

FACT SHEET

INSURANCE EXCESS – WHO IS LIABLE

This Fact Sheet has been prepared for the purpose of providing information to owners regarding the payment of an insurance excess in the event a claim is lodged under the Insurance Policy held by the Body Corporate.

A body corporate must insure, for full replacement value –

- (a) the common property; and
- (b) The body corporate assets

Notwithstanding this requirement, Section 184 of the Body Corporate and Community Management (Standard Module) Regulation 2008 states:

184 Excess

- (1) Despite a requirement under this part to insure for full replacement value, the body is not prevented from insuring on the basis that an excess is payable on the happening of an event for which the insurance gives cover.
- (2) However, in putting the insurance in place, the body corporate must ensure the arrangements for the liability for an excess under the insurance would not impose an unreasonable burden on the owners of individual lots, having regard to subsections (3) and (4).
- (3) For an event affecting only 1 lot, the owner of the lot is liable to pay the excess unless the body corporate decides it is unreasonable in all the circumstances for the owner to bear the liability.

Example – if a shower screen is damaged in a lot and an insurance claim is made under the body corporate's reinstatement insurance, the owner of the lot would be liable under subsection (3) to pay the excess unless the body corporate decides it is unreasonable for the owner to be required to pay it. However, if there is a fire within a lot caused by a short circuit in electrical wiring located in an internal partition, the body corporate might decide it would be unreasonable for the owner to be required to pay the excess.

- (4) For an event affecting 2 or more lots, or 1 or more lots and common property, the body corporate is liable to pay the excess unless the body corporate decides it is reasonable in all the circumstances for the excess to be paid for by the owner of a particular lot, or to be shared between owners of particular lots, or between the owner of a lot and the body corporate, or between owners of particular lots and the body corporate.

SOURCES

<https://www.legislation.qld.gov.au/view/pdf/inforce/2017-07-03/sl-2008-0273>

Body Corporate and Community Management (Standard Module) Regulation 2008
section 178, 184, Reprint effective 01 July 2018 Page 159, 164

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-2008-0270>

Body Corporate and Community Management (Accommodation Module) Regulation 2008
section 176, 182, Reprint effective 01 July 2018 Page 154, 160

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-2008-0271>

Body Corporate and Community Management (Commercial Module) Regulation 2008
section 134, 140, Reprint effective 01 July 2018 Page 115, 120

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-2008-0272>

Body Corporate and Community Management (Small Schemes Module) Regulation 2008
section 112, 118, Reprint effective 01 July 2018 Page 91, 97