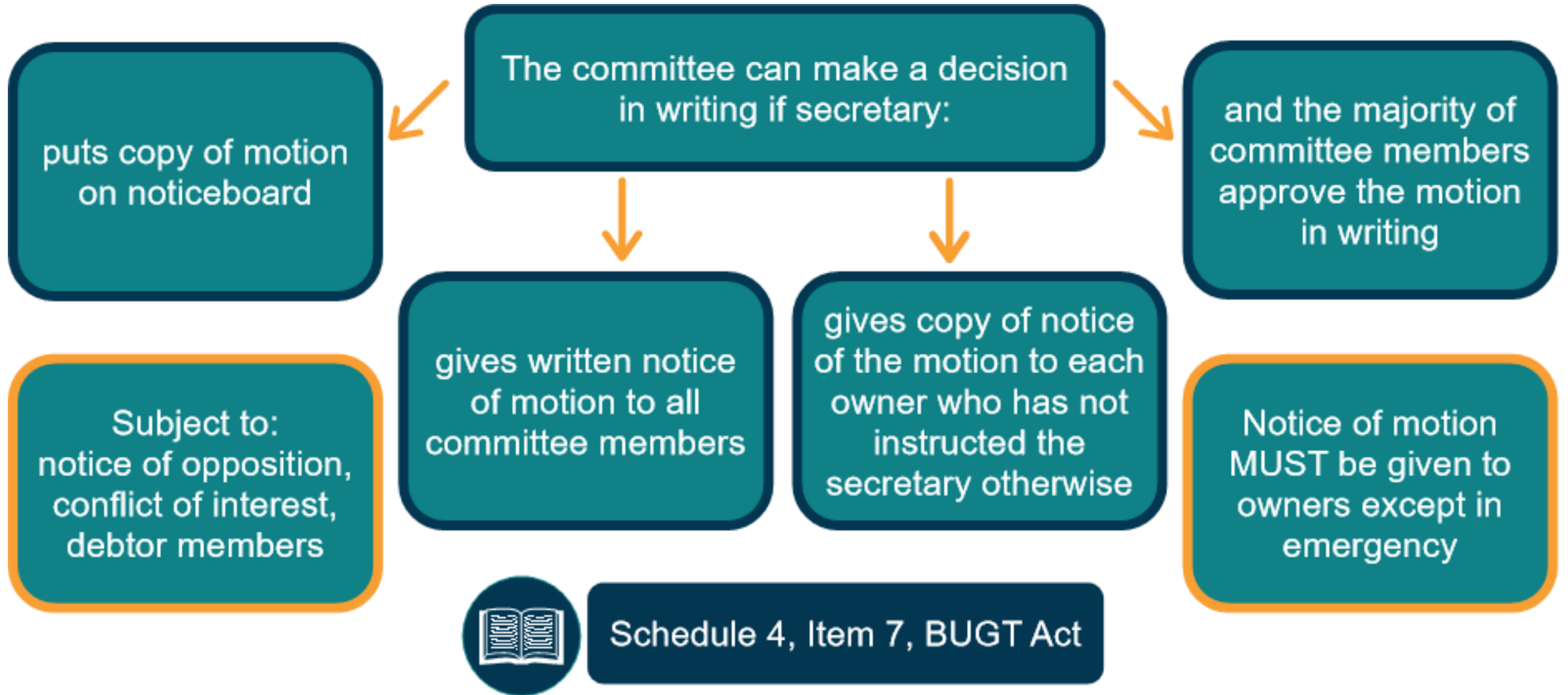
s45A, BUGT Act

Conflict of interest



s45B, BUGT Act

Voting in writing



Committee making reasonable decisions



s46(3), BUGT Act

General Meetings

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Body corporate reasonable decisions

Body corporate must act reasonably when making or not making decisions at general meetings



s27(4), BUGT Act

General meeting minutes

General meeting minutes must be:

