

South Australia

Strata Titles Regulations 2003

under the *Strata Titles Act 1988*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Interpretation

Part 2—Division of land by strata plan

- 3A Plans and maps to comply with guidelines
- 4 Unit entitlement
- 5 Application for deposit of strata plan
- 6 Amendment of deposited strata plan
- 6A Application to ERD Court to amend or cancel a strata plan
- 7 Procedure where the whereabouts of certain persons is unknown

Part 3—The strata corporation

- 7A Articles of strata corporation—penalty notice
- 8 Variation of articles
- 8A Interest on arrears of contributions by unit holders
- 8B Body corporate managers
- 8C Return of records and trust money when delegations revoked
- 9 Other insurance by strata corporation
- 9A Agenda at annual general meetings
- 9B Procedure at meetings
- 9C Statement of expenditure etc
- 10 Record keeping
- 11 Provision of information

Part 4—Agent's trust accounts

- 12 Authorisation of fees, costs and disbursements (section 36D(b))
- 13 Authorised trust accounts (section 36E)
- 14 General duty with respect to electronic records
- 15 Cash books
- 16 Separate trust ledger accounts
- 17 Reconciliation statements
- 18 Receipt of trust money
- 19 Payment of trust money
- 20 Audit of trust accounts
- 21 Agent's statement
- 22 Certain persons may not audit accounts and records of agents

Part 5—Miscellaneous

- 23 Register of unit holders

- 24 Indemnity fund under *Land Agents Act 1994*
25 Functions of secretary and treasurer of strata corporation

Schedule 1—Penalty notice

Schedule 2—Certificate of licensed surveyor relating to the amendment of a deposited strata plan

Schedule 3—Notice of intention to apply to Registrar-General to deposit strata plan or amend deposited strata plan

Schedule 4—Certificate relating to the amendment of the articles of a strata corporation

Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Strata Titles Regulations 2003*.

2—Interpretation

- (1) In these regulations—
Act means the *Strata Titles Act 1988*.
- (2) For the purposes of paragraph (a)(i) of the definition of *special resolution* in section 3(1) of the Act, the reasons for the proposed resolution is information that must be served in accordance with that paragraph.

Part 2—Division of land by strata plan

3A—Plans and maps to comply with guidelines

A plan or map lodged with the Registrar-General for the purposes of the Act must comply with any requirements specified in guidelines issued, from time to time, by the Registrar-General.

4—Unit entitlement

For the purposes of section 6(3) of the Act, the aggregate unit entitlements of all units defined on a strata plan must be 10 000.

5—Application for deposit of strata plan

- (3) For the purposes of section 7(6)(b)(ii) of the Act—
- (a) any part of—
- (i) a structure that sits on footings protruding beyond the boundaries of the site; or

- (ii) a roof wholly or partly supported by such a structure; or
 - (iii) an attachment to such a structure or roof,
- is an associated structure of a prescribed nature; and
- (b) the prescribed distance is 0.20 metres, or such other distance as the Registrar-General may determine in a particular case.

6—Amendment of deposited strata plan

- (1) The certificate of a licensed surveyor relating to the amendment of a deposited strata plan must be in the form set out in Schedule 2.
- (2) For the purposes of section 12(3a)(d)(ii) of the Act—
 - (a) any part of—
 - (i) a structure that sits on footings protruding beyond the boundaries of the site; or
 - (ii) a roof wholly or partly supported by such a structure; or
 - (iii) an attachment to such a structure or roof,is an associated structure of a prescribed nature; and
 - (b) the prescribed distance is 0.20 metres, or such other distance as the Registrar-General may determine in a particular case.

6A—Application to ERD Court to amend or cancel a strata plan

For the purposes of sections 13(3b) and 17(4b) of the Act, in determining an application to amend or cancel a strata plan, the ERD Court must have regard to the following matters:

- (a) whether there is evidence that any unit holders object to the amendment or cancellation and, if so, how many unit holders object to it;
- (b) whether there are to be any adverse consequences to unit holders if the application is granted and the extent to which those adverse consequences could be ameliorated or alleviated by court order or other action;
- (c) whether there are to be any adverse consequences to unit holders if the application is refused and the extent to which those adverse consequences could be ameliorated or alleviated by court order or other action;
- (d) any other reason why it is in the interests of justice that the application should be granted or refused.

7—Procedure where the whereabouts of certain persons is unknown

For the purposes of section 17A(2)(a) of the Act, the information that must be contained in a notice under that section is the information in the form set out in Schedule 3.

