



# FACT SHEET

## INTEREST PENALTY FOR LATE PAYMENT OF CONTRIBUTIONS

The Body Corporate must approve two budgets for each financial year, for the two 'aspects' of their bank account:

1. The Administrative Fund
2. The Sinking Fund

All Lot Owners must pay Annual Contributions (commonly called Levies) into their Body Corporate bank account, these are determined from the budget of the Administrative Fund and the Sinking Fund. The Treasurer drafts an annual budget for both funds for anticipated expenditure for the upcoming financial year. The Body Corporate Manager (BCM) under its management agreement may be acting in the position of Treasurer. The BCM often drafts the budget for the Committee to approve prior to it being put on the agenda of the Annual General Meeting.

At the time of the AGM, the Lot Owners vote on whether to accept the proposed budget, and therefore pay the contributions required to meet the budget. The Administration Fund Budget and Contributions motion is the motion that Lot Owners vote from to determine the Administration Fund budget for the next financial year for the Body Corporate.

The Body Corporate and Community Management (Standard Module) Regulation 2008 states the following in relation to budgets and contributions:

### 139 Budgets

- (1) The Body Corporate must, by ordinary resolution, adopt 2 budgets for each financial year:
  1. The administrative fund budget.
  2. The sinking fund budget.

*Note*—See section 146 (Administrative and sinking funds).

### 141 Contributions To Be Levied On Owners

- (1) The Body Corporate must, by ordinary resolution:
  - (a) Fix, on the basis of its budgets for a financial year, the contributions to be levied on the owner of each lot for the financial year; and
  - (b) Decide the number of instalments in which the contributions are to be paid; and
  - (c) Fix the date on or before which payment of each instalment is required.
- (3) Also, the Committee may fix an interim contribution to be levied on the owner of each lot before the owner is levied contributions fixed on the basis of the Body Corporate's budgets for a financial year.

If contributions are overdue, the Body Corporate and Community Management (Standard Module) Regulation 2008 has made the following stipulations regarding Penalties for Late Payments that can be included as a motion for the Body Corporate to vote on at the time of the AGM if they choose:

### 144 Penalties For Late Payment

- (1) The Body Corporate may, by ordinary resolution, fix a penalty to be paid by owners of lots if a contribution, or installment of contribution, is not received by the Body Corporate by the date for payment fixed in notices of contribution given to the owners.
- (2) The penalty must consist of simple interest at a stated rate (of not more than 2.5%) for each month the contribution or installment is in arrears.

## Example

Suppose that:

(a) A contribution of \$400 is payable in 4 installments of \$100 and the Body Corporate has fixed a penalty interest rate of 2% per month; and

(b) An account requiring payment of an installment of \$100 by 31 March is given to an owner of a lot; and

(c) The installment is not paid until 27 June. In this case, the installment has been in arrears for 2 months and a penalty of \$4 is payable.

The Body Corporate and Community Management Fact Sheet on Financial Management states the following:

## 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. 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 waiving a penalty the Body Corporate may waive the penalty in whole or part.

## SOURCES:

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/B/BodyCorpStR08.pdf>

Body Corporate and Community Management (Standard Module) Regulation 2008 section 139, 141, 144, Reprint 1F effective 30 September 2011

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/B/BodyCorpAcMR08.pdf>

Body Corporate and Community Management (Accommodation Module) Regulation 2008, section 142, Reprint 1F effective 30 September 2011

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/B/BodyCorpCoR08.pdf>

Body Corporate and Community Management (Commercial Module) Regulation 2008, section 103, Reprint 1F effective 30 September 2011

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/B/BodyCorpSmSMR08.pdf>

Body Corporate and Community Management (Small Schemes Module) Regulation 2008, section 78, Reprint 1F effective 30 September 2011

[http://www.justice.qld.gov.au/data/assets/pdf\\_file/0003/12864/Financial\\_management.pdf](http://www.justice.qld.gov.au/data/assets/pdf_file/0003/12864/Financial_management.pdf)

Body Corporate and Community Management Fact Sheet on Financial Management

