

To replace Question 13

Question 13a What recourse is there where a tenant is breaching the by-laws of the body corporate?

The best course of action is to approach the owner of the lot or the tenant to discuss your concerns. If this does not succeed then the body corporate can take actions to enforce the by-laws.

13b How does a body corporate enforce by-laws?

Section 93 of the *Strata Titles Act 1998* binds parties in respect of body corporate by-laws. It states that:

A by-law is binding on –

- (a) the body corporate; and*
- (b) the owner of a lot; and*
- (c) the occupier of a lot; and*
- (d) an invitee of the owner or occupier of a lot.*

There are number of methods available for a body corporate to enforce by-laws. These are:

- *By issue of compliance notice.* Section 95 of the Act enables a body corporate to issue a written notice requiring a person:
in the case of a continuing contravention, to refrain from further contravention; and,
in any case, to take specified action to remedy the contravention within a specified period (which must be at least 30 days) stated in the notice.

Section 96 provides that if a lot owner fails to comply with the compliance notice the body corporate may apply to the Resource Management Planning Appeal Tribunal for enforcement of the by-law. In making its decision the Tribunal may impose a fine not exceeding 50 penalty units (currently \$6500.00) and make any other order the Tribunal considers appropriate.

- *Make an Application for Relief.* Instead of or in addition to giving notice for compliance the body corporate may make an Application for Relief to the Recorder of Titles for an order that the offending party comply with or refrain from contravention of the by-law. The Recorder has no power to impose a fine on the party in default unless the penalty is provided for in the by-laws. However, penalties may apply where an order of the Recorder is contravened or not complied with, and
- *Add penalties to by-laws and apply for imposition of penalties.* Amend the body corporate by-law in accordance with section 133 of the Act to provide that a person bound by the by-law pay a penalty to the body corporate for a breach of the by-law. The Recorder can impose a penalty set out in a by-law to a maximum of 20 penalty units (presently \$2600) and the Tribunal may impose a penalty to the maximum of 50 penalty units (presently \$6500). Note; Any change of by-law must be lodged for registration within three months of the passing of the resolution.

NOTE: The *Strata Titles Act 1998* is currently being reviewed. Once the review is completed and amendments made to the Act a further edition of *Strata Living in Tasmania* will be published.

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