Part 3—The strata corporation

7A—Articles of strata corporation—penalty notice

For the purposes of section 19(3b)(c)(i) of the Act, the form set out in Schedule 1 is prescribed.

8—Variation of articles

The copy of a resolution of a strata corporation under section 19(2) of the Act that is lodged with the Registrar-General under section 19(3) of the Act must be certified by an officer of the strata corporation in the manner set out in Schedule 4.

8A—Interest on arrears of contributions by unit holders

A strata corporation, when fixing interest payable by a unit holder in respect of a contribution, or an instalment of a contribution, that is in arrears must not—

- (a) exceed a rate of 15% per annum; and
- (b) must not demand payment of interest on unpaid interest.

8B—Body corporate managers

- (1) For the purposes of section 27B(2)(b) of the Act, a body corporate manager must provide the strata corporation with a copy of the schedule to the policy of professional indemnity insurance maintained by the body corporate manager that sets out—
 - (a) the name of the body corporate manager; and
 - (b) the name of the insurer; and
 - (c) the nature of the policy; and
 - (d) the amount for which indemnity is provided under the policy.
- (2) For the purposes of section 27B(2)(c) of the Act, a policy of professional indemnity insurance maintained by a body corporate manager must provide an indemnity of at least \$1.5 million per claim during a period of 12 months.
- (3) For the purposes of section 27B(3)(f) of the Act, a contract between a body corporate manager and a strata corporation must contain the following particulars:
 - (a) a statement verifying that the body corporate manager is insured under a policy of professional indemnity insurance as required by the Act and an undertaking by the body corporate manager that the body corporate manager will maintain that insurance throughout the life of the contract;
 - (b) an undertaking by the body corporate manager that the body corporate manager will allow any unit holder of the strata corporation to inspect, at any time during ordinary business hours, the records of the strata corporation in the possession or control of the body corporate manager and specifying how an inspection can be arranged.

- (4) For the purposes of section 27B(8) of the Act, the body corporate manager must ensure the availability of a copy of a pamphlet that sets out the role of the body corporate manager and the rights of the strata corporation and its members, including—
- (a) the right to inspect records held by the manager; and
 - (b) the right to revoke the delegation of a particular function of the manager; and
 - (c) the right to appoint the manager as a proxy and revoke that appointment; and
 - (d) the right to be informed of any payment that the manager receives from another trader for placing the corporation's business; and
 - (e) the right to terminate the contract; and
 - (f) the right to apply to the Magistrates Court for a resolution of any dispute.

8C—Return of records and trust money when delegations revoked

- (1) For the purposes of section 27D(6)(a) of the Act, records must—
- (a) be returned by mail sent by registered post; or
 - (b) be made available for collection,
- within 10 business days of the delegations being revoked.
- (2) For the purposes of section 27D(6)(b) of the Act, trust money must—
- (a) be returned by electronic funds transfer; or
 - (b) be returned by cheque sent by registered post; or
 - (c) be made available for collection,
- within 10 business days of the delegations being revoked.
- (3) For the purposes of section 27D(7)(b) of the Act, the maximum fee that may be charged for providing a copy of records of the corporation is \$1.20 per page.

9—Other insurance by strata corporation

- (1) For the purposes of section 31(2) of the Act, insurance cover for liability in tort must be for at least \$10 000 000.
- (2) For the purposes of section 31(2a) of the Act—
- (a) a policy of fidelity guarantee insurance must insure a strata corporation in the amount of—
 - (i) the maximum total balance of the corporation's bank accounts at any time in the preceding 3 years; or
 - (ii) \$50 000,whichever is higher;
 - (b) strata corporations with no administrative or sinking funds are not required to maintain fidelity guarantee insurance.

9A—Agenda at annual general meetings

For the purposes of section 33(4b)(c)(v) of the Act, the agenda for an annual general meeting must include—

- (a) the appointment of the presiding officer, treasurer and secretary of the corporation; and
- (b) other appointments to be made or revoked by the corporation at the meeting; and
- (c) the policies of insurance required by the Act to be held by the corporation; and
- (d) the number of applications for relief made under Part 3A of the Act and the nature of the claims or disputes the subject of those applications; and
- (e) if it is proposed to enter into a contract, or renew or extend a contract, with a body corporate manager under section 27B of the Act—
 - (i) the text of the resolution to enter into, or renew or extend, the contract; and
 - (ii) where and when a copy of the contract or proposed contract, and the pamphlet referred to in regulation 8B(4), can be viewed or obtained by members of the corporation; and
- (f) proposed controls on expenditure by delegates of the corporation.

