



Financial management

The following outlines the provisions of the *Body Corporate and Community Management Act 1997* (the BCCM Act) and the *Body Corporate and Community Management (Standard Module) Regulation 2008* (the Standard Module) which regulate the financial management of bodies corporate. This factsheet is not an exhaustive guide, and the legislation should be consulted as the primary reference.

The financial year

The financial year for a body corporate is not necessarily the year used for taxation purposes (1 July to 30 June). The following provides a summary of the factors determining the financial year for your body corporate.

Plans established before the BCCM Act

Prior to the commencement of the BCCM Act in 1997, plans were established under the *Building Units and Group Titles Act 1980* (BUGTA). Building unit plans and group title plans established under BUGTA are defined as 'existing plans'.

For an existing plan, the financial year ends on the last day of the month in which the first annual general meeting was held (for example, if the first annual general meeting was held on 10 May 1993, the financial year will be 1 June to 31 May).

Plans established under the BCCM Act

The financial year ends on the last day of the month, immediately before the month when the community titles scheme was established (for example, if the scheme was established on 10 May 1998, the last day of the financial year is 30 April. The financial year will be 1 May to 30 April).

An adjudicator (or the referee under BUGTA) may make an order under the dispute resolution provisions changing the financial year.

The budgets

The body corporate must prepare an administrative and sinking fund budget each financial year. The budgets forecast anticipated expenditure. They form the basis for setting the annual contributions payable by the owner of each lot to the administrative and sinking funds.

The administrative fund budget must:

- contain estimates for the financial year of necessary and reasonable expenditure to cover:
 - the cost of maintaining common property and body corporate assets
 - the cost of insurance
 - other expenditure incurred annually or more frequently (called recurrent expenditure)
- fix the amount to be raised by contributions to cover the estimated expenditure.

The sinking fund budget must:

- provide for necessary and reasonable expenditure from the sinking fund for the financial year
- reserve a proportional amount to meet anticipated expenditure over at least the next nine years after the financial year in question, after taking into consideration:
 - anticipated expenditure of a capital or non-recurrent nature
 - periodic replacement of items of a major capital nature
 - other expenditure that should reasonably be met from capital
- fix the amount to be raised from contributions to cover the estimated capital amount.

The body corporate committee must prepare the proposed budgets for the consideration of owners at each annual general meeting (AGM). A copy of the proposed budgets must be included in the notice of an AGM.

Explanatory schedule

An explanatory schedule accompanies the notice of each AGM. It must include an explanatory note informing lot owners that the amount of a budget adopted at the meeting may be more or less than the proposed budget amount by an amount equivalent to not more than 10 per cent of the proposed budget amount. Section 140 of the Standard Module allows a body corporate to adjust a proposed budget at an AGM provided:

- the amount of the adopted budget is not more or less than 10% of the proposed budget amount
- the adjustment relates to a decision at the meeting about a motion on the agenda to approve spending
- the adjustment is approved by a majority of voters present and entitled to vote.

If a proposed budget is adjusted, the contributions to be paid by lot owners must be proportionately adjusted and a copy of the adopted budget must be given to each lot owner with a copy of the minutes of the meeting.

A budget is adopted by an ordinary resolution of the body corporate. The inclusion of an item of expenditure in an adopted budget is not, of itself, authority for the expenditure. Body corporate expenditure must be expressly authorised by the body corporate, either in general meeting or by the committee which may authorise expenditure within its legislative limit.

The funds

The body corporate must establish and maintain both an administrative fund and a sinking fund. The legislation requires specified revenue to be paid into the sinking fund. Any other revenue must be paid into the administrative fund. The legislation identifies expenditure which must be paid out of the sinking fund. All other expenditure must be paid out of the administrative fund.

The body corporate cannot transfer money from one fund to another. Payments from the funds may only be made on receipt of a written request for payment or written evidence of payment, for example, a receipt.

Examples of monies paid into and spent from each fund

The administrative fund

Money paid into this fund includes:

- owners administrative fund contributions
- interest from the investment of administrative fund monies
- fees paid for inspection of records or to obtain copies of body corporate documents.

Money spent from this fund includes:

- the regular maintenance of the common property
- insurance premiums payable by the body corporate
- administrative expenses such as secretarial fees and postage.

The sinking fund

Money paid into this fund includes:

- owners sinking fund contributions
- interest from the investment of sinking fund monies
- monies received under insurance policies for destruction of items of a major capital nature.

Money spent from this fund includes:

- expenditure of a capital or non-recurrent nature such as the painting of parts of the common property or structural repairs
- the replacement of major items of a capital nature like fences or common property carpets

- other expenditure that should reasonably be met from capital such as purchasing pool furniture.

Funds administered by a manager

A body corporate may authorise a body corporate manager to administer the administrative fund or the sinking fund. A body corporate manager who is authorised to administer a fund must:

- comply with section 146 of the Standard Module in administering the fund. Section 146 regulates payments into the funds, and the use of the body corporate financial institution account
- prepare a monthly reconciliation statement for each account kept for a fund. This statement reconciles the amounts on the monthly statement for the account with invoices and other documents showing payments into and from the account during the month.

Within 30 days after the authorisation is revoked, the body corporate manager must give the body corporate financial records including:

- an income and expenditure statement for the fund for the financial year
- a list of all amounts owing to, and payable from, the fund
- a reconciliation statement for the account or accounts kept for the fund for the month most recently completed
- any other financial record for the fund held by the body corporate manager.

