



Strata Titles Amendment Act 2018 Fact Sheet

Section 47

Enforcement of scheme by-laws

(1) A strata company may —

(a) give a written notice to a person alleged to have contravened the scheme by-laws; or

(b) apply to the Tribunal under this section for an order enforcing scheme by-laws if —

(i) the contravention has had serious adverse consequences for a person other than the person alleged to have contravened the scheme by-laws;

or

(ii) the person has contravened the particular scheme by-law on at least 3 separate occasions; or

(iii) the person has been given notice under paragraph (a) and has contravened the notice.

(2) A written notice given by a strata company to a person alleged to have contravened the scheme by-laws must —

(a) specify the particular scheme by-law that is alleged to have been contravened; and

(b) specify the particular facts relied on as evidence of the contravention; and

(c) specify the action that must be taken or refrained from being taken in order to avoid a continuing or further contravention of the particular scheme by-law; and

(d) contain an explanation of the effect of this section in terms set out in the regulations.

- (3) An application may also be made to the Tribunal for enforcement of scheme by-laws by —
- (a) the owner of a lot in the strata titles scheme; or
 - (b) if the scheme is a leasehold scheme — the owner of the leasehold scheme; or
 - (c) a mortgagee of a lot in the strata titles scheme; or
 - (d) an occupier of a lot in the strata titles scheme.
- (4) An application can only be made under subsection (3) on the grounds that —
- (a) if a person other than the strata company is alleged to have contravened the scheme by-laws — the person has been given notice under subsection (1)(a) and has contravened the notice; or
 - (b) the contravention has had serious adverse consequences for a person other than the person alleged to have contravened the scheme by-laws; or
 - (c) the person has contravened the particular scheme by-law on at least 3 separate occasions.
- (5) The Tribunal may, if satisfied that a person has contravened the scheme by-laws, by order require the person to do 1 or more of the following —
- (a) pay a specified amount to the strata company by way of penalty for the contravention;
 - (b) take specified action within a period stated in the order to remedy the contravention or prevent further contraventions;
 - (c) refrain from taking specified action to prevent further contraventions.

(6) The Tribunal's power to impose a penalty is subject to the following limitations —

- (a) a penalty must not be imposed on the strata company;
- (b) a penalty may only be imposed if the Tribunal is satisfied of the matters set out in subsection (1)(b) or (4) as the case requires;
- (c) the penalty must not exceed an amount fixed by the regulations;
- (d) a daily penalty may be imposed for a continuing contravention only if that is authorised by the regulations.

(7) The regulations may —

- (a) specify a maximum amount that may be imposed by the Tribunal by way of penalty for contravention of scheme by-laws; and
- (b) specify circumstances in which a daily penalty may be imposed for a continuing contravention and a maximum amount that may be imposed as a daily penalty.

(8) If an order is made under this section requiring a member of a strata company to pay an amount to a strata company, the amount may be recovered by the strata company, and interest is payable on any outstanding amount, as if the amount payable were an unpaid contribution levied on the member as a member of the strata company.

(9) An amount otherwise ordered to be paid by way of penalty under this section is recoverable as a debt in a court of competent jurisdiction.