9B—Procedure at meetings

- (1) For the purposes of section 33(9) of the Act, if a member of the corporation has given the body corporate manager or an employee of the body corporate manager a specific proxy or power of attorney to vote on the question of whether the manager or employee of the manager is to preside at a meeting of the corporation, the manager or employee is entitled to vote on that question at the meeting as a proxy or attorney of the member in accordance with the terms of that specific proxy or power of attorney.
- (2) For the purposes of section 33(10) of the Act, the following procedures must be followed at a meeting to which that subsection applies:
 - (a) the body corporate manager or employee of a body corporate manager must, at the outset of the meeting, inform the persons present and entitled to vote at the meeting of the proxies or powers of attorney that are held by him or her for the meeting and that those proxies or powers of attorney are available for inspection;
 - (b) the manager or employee of the manager must, at the outset of the meeting, also inform the persons present and entitled to vote at the meeting—
 - (i) that he or she may preside at the meeting only if the majority of persons present and entitled to vote agree to him or her presiding; and
 - (ii) that he or she is not entitled to vote on the question of whether he or she should preside at the meeting except as a proxy or attorney of a member of the corporation acting in accordance with the terms of a specific proxy or power of attorney given in relation to the question; and

- (iii) that he or she has no right to prevent any person present and entitled to vote at the meeting from moving or voting on any question or motion;
 - (c) the manager or employee of the manager must make any proxies or powers of attorney held by him or her available for inspection by persons present and entitled to vote at the meeting.
- (3) For the purposes of section 33(11) of the Act, a unit holder may attend and vote at a meeting by means of remote communication—
- (a) if—
 - (i) the articles of the corporation make provision for attendance and voting at meetings by unit holders by means of remote communication; and
 - (ii) the unit holder complies with any applicable requirements specified in those articles; or
 - (b) if—
 - (i) the unit holder makes a request in writing, given to the secretary of the corporation, to attend and vote at the meeting by means of remote communication; and
 - (ii) the secretary of the corporation makes the necessary arrangements to receive and record the unit holder's attendance and voting at the meeting by remote communication; and
 - (iii) the unit holder complies with any requirements of the secretary in relation to the request referred to in subparagraph (i).

9C—Statement of expenditure etc

- (1) For the purposes of section 33A(1)(a) of the Act, the prescribed period is—
- (a) in the case of a strata corporation consisting of at least 7 but not more than 20 strata units—3 years; or
 - (b) in the case of a strata corporation consisting of more than 20 strata units—5 years.
- (2) For the purposes of section 33A(2) of the Act, new information must be prepared for the purposes of section 33A(1)(a) of the Act—
- (a) if the proposed expenditure (other than recurrent expenditure) is for a period of 3 years—every 3 years; or
 - (b) if the proposed expenditure (other than recurrent expenditure) is for a period of 5 years—every 5 years.
- (3) The following are excluded from the operation of section 33A(1)(a) and (2) of the Act:
- (a) strata corporations consisting of 6 or less strata units;
 - (b) strata corporations that have buildings and other improvements on its common property insured for a sum not exceeding \$100 000.

10—Record keeping

For the purposes of section 40 of the Act, the following periods are prescribed:

- (a) in relation to minute books—30 years;
- (b) in relation to accounting records—7 years;
- (c) in relation to any statements of account—7 years;
- (d) in relation to notices or orders served on the strata corporation—7 years;
- (e) in relation to correspondence—7 years;
- (f) in relation to notices of meetings—7 years;
- (g) in relation to the duplicate certificate of title for the common property of the strata corporation—the life of the strata corporation, subject to any requirements of the Registrar-General under the *Real Property Act 1886*;
- (h) in relation to documentary material received by the strata corporation under section 38(3)(b) or (c) of the Act—30 years.

11—Provision of information

- (1) For the purposes of section 41(1)(c)(iii) of the Act, documentary material received by the strata corporation under section 38(3) of the Act is prescribed.
- (2) Subject to subregulation (3), the following fees are prescribed for the purposes of section 41(2) of the Act:
 - (a) if an application is made for all or any of the information referred to in section 41(1)(a)—
 - (i) if the applicant is the owner of a unit—no fee;
 - (ii) in any other case—\$25 per application;
 - (b) if an application is made for copies of all or any of the documentary material referred to in section 41(1)(b)—
 - (i) if the applicant is the owner of a unit—\$5 per application;
 - (ii) in any other case—\$25 per application, plus an additional \$10 if the application is for, or includes a request for, a copy of current policies of insurance taken out by the strata corporation;
 - (c) if an application is made to inspect all or any of the documentary material referred to in section 41(1)(c)—
 - (i) if the applicant is the owner of a unit—no fee;
 - (ii) in any other case—\$5 per application.
- (3) If GST is payable in relation to goods, services or other things supplied in response to an application referred to in subregulation (2), the fee prescribed by that subregulation is increased so that, after deduction of the GST, the amount of the fee remaining is equal to the fee prescribed by subregulation (2).
- (4) The strata corporation may, as it thinks fit, reduce or waive any fees under subregulation (2).

(5) In this regulation—

GST means the tax payable under the GST law;

GST law means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth); and
- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods, services and other things.

Part 4—Agent's trust accounts

12—Authorisation of fees, costs and disbursements (section 36D(b))

- (1) An agent may withdraw money from a trust account held on behalf of a strata corporation in satisfaction of a claim that the agent has against the corporation for fees, costs or disbursements if the corporation has agreed in writing to pay to the agent those fees, costs or disbursements.
- (2) An agent who becomes entitled to money held in the agent's trust account in or towards satisfaction of the agent's fees, costs or disbursements must, as soon as practicable (and in any event within 3 months), transfer the money to an account maintained by the agent for receipts other than trust money.

Maximum penalty: \$500.

13—Authorised trust accounts (section 36E)

Accounts for the time being approved by the Commissioner for Consumer Affairs in relation to the holding of trust money under the *Land Agents Act 1994* and the *Conveyancers Act 1994* are prescribed for the purposes of section 36E of the Act.

14—General duty with respect to electronic records

If an agent uses a computer program to keep records under section 36G of the Act, the agent must ensure that—

- (a) an electronic copy of all the records is made within 24 hours of any alteration of the records; and
- (b) at least once in each week, an electronic copy of all the records is made and kept in a safe place at a location other than the premises where the computer program is operating; and
- (c) before any information is deleted from the computer records, a hard copy of the information is made and kept by the agent as part of the agent's records; and
- (d) an up-to-date electronic copy of the computer program is made and kept in a safe place at a location other than the premises where the computer program is operating.

15—Cash books

- (1) For the purposes of section 36G(1)(c) of the Act, the detailed accounts of receipts and disbursements of trust money to be compiled by an agent must comply with the following requirements:
 - (a) a cash receipts book must be kept in which the agent records the following information in respect of each receipt of trust money:
 - (i) the date and reference number of the receipt;
 - (ii) the name of the person from whom the money is received;
 - (iii) the name of the strata corporation or reference to which the transaction relates;
 - (iv) brief particulars of the purpose of the receipt;
 - (v) the amount of the receipt;
 - (b) a cash payments book must be kept in which the agent records the following information in respect of each payment of trust money:
 - (i) the date and reference number of the cheque or electronic transfer of funds by which the payment was made;
 - (ii) the name of the payee;
 - (iii) the strata corporation's name or reference to which the transaction relates;
 - (iv) brief particulars of the purpose of the payment;
 - (v) the amount of the cheque or electronic transfer of funds.
- (2) However, an agent need not keep a cash receipts book or a cash payments book as required by subregulation (1) if the agent uses a computer program to record the information referred to in that subregulation in respect of each receipt or payment of trust money and the program—
 - (a) requires input in each field of a data entry screen intended to receive information in respect of a receipt or payment so that all of the information referred to in subregulation (1) is recorded in respect of each receipt and payment; and
 - (b) is capable, at any time, of producing—
 - (i) a report of the information in respect of receipts of trust money in the order in which they were received; and
 - (ii) a report of the information in respect of payments of trust money in the order in which they were made.
- (3) An agent who uses a computer program as referred to in subregulation (2) must ensure that—
 - (a) at the end of each month, hard copies of each of the following reports are produced:
 - (i) a report of the information in respect of receipts of trust money received during that month in the order in which they were received;

- (ii) a report of the information in respect of payments of trust money made during that month in the order in which they were made; and
 - (b) those hard copies are kept as part of the agent's records.
- (4) The records of receipts and payments must be made by the agent in accordance with this regulation in the order in which they are received or made, each such record being made within 2 working days after the receipt or payment in question.
- (5) Subregulation (4) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the agent receives official confirmation that the transfer has occurred.

