Effective from 1 September 2022, PSAR Regulation – New Provision about Handover of Records to Self-Managed Schemes

The Property and Stock Agents Regulation 2022 (**PSAR**) commenced on 1 September 2022.

The explanatory note to the PSAR notes the object of the Regulation is to remake, without substantial changes, the Property and Stock Agents Regulation 2014, which is repealed on 1 September 2022 by the Subordinate Legislation Act 1989, section 10(2).

While the new regulation does repeat, for the most part, the content of the 2014 Regulation, there are a number of changes that managing agents should be aware.

The primary change for strata and community managing agents relates to the expansion of the requirements under Schedule 4 Rules specific to strata managing agents and assistant strata managing agents (previously Schedule 6 of the 2014 regulations). Clause 1 of Schedule 4 is set out in full below:

> *1 Co-operation about records, access and transfer*
>
> *(1) If an agent is acting on behalf of a person in the management of a property and is advised by another agent that the other agent (the new agent) has been engaged to act on behalf of the person in the management of the property, the agent must co-operate with the new agent—*
>
> *(a) in relation to access to the records of the person, including by making the records reasonably available, according to law, and*
>
> *(b) by facilitating the transfer of management functions between the agent and the new agent.*
>
> *(2) Subsection (3) applies if an agent is acting on behalf of an owners corporation or association in the management of a property and is advised by the owners corporation or association that—*
>
> *(a) the agent is no longer to act on behalf of the owners corporation or association, and*
>
> *(b) no other agent is being appointed.*
>
> *(3) The agent must co-operate with the owners corporation or association—*
>
> *(a) in relation to access to the records of the owners corporation or association, including by making the records reasonably available, according to law, and*

BANNERMANS LAWYERS

T: (02) 9929 0226 ABN: 61 649 876 437
E: dbannerman@bannermans.com.au W: www.bannermans.com.au
P: PO Box 514 NORTH SYDNEY NSW 2059 AUSTRALIA

Liability limited by a scheme approved under Professional Standards Legislation

© Copyright Bannermans Lawyers 2022.

(b) by facilitating the transfer of management functions between the agent and the owners corporation or association.

Barring some minor amendments to its wording, clause 1(1) mirrors clause 1 of the 2014 regulation. The additional items are detailed in clauses 2 and 3, which expand the obligations to apply where the owners corporation or association is changing to self-managed scheme.

Some of the other amendments incorporated into the new regulations include:

- updating the definition of buyer's agent (reg 3).
- clarifying restrictions on assistant agents performing certain functions (reg 5(3)).
- stronger disclosure requirements for vendor and buyer agents re: EOI deposits including the timing of refunds (schedule 2 cl 6 and 13; schedule 3 cl 4).
- exempting real estate agent and assistant agents from having to disclose material facts listed in the Regulation in relation to residential tenancy agreements (reg 47).
- clarifying the exemption from obtaining professional indemnity insurance (reg 12(6)(b)).
- Deletion of the collection agent clauses.

Key takeaways

- The Property and Stock Agents Regulation 2022 commenced on 1 September 2022.
- Managing agents must cooperate with new agents regarding access to records and management functions.
- The regulation expands obligations for agents transitioning to self-managed schemes.
- There are updates to definitions and clarifications regarding agent functions and disclosure requirements.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

Prepared by Bannermans Lawyers
Updated 12 September 2022

BANNERMANS LAWYERS
T: (02) 9929 0226 ABN: 61 649 876 437
E: dbannerman@bannermans.com.au W: www.bannermans.com.au
P: PO Box 514 NORTH SYDNEY NSW 2059 AUSTRALIA

Liability limited by a scheme approved under Professional Standards Legislation

© Copyright Bannermans Lawyers 2022.