

Informed Consent Insurance Provisions | ASIC Regulation regarding Insurance from 9 July 2025

Strata managing agents have been kept busy in recent times keeping up to speed with a torrent of strata reforms, including much tighter regulation of insurance commissions under the strata management legislation and property and stock agents legislation. Some agents now need to deal with additional regulation of insurance commissions from another angle, with recently implemented amendments to the Corporations Act 2001 concerning "conflicted remuneration".

The key points are as follows:

- These provisions are not concerned with strata managing agents and insurance commissions as such and the majority of strata managing agents are likely unaffected by them. They are engaged when a strata managing agent is an AFS Licensee or representative and provides financial product advice which is personal advice (i.e. not general advice) and receives a monetary benefit (typically a commission) in relation to a general insurance product (which includes most strata policies). In those circumstances, disclosure and consent requirements are imposed.
- The requirements are not particularly difficult to satisfy, provided one takes the time to understand them and develop appropriate templates and procedures and maintains a good level of communication with clients. Essentially, one needs to disclose specified information to the client, obtain client consent (which need not be in writing, although that would be good practice), keep a record of the consent and provide that to the client. In practical terms, this will probably likely involve an AGM resolution when the scheme considers its insurance requirements, the record of consent being the motion and provision of a copy to the client being redundant as it already has a copy of the motion. Strictly speaking, you would not need to do this at an AGM, but are likely already doing so to comply with strata management legislation regulation.
- This operates in parallel with requirements under the strata management legislation which affect a broader range of agents and are more onerous. One practical consequence of this is that compliance with strata management legislation regulation of insurance commissions could very easily be addressed in such a way as to also comply with Corporations Act regulation of insurance commissions, if relevant to your agency.

For Bannermans Compliance Pack members compliant motions and accompanying forms are available in the [Compliance Pack](#). Further information can also be obtained from the following ASIC [FAQ LINK](#).

There are some other issues which strata managing agents who are AFS licensees or representatives should be considering:

- It is becoming increasingly difficult to reconcile an agent's position as representative or associate of a provider to a client scheme with the agent's obligations regarding conflicts of interest under the strata management legislation and property and stock agents legislation.
- In addition to the unfair contract terms regime under the Australian Consumer Law applicable to contracts with strata and community schemes, AFS licensees and potentially their representatives need to deal with the parallel unfair contract terms regime under the Australian Securities and Investment Commission Act 2001, which impact significantly on supplies of financial products such as insurance to strata and community schemes.

We have considerable experience in this area and would be pleased to provide you with whatever assistance you may require, with a view to reducing your time and financial cost associated with such a difficult transition.

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