16—Separate trust ledger accounts

- (1) An agent must ensure that the agent's trust ledger accounts are kept separately—
 - (a) in respect of each of the agent's clients; and
 - (b) if the agent performs services for a corporation in respect of a number of transactions between different parties—in respect of each such transaction.
- (2) The agent must record in each of the separate accounts the following details:
 - (a) the name and address of the corporation to whom the accounts relate;
 - (b) a brief description of the service provided and the transaction to which the accounts relate;
 - (c) in respect of each receipt or disbursement of trust money—
 - (i) the date and reference number of the receipt or disbursement;
 - (ii) the name of the person from whom the money is received or to whom the money is disbursed;
 - (iii) brief particulars of the purpose of the receipt or disbursement;
 - (iv) the amount received or disbursed.
- (3) The agent must ensure that any changes in the details referred to in subregulation (2)(a) or (b) are recorded in a manner that enables the changes and the order in which they occurred to be identified.
- (4) If the agent transfers money between any of the separate accounts, the agent must clearly record the transfer—
 - (a) in both accounts; and
 - (b) in a transfer journal,in sufficient detail that the transfer may be clearly understood.
- (5) The records of receipts, disbursements and transfers must be made by the agent in accordance with this regulation in the order in which the receipts, disbursements or transfers are received or made, each such record being made within 2 working days after the receipt, disbursement or transfer in question.
- (6) Subregulation (5) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the agent receives official confirmation that the transfer has occurred.

- (7) If an agent uses a computer program to keep trust ledger accounts or a transfer journal, the agent must ensure that—
- (a) the program is incapable of—
 - (i) recording a transaction that would result in a debit balance in a trust ledger account unless a separate contemporaneous record of the transaction is also made so that, at any time, a hard copy may be produced of all such transactions in chronological order; and
 - (ii) deleting from its records the information relating to a trust ledger account unless—
 - (A) the balance of the account is zero; and
 - (B) a hard copy of all of the information required under this Part relating to the account has been produced; and
 - (iii) changing existing information relating to a transaction otherwise than by making a further entry showing a separate transaction to effect the change; and
 - (b) the program automatically inserts consecutive page numbers into any hard copy report produced by use of the program; and
 - (c) the program requires input in each field of a data entry screen intended to receive information for the purposes of a trust ledger account or transfer journal so that the entry contains all of the information required by this regulation; and
 - (d) hard copies of the trust ledger accounts and transfer journal are produced within 2 days of a request from the Minister or the agent's auditor.

17—Reconciliation statements

At the end of each month, reconciliation statements must be prepared—

- (a) reconciling the balance of the agent's cash books, or equivalent computer records, kept under regulation 15 with the balance of the agent's trust account; and
- (b) reconciling the balances of the ledgers comprised in the agent's trust ledger accounts with the balance of the agent's trust account,

(but the agent is not required to set out in a statement a list of individual balances, or the names of the corporations on whose behalf money is held).

18—Receipt of trust money

- (1) For the purposes of section 36G(2)(a) of the Act, the receipt that an agent must make available to a person making a payment of trust money must—
- (a) be legibly written on a form comprised in a series of consecutively pre-numbered duplicate receipt forms marked with the name of the agent and the words "Trust Account"; and
 - (b) contain the following information:
 - (i) —

- (A) in the case of a payment made by electronic transfer of funds into an agent's trust account—the date on which the agent makes out the receipt;
 - (B) in any other case—the date of the payment;
 - (ii) the name of the person making the payment;
 - (iii) whether the payment is by cash, cheque, bank cheque or electronic transfer of funds into the agent's trust account and, if the payment is by cheque or bank cheque, the name of the drawer of the cheque;
 - (iv) the name of the corporation for whom the money is received;
 - (v) brief particulars of the purpose of the payment;
 - (vi) the amount of the payment.
- (2) An agent need not comply with subregulation (1)(a) if the agent uses a computer program to make out the receipt and the program—
- (a) automatically produces in chronological sequence consecutively numbered receipts marked with the name of the agent and the words "Trust Account"; and
 - (b) automatically makes a separate contemporaneous record of the receipt so that, at any time, a hard copy of the receipt may be produced; and
 - (c) requires input in each field of a data entry screen intended to receive information for the purposes of producing the receipt so that each receipt contains all of the information required by subregulation (1)(b).
- (3) An agent must make out a receipt in accordance with this regulation—
- (a) in the case of a payment made by electronic transfer of funds into an agent's trust account—immediately the agent receives official confirmation that the payment has been made (whether that is by way of receipt by the agent of a statement from a financial institution or some other way, whichever occurs sooner); or
 - (b) in any other case—immediately on receipt of the payment.

