**Upcoming changes - Owners Corporations Managers**

# Reforms to the Owners Corporation Act are being introduced on December 1, 2021. This factsheet covers the changes relating to owners corporations managers.

# Changes to improve the quality of owners corporation managers

## Appointment and removal of a manager

An owners corporation (OC) manager cannot be appointed for more than three years, or five years for a retirement village OC.

An OC manager’s contract cannot include terms that:

* require the OC, before it revokes the appointment of the manager, to:
  + pass a special resolution
  + pass a unanimous resolution
  + pass any other resolution requiring more than a simple majority of votes
  + convene a general meeting of the OC, or
  + take any other prescribed step.
* allow the manager to renew the contract of appointment at his or her discretion.
* require a tier one or two OC to give three months or more notice of its intention to revoke the appointment.
* require a tier three, four or five OC to give one month or more notice of its intention to revoke the appointment.
* provide for the automatic renewal of the contract of appointment if the OC fails to give notice of its intention not to renew in accordance with its terms.
* restrict the ability of the OC to refuse to appoint a person as manager, other than a requirement that consent to appoint a person as manager must not be unreasonably withheld by the OC.

If any of these terms are included in a contract entered into after 1 December 2021, they will be void.

If an OC fails to give notice of its intention to renew a contract of appointment, it will be taken to have been renewed. In this circumstance, the contract may be terminated by the OC or the manager with at least one months’ written notice (or a shorter period if provided for under the contract).

## Duties of a manager

The duties of an OC manager have been expanded. They must:

* ensure any goods and services they procure on behalf of the OC are competitively priced and/or procured under competitive terms.
* not exert pressure on any member of the OC to try and influence the outcome of a vote or election.
* give written notice to the OC chair disclosing any commission, payment or other benefit they are entitled to receive under a contract to supply goods or services to the OC.

Upon request from an OC, OC managers must provide copies of financial statements for bank accounts that contain money they hold on trust on behalf of the OC, as soon as practicable. This applies for any period within three years immediately preceding the request.

A manager may hold money on trust on behalf of separate OCs in the same bank account only if;

* each OC is on the same plan of subdivision and has consented to the money being held in the same account, or
* the bank account is a statutory trust account held by:
  + a licensed estate agent under the *Estate Agents Act* 1980
  + an Australian legal practitioner within the meaning of the Legal Profession Uniform Law (Victoria), or
  + a licensee under the *Conveyancers Act* 2006.

Money held by a manager on trust on behalf of an OC includes any interest earned.

A manager must disclose any beneficial relationship they have with a supplier of goods and services they propose to enter into a contract with on behalf of the OC. They must disclose this in writing to the OC chairperson as soon as they become aware of the beneficial relationship.

They will not be in breach of their duties if they:

* could not have reasonably been expected to be aware of the beneficial relationship before a contract is entered into, and
* disclose the beneficial relationship to the chairperson of the OC immediately after becoming aware of it.

A manager must disclose in writing to the chairperson of the OC any commission, payment or other benefit they stand to receive from a supply contract.

## Manager’s report

The manager’s report at each annual general meeting must contain more information. As well as previous requirements, it must also include the following details for the year:

- details of receipts and disbursements of money the manager has held on trust for the OC, and

- any commissions, payments or other benefits they have received in relation to contracts for goods or services supplied to the OC. If exact amounts cannot be reasonably provided, the manager must include an estimate.

## Registration of managers

There are new restrictions on registering a manager who has a criminal record.

Anyone who has been convicted or found guilty of the following offences within the last 10 years is not eligible for registration.

* An offence involving fraud, dishonesty, drug cultivation or trafficking.
* An offence involving sexual slavery or servitude.
* An offence involving child pornography or violence.
* A sexual offence or an offence connected with sex work.
* An offence committed outside Victoria that would constitute an offence referred to any of the examples above, if it was committed in this state.

The offences must have been punishable by a prison term of three months or more when the person was found guilty or convicted.

A person can apply to the Business Licensing Authority for permission to be registered as an OC manager if they have committed one of the above offences. The Business Licensing Authority may grant permission for an ineligible person to be appointed if it is satisfied that it is not contrary to the public interest. The outcome of permission applications will be contained on the register of OC managers.

If the manager (or if the manager is a corporation, a director of the corporