3-month strata fund records: are you complying?

Your scheme's Treasurer will already receive financial reports on the administrative and capital works funds - but do those reports satisfy regulation 41 of the *Property and Stock Agents Regulation 2022* (Regulation)?

What does regulation 41 require?

The provisions under regulation 41 of the Regulation apply if you, as the strata managing agent, hold or cease to hold money in either the administrative or capital works fund for an owners corporation.

These require you to prepare, and sign, a record for the management of each fund and provide a copy to the Treasurer at least once in every three-month period; with that record having been completed no more than one month before it is provided.

Note that the first such record is to cover the period from when you started acting on behalf of the scheme, and each subsequent record is to pick up from where the last one left off.

Will your existing reports do the job?

Regulation 42 of the Regulation illustrates why a balance sheet is unlikely to suffice.

Under this provision, to be compliant, a record needs to include prescribed information – including what was levied, paid and still owing for each lot, where other receipts came from (if any), what the fund has paid or expects to pay, and where its money is held or invested (Note that this is not a full list of the matters required under regulation 42. Please refer to the relevant legislation)

If your existing reports contain all the required information and are signed and delivered on time, there is no need to prepare a separate set.

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What happens when our appointment ends?

The final record to be supplied is more than a copy of the last report.

You must reconcile receipts and payments against the relevant deposit-taking institution's statements up to the end of the appointment and give the Treasurer the signed record within 14 days after the agency agreement ends.

Are there penalties for not providing the records?

A failure to comply with regulation 41 is an offence and may also carry licensing consequences.

The maximum penalties prescribed for a breach are $4,400 for a corporation (40 penalty units) or $2,200 for an individual (20 penalty units).

Note that a penalty notice, if issued instead, is $1,100 for a corporation or $550 for an individual.

It's strongly recommended that managers diarise the relevant reporting periods (rather than relying solely on the agency's reporting cycle) to avoid any unintended non-compliance.

Is regulation 41 new? When did it commence?

Regulation 41 of the Regulation commenced on 1 September 2022.

Prior to this, a similar reporting obligation was in place under clause 37 of the *Property and Stock Agents Regulation 2014*.

In short, these obligations are not new – and we're aware that Fair Trading has been investigating compliance during recent audits.

Key takeaways

- Strata managing agents must prepare and provide financial records to the Treasurer every three months as per regulation 41.
- Records must include detailed financial information, not just a balance sheet, to comply with regulation 42.
- Failure to comply with regulation 41 can result in significant penalties for both corporations and individuals.
- The final record must be reconciled and submitted within 14 days after the agency agreement ends.
- Regulation 41 has been in effect since 1 September 2022, continuing previous reporting obligations.

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