19—Payment of trust money

- (1) An agent must not make a payment of trust money in cash.
Maximum penalty: \$500.
- (2) When an agent makes a payment of trust money by cheque, the agent—
- (a) must ensure that the cheque is marked with the name of the agent and the words "Trust Account"; and
 - (b) must—
 - (i) cause the cheque to be crossed and endorsed "Not negotiable"; or
 - (ii) obtain from the person receiving the cheque a receipt that complies with subregulation (4) and keep the receipt as part of the agent's records.

Maximum penalty: \$500.

- (3) When an agent makes a payment of trust money by cheque, the agent must prepare and keep as part of the agent's records a cheque stub or voucher containing the following information:
- (a) the date and reference number of the cheque;
 - (b) the name of the payee;
 - (c) the client's name or reference and brief particulars of the purpose of the payment;
 - (d) the amount of the cheque.
- (4) The receipt must be legible and contain the following information:
- (a) the date and reference number of the cheque;
 - (b) particulars identifying the trust account against which the cheque is drawn;
 - (c) the name of the payee;
 - (d) brief particulars of the purpose of the payment;
 - (e) the amount of the cheque.
- (5) When an agent authorises the payment of trust money by electronic transfer of funds, the agent—
- (a) must prepare and keep as part of the agent's records the following information:
 - (i) the date and reference number of the payment;
 - (ii) the name of the payee;
 - (iii) the corporation name or reference and brief particulars of the purpose of the payment;
 - (iv) the name or style of the ADI account to which the payment is made, its number and the identifying numbers of the receiving ADI and its branch;
 - (v) the amount of the payment; and
 - (b) must, on receiving official written confirmation that the payment has been made, keep that confirmation as part of the agent's records.

20—Audit of trust accounts

- (1) For the purposes of section 36H(1)(a) of the Act, the audit period in respect of which an agent must have the accounts and records audited is each financial year.
- (2) In carrying out an audit, the auditor must—
- (a) make checks that will enable the auditor to give an opinion as to whether the agent has, during the period covered by the audit, complied with the Act and these regulations relating to the agent's accounts and records; and
 - (b) ascertain what trust accounts were kept by the agent during that period; and
 - (c) make a general test examination of any trust account kept by the agent and of the pass books and statements relating to any such account during that period; and

- (d) make a comparison as to no fewer than 2 dates (1 to be the last day of the period of the audit and 1 other to be a date within that period selected by the auditor) between—
 - (i) the liabilities of the agent to the agent's clients as shown by the agent's trust ledger accounts and the records kept under these regulations; and
 - (ii) the aggregate of the balances standing to the credit of the agent's trust account; and
 - (e) ask for such information and explanations as the auditor may require for the purposes of this regulation.
- (3) For the purposes of section 36H(1)(b) of the Act, the statement relating to the audit must be prepared by the auditor and must include all matters relating to the agent's accounts and records that should, in the auditor's opinion, be communicated to the strata corporation and, in particular, deal with each of the following matters:
- (a) whether the accounts and records appear to have been kept regularly and properly written up at all times;
 - (b) whether the accounts and records have been ready for examination at the periods appointed by the auditor;
 - (c) whether the agent has complied with the auditor's requirements;
 - (d) whether, at any time during the period of the audit, the agent's trust account was overdrawn and, if so, the full explanation for that given by the agent;
 - (e) whether the agent has, or has had, any debit balances in his or her trust account and the explanation or reason for such a debit given by the agent;
 - (f) whether the auditor has received and examined the notice given to the auditor under regulation 21 and the result of that examination;
 - (g) if the agent uses a computer program to keep the agent's accounts and records, whether the program allows for the accounts and records to be conveniently and properly audited.
- (4) The auditor must attach to the auditor's statement a copy of the agent's notice delivered to the auditor under regulation 21(1).
- (5) The auditor must verify the statement by statutory declaration and give a signed copy of the statement to the agent.
- (6) If the auditor in the course of auditing the agent's accounts and records discovers—
- (a) that they are not kept in a manner that enables them to be properly audited; or
 - (b) a matter that appears to the auditor to involve dishonesty or a breach of the law by the agent; or
 - (c) a loss or deficiency of trust money or a failure to pay or account for trust money; or
 - (d) a failure to comply with the Act or these regulations,

the auditor must, as soon as possible, give a report in respect of the discovery to the Minister and the agent concerned.

Maximum penalty: \$500.

- (7) However, the auditor is not required to give a report to the Minister in respect of the discovery of a loss, deficiency or failure if the auditor is satisfied that—
- (a) bringing the discovery to the attention of the agent or strata corporation will adequately deal with the matter; and
 - (b) the loss, deficiency or failure does not involve dishonesty or a breach of the law.
- (8) For the purposes of section 36H(2)(b) of the Act, an agent must forward an audit statement or declaration within 2 months after the end of each audit period.