Owner's contributions

Contributions generally

The annual contributions payable by lot owners are decided at each AGM. The body corporate must, by ordinary resolution:

- determine, on the basis of its budgets, the contributions to be levied on the owner of each lot
- decide the number of contribution instalments to be paid
- set the date on or before which the payment of each instalment is required.

A special contribution must be levied by the body corporate to pay for any unforeseen liability which has not been included in the budget, or has not been adequately provided for in the budget. For example, the cost of painting common property may exceed the amount accumulated for that purpose in the sinking fund budget. In this instance, the body corporate must, by an ordinary resolution decide on a special contribution to be paid by owners to meet the extra cost of painting the building.

Unless otherwise stated in the BCCM Act or the regulation module, the contributions levied on the owner of each lot must be based on the contribution schedule lot entitlement of the lot. One exception is building insurance where the owner of a lot, for example, in a building format plan is liable to reimburse the body corporate based on the interest schedule lot entitlement of the lot.

Discounts and penalties

The body corporate may choose to use contribution discounts and late payment penalties to encourage owners to pay contributions by the required date for payment. Contribution discounts and penalties are fixed by an ordinary resolution of the body corporate. A discount is given to an owner if a contribution is received by the body corporate by the date for payment. The discount cannot be more than 20 per cent of the amount to be paid. An owner pays a penalty if a contribution is not received by the body corporate by the date for payment. The penalty must consist of simple interest at a stated rate (of not more than 2.5 per cent) for each month the contribution is in arrears.

If the body corporate is satisfied there are special reasons for allowing a discount, or waiving a penalty, the body corporate may allow the discount, or waive the penalty in whole or part.

Contribution notice

At least 30 days before a contribution is payable, the body corporate must give the owner of each lot written notice of the amount due. This notice must also include the:

- amount of the contribution for which payment is required
- date on or before which the contribution must be paid
- discount applicable if the contribution is paid by the date for payment
- penalty due for each month payment is in arrears
- amount of any arrears.

Outstanding contributions

If a contribution is not paid by the date for payment, the body corporate may recover it as a debt and may take appropriate recovery action. If a contribution has been outstanding for two years, the body corporate must start a proceeding to recover the amount.

The financial institution account

A body corporate must have one or more accounts kept solely in the name of the body corporate. The account must be at a financial institution such as a bank, building society or credit union. An account opened after 4 March 2003 must only be opened with the consent of the body corporate. This account may be operated by any of the following:

- people who are authorised by the body corporate to operate an account e.g. at least two members of the committee, or
- a body corporate manager or an associate of the manager who is authorised by the body corporate to operate the account.

If the body corporate manager's engagement has ended, the body corporate can, in writing, inform the financial institution accordingly. The notice must be in the approved form (BCCM Form 2) which is available from the BCCM Office. The financial institution must not allow the body corporate manager to operate the account after this notice has been given by the body corporate.

All monies received by the body corporate for payment into the administrative and sinking funds must be paid into the account. All payments from the administrative and sinking funds must be made from the account.

The statement of accounts

For each financial year the body corporate must prepare a statement of accounts showing the income and expenditure of the body corporate for that year. The statement may be prepared on a cash or accrual basis.

Accounts prepared on a cash basis must include disclosure about:

- total contributions paid in advance
- total contributions in arrears
- total outstanding penalties for the late payment of contributions
- balances for all financial institution accounts and investments
- all outstanding receipts and payments.

Accounts prepared on an accrual basis must show assets and liabilities of the body corporate at the end of the financial year.

The statement of accounts must include:

- the corresponding figures for the previous financial year
- disclosure of all remuneration, allowances or expenses paid to committee members.

A copy of the statement of accounts must accompany the notice of the next annual general meeting held after the end of the financial year for which the accounts are prepared.

The audit

The body corporate may decide at each AGM to engage a qualified, independent person to audit the yearly statement of accounts. Most modules under the BCCM Act require the statement of accounts to be audited for each financial year unless the body corporate resolves otherwise by special resolution.

The exception to this requirement is a body corporate under the *Body Corporate and Community Management (Small Schemes Module) Regulation 1997*. Small schemes may decide to audit their accounts, but it is not compulsory for a motion concerning the audit to be on the agenda of their AGM.

An auditor is appointed by ordinary resolution of the body corporate. The auditor must be independent, must have appropriate qualifications and experience, and cannot be a committee member or a body corporate manager. The auditor examines the prepared financial statements and expresses an opinion as to whether the financial statements disclose all relevant information and provide a fair picture of the financial position of the body corporate.

The auditor must provide a certificate reporting on the accounts. A copy of the certificate must be included with the notice of the next annual general meeting held after the certificate is received by the body corporate.

The Office of the Commissioner for Body Corporate and Community Management (BCCM Office)

Information Service telephone (freecall): 1800 060 119

Email: bccm@justice.qld.gov.au

Website: www.justice.qld.gov.au/bccm

Street address: Level 17, 288 Edward Street, Brisbane

Postal address: GPO Box 1049, Brisbane Qld 4001

Copies of the *Body Corporate and Community Management Act 1997*, the regulation modules, and any amendments can be accessed for free via the Office of the Parliamentary Council at: www.legislation.qld.gov.au/Acts_SLs/Acts_SL.htm or purchased from SDS, Ground Floor, Mineral House, 41 George Street, Brisbane. SDS Customer Service can be contacted on: 07 3118 6900 or 1800 679 778 or at: www.publications.qld.gov.au.

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this factsheet does not constitute legal advice. You are encouraged to obtain independent legal or financial advice if you are unsure of how these laws apply to your situation.

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