Full and accurate

Given to all owners with 21 days after the meeting (unless owner has written to tell secretary they do not want minutes)



s38D, BUGT Act

Levies and Debts

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Relevant body corporate debt



Relevant body corporate debt means amounts that are unpaid for at least 30 days past the due date:



Levy contribution



Another amount associated with ownership of a lot



s41A, BUGT Act

Debt recovery



Body corporate can start debt recovery if debt is not paid within 30 days after due date



Must start debt recovery within 2 months when debt is owed for 2 years and 30 days



Body corporate can start recovery earlier



s32A, BUGT Act

30 days allows for discount period if approved under s38A(4) BUGT Act



Payment of levies



Levies can be paid in part or full by an offset arrangement between an owner and the body corporate if:



the arrangement has prior general meeting approval



the fair value of the land, goods or services provided equals the value of the levies to be offset



An owner or their associate cannot vote on a motion to approve an offset arrangement for their lot.



s41B(c), BUGT Act

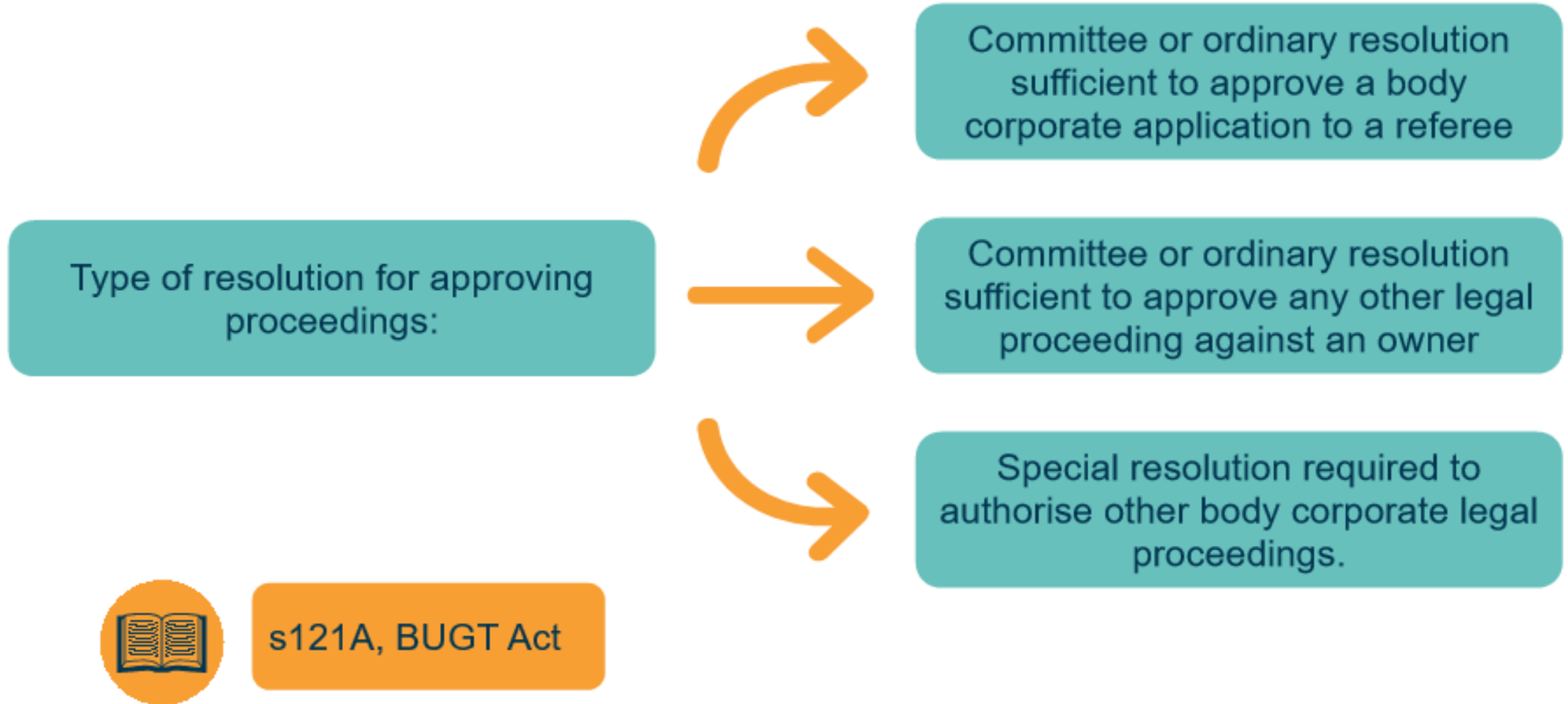


Dispute Resolution

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Approving proceedings



Obligations of a referee

A referee:



s73A, BUGT Act

must observe natural justice and

must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the application and

is not bound by the rules of evidence

Dismissal of referee application

Referee may dismiss application:



if deemed frivolous, vexatious, misconceived or without substance



the respondent

Referee can award costs of up to \$2000 to:



the body corporate



an affected person for the application



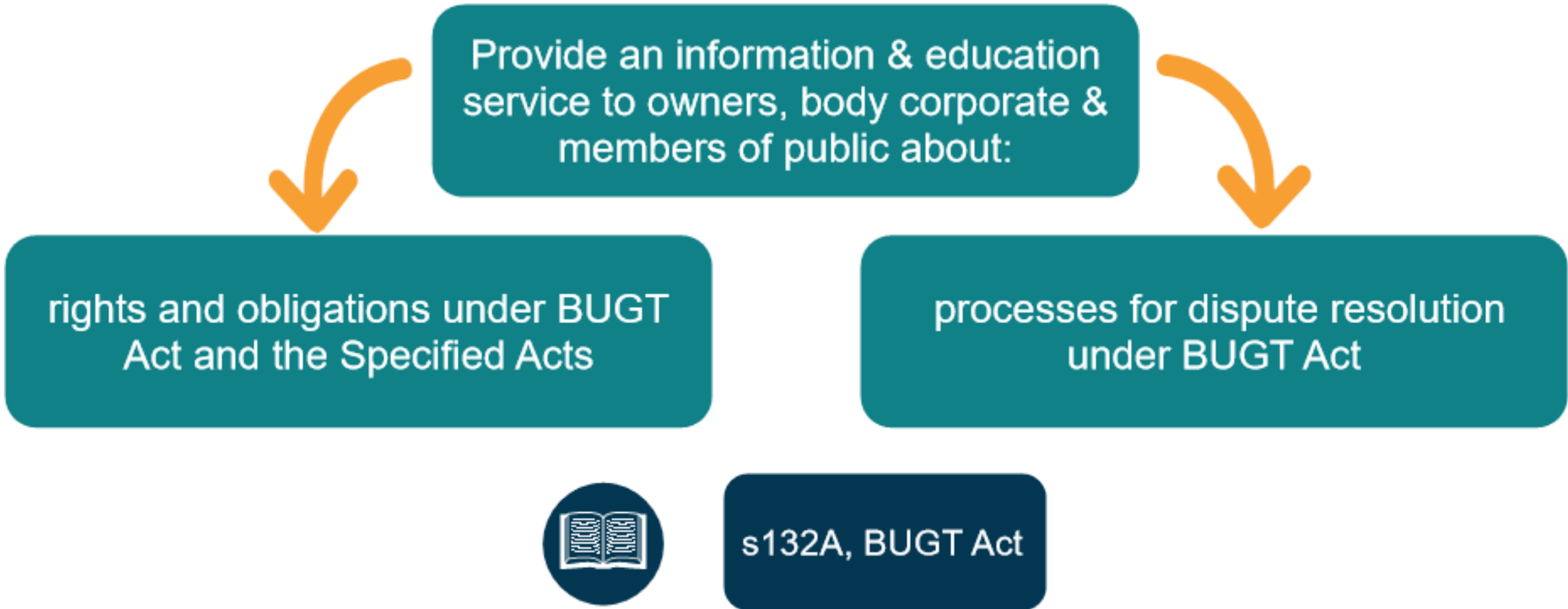
s94C, BUGT Act

Information and Education

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Dismissal of referee application