21—Agent's statement

- (1) An agent who is required to have accounts and records audited must, before the completion of the audit, certify—
- (a) under his or her hand; or
 - (b) in the case of a firm of agents—under the hands of not less than 2 partners of the firm; or
 - (c) in the case of a body corporate agent—under the hands of not less than 2 directors of the body,

and deliver to the auditor a notice setting out in detail, as of the last day of the period to which the audit relates, particulars of—

- (d) the names of all corporations on whose behalf the agent is holding trust money and the amount of the credit of each such corporation; and
- (e) all negotiable or bearer securities or deposit receipts in the name of the agent which represent money drawn from the agent's trust account and which were held by the agent on that day; and
- (f) —
 - (i) the names of the trust accounts in which the balance of the agent's trust money is lodged and the balances on that date of those accounts; and
 - (ii) if the trust account balances are not in agreement with the balances of the agent's ledger accounts—a statement reconciling those balances.

Maximum penalty: \$500.

- (2) The notice must be verified by statutory declaration—
- (a) of the agent; or
 - (b) in the case of a firm of agents—of not less than 2 of the partners of the firm; or
 - (c) in the case of a body corporate agent—of not less than 2 directors of the body.

- (3) The agent must give the auditor making the next succeeding audit of the agent's accounts and records—
- (a) at the request of the auditor, a copy of the notice, together with a signed copy of the auditor's statement of the last preceding audit of the agent's accounts and records; or
 - (b) if the agent's accounts and records are being audited for the first time or, if for any other reason a copy of the notice cannot be produced for the purpose of the audit—before completion of the audit, a notice containing the same particulars as to money, negotiable or bearer securities and deposit receipts held on the first day of the period to which the audit relates.

Maximum penalty: \$500.

22—Certain persons may not audit accounts and records of agents

A person must not audit the accounts and records of an agent if the person—

- (a) is, or has been within 2 years, an employee or partner of the agent; or
- (b) is an employee of another agent actually carrying on business as an agent; or
- (c) is, himself or herself, an agent carrying on business as an agent.

Maximum penalty: \$500.

Part 5—Miscellaneous

23—Register of unit holders

For the purposes of section 39A(2) of the Act, the period for which a strata corporation must keep a record of information used to compile the register of unit holders is at least 7 years.

24—Indemnity fund under *Land Agents Act 1994*

For the purposes of section 50A(c) of the Act, the following advisory services and education programs provided by the Legal Services Commission are prescribed:

- (a) a specialist community and strata title advice service;
- (b) an educational program relating to the provisions contained in the *Statutes Amendment (Community and Strata Titles) Act 2012*.

25—Functions of secretary and treasurer of strata corporation

- (1) The secretary of a strata corporation has the following functions:
- (a) to prepare and distribute minutes of meetings of the corporation and submit a motion for confirmation of the minutes of any meeting of the corporation at the next such meeting;
 - (b) to give, on behalf of the members of the corporation and the management committee, the notices required to be given under the Act;
 - (c) to answer communications addressed to the corporation;
 - (d) to convene meetings of the management committee;

- (e) to attend to matters of an administrative or secretarial nature in connection with the exercise, by the corporation or the management committee, of its functions.

Note—

Meetings can also be convened by unit holders and other officers of the corporation—see section 33 of the Act.

- (2) The treasurer of a strata corporation has the following functions:
 - (a) to notify unit holders of any contributions to be raised from them in accordance with the Act;
 - (b) to receive, acknowledge, bank and account for any money paid to the corporation;
 - (c) to keep accounting records and prepare financial statements.

Note—

The offices of secretary and treasurer can be held by the same person—see section 23 of the Act.

Schedule 1—Penalty notice

(Section 19(3b)(c))

To *[insert name and unit number of the person to whom notice is given]*

The *[insert name of the strata corporation giving notice]* gives you notice that you have contravened or failed to comply with *[specify the by-law or article that has been contravened or not complied with]* by *[set out the details of the contravention or non-compliance]*.

The penalty of *[specify the amount of the penalty]* is payable to the corporation by you not later than *[specify the date for payment]*.

If you do not pay the penalty as required by this notice, the penalty is recoverable from you by the corporation as a debt. If this notice is served on you as a unit holder, the penalty may be recovered by the corporation under section 27 of the *Strata Titles Act 1988* (and interest will be payable on the penalty amount in the same way as if it were such a contribution).

