

Frequently Asked Questions: Changes to Strata Laws in NSW

Unfair Contracts

Q: How can a strata scheme set aside an unfair management agreement?

A: Owners corporations can apply to the NSW Civil and Administrative Tribunal (NCAT) to terminate or modify contracts with unfair terms. NCAT can terminate a strata managing agent agreement if the agent operates contrary to the law or Australian Consumer Law.

Applicable Legislation

Q: What are the key sections of the Strata Schemes Management Act that apply to these changes?

A: Some key sections include:

Section 57(3A) & (3B): Approval of commissions/training services

Section 60: Disclosure obligations for strata managing agents

Section 71: Pre-appointment disclosure requirements

Section 72: Termination of strata managing agent agreements

Section 166: Insurance quotation requirements

Section 85: Payment plans for unpaid contributions

Section 86: Recovery of unpaid contributions

Insurance

Q: If an Owners Corporation arranges its own insurance, does it need multiple quotes?

A: The requirement to obtain at least three insurance quotes applies to strata managing agents. However, for self-arranged insurance, while not legally required, it is considered best practice to obtain multiple quotes.

Strata Committee Governance

Q: What are the new training requirements for strata committee members?

A: Committee members must complete government-approved training. Failure to comply may lead to removal from the committee.

Q: Can minor renovations be approved at an informal meeting?

A: No, committee decisions should be made in properly convened meetings with recorded minutes.

Levies and Payment Plans

Q: How do levy recovery and payment plans work with strata loans?

A: Loan repayments are part of the scheme's expenses, usually funded through special levies. Owners corporations must allow payment plans for overdue levies, but loan obligations must still be met independently.

Q: Must an Owners Corporation offer a payment plan before taking debt recovery action?

A: Yes, before legal action, owners corporations must offer a reasonable payment plan under Section 86(1A).

Q: Do all owners need to prove financial hardship to qualify for a payment plan?

A: No, payment plans must be offered regardless of demonstrated hardship. The focus is on resolving debts proactively.

Q: Can an Owners Corporation refuse a payment plan?

A: They can refuse in specific cases, such as repeated defaults on previous plans or when non-payment significantly impacts the scheme's finances. However, blanket policies refusing payment plans are not allowed.

Tribunal & Contract Termination

Q: When can a strata scheme apply to the Tribunal to end a management contract?

A: The Tribunal can terminate a contract if the manager has broken the law (**Section 72**) or if the contract contains unfair terms under Australian Consumer Law.

Sustainability & Embedded Networks

Q: What are the sustainability-related changes?

A: By-laws preventing sustainability infrastructure based on appearance are now prohibited (except for heritage-listed properties). Sustainability must be considered at each AGM and included in capital works planning.

Q: Do the embedded network changes apply to existing networks?

A: Yes, all embedded electricity supply contracts are now subject to a 3-year term limit, even for existing contracts upon renewal.

General Compliance

Q: How is transparency improved in strata schemes?

A: New disclosure requirements apply to strata managers, including pre-appointment disclosures, annual disclosures at AGMs, and real-time updates on financial interests and commissions.