Contact us



Phone: 1800 060 119 (free call back service)



Online enquiry: www.qld.gov.au/bodycorporatequestion

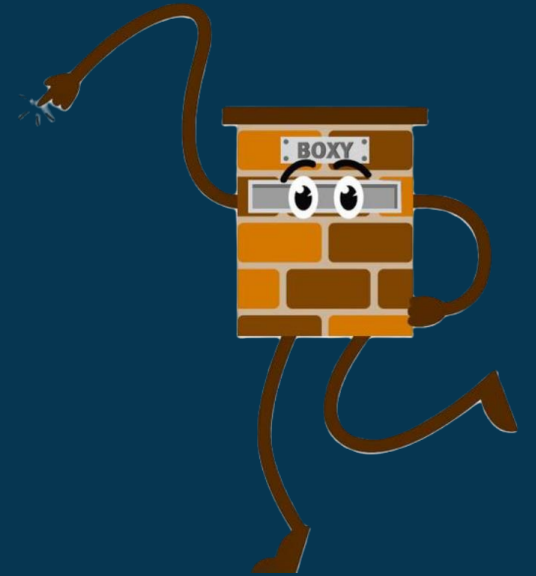


Website: www.qld.gov.au/bodycorporate

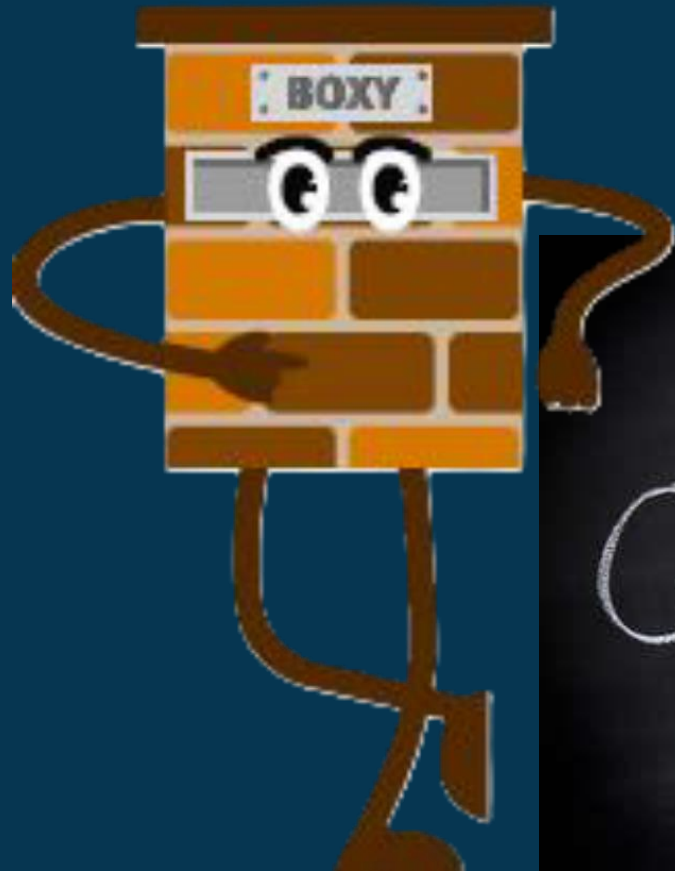


Tip: look for webpages with (other acts) in the name for the BUGTA and Specified Act information. EG google “BCCM BUGTA accessing records other acts”

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Questions



ANY
QUESTIONS
?