Under section 19(3b)(e) of the Act you are entitled to apply to the Magistrates Court for revocation of this notice. The application must be made within 60 days after service of this notice. If you make such an application, the penalty specified in this notice is not payable unless the application is withdrawn or otherwise discontinued by you, or is dismissed or refused by the Court (and, in such a case, the penalty will be payable on the date on which the application is so withdrawn, discontinued, dismissed or refused or on the date for payment specified in the notice, whichever occurs later).

**Schedule 2—Certificate of licensed surveyor relating to the
amendment of a deposited strata plan**

I,....., a licensed surveyor under the *Survey Act 1992*, certify that this plan correctly delineates the units, common property and buildings on the land comprised in the plan.

Dated this..... day of, 20.....

.....

Licensed Surveyor

Schedule 3—Notice of intention to apply to Registrar-General to deposit strata plan or amend deposited strata plan

(Section 17A(2)(a))

To of
(name of person to whom this notice is given) (address of person to whom this notice is given)

Re:
(description of the interest in land described below of the person to whom this notice is given)

*I/We of
.....
.....
(name of each person giving this notice) (address of each person giving this notice)

hereby notify you that—

1 *I/We intend to make application to the Registrar-General under Division of the *Strata Titles Act 1988* in respect of the land comprised in Certificate(s) of Title Register Book

Volume Folio
.....

2 Your consent to
.....
(give particulars of the application or related matter to which consent is required)

is required and hereby sought to enable *deposit/amendment of the Strata Plan for the land described above.

3 If you intend to refuse that consent and you fail to lodge an objection with the Registrar-General within 28 days from the date on which this notice is—

- (a) posted to you;
- or
- (b) published in a newspaper circulating generally throughout the State;

** or

** (c) left on or near the land over which the encroachment has occurred, whichever occurs last, section 17A of the *Strata Titles Act 1988* empowers the Registrar-General to proceed with the application to *deposit/amend the Strata Plan without your consent and your consent will, by law, be taken to have been given.

Dated this day of, 20

.....
.....
(Signature of person(s) giving notice)

(* strike out whichever is inapplicable)

** strike out if no encroachment is involved)

Schedule 4—Certificate relating to the amendment of the articles of a strata corporation

Strata Corporation No..... Incorporated

I, of,
being an officer of the Strata Corporation No Incorporated, certify that
the attached resolution is a true and correct copy of a special resolution amending the
articles of the corporation passed at a duly convened meeting of the corporation on the
..... day of, 20

Dated the..... day of, 20

.....
Note— This certificate must be accompanied by any new articles, or variations to existing
articles, passed by the corporation pursuant to the special resolution

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Strata Titles Regulations 2003* revoked the following:

Strata Titles Regulations 1988

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2003	15	<i>Gazette 20.2.2003 p708</i>	7.4.2003: r 2
2009	70	<i>Gazette 28.5.2009 p1873</i>	1.6.2009: r 2
2013	183	<i>Gazette 18.7.2013 p3085</i>	18.7.2013 except rr 4—10, new rr 23 & 25 (as inserted by r 11) & 12—28.10.2013: r 2
2016	175	<i>Gazette 30.6.2016 p2803</i>	4.7.2016: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
r 2	omitted under <i>Legislation Revision and Publication Act 2002</i>	1.6.2009
	inserted by 183/2013 r 4	28.10.2013
r 3	<i>deleted by 183/2013 r 5</i>	28.10.2013
Pt 2		
r 3A	inserted by 70/2009 r 4	1.6.2009
r 5		
r 5(1)	<i>deleted by 70/2009 r 5(1)</i>	1.6.2009
r 5(2)	<i>deleted by 70/2009 r 5(2)</i>	1.6.2009
r 6A	inserted by 183/2013 r 6	28.10.2013

Pt 3		
r 7A	inserted by 183/2013 r 7	28.10.2013
rr 8A—8C	inserted by 183/2013 r 8	28.10.2013
r 9	substituted by 183/2013 r 9	28.10.2013
rr 9A—9C	inserted by 183/2013 r 9	28.10.2013
Pt 4		
r 20		
r 20(8)	varied by 183/2013 r 10	28.10.2013
Pt 5	inserted by 183/2013 r 11	18.7.2013 except rr 23 & 25—28.10.2013
Sch 1	deleted by 70/2009 r 6	1.6.2009
	inserted by 183/2013 r 12	28.10.2013
Sch 5	<i>omitted under Legislation Revision and Publication Act 2002</i>	1.6.2009

Historical versions

1.6.2009

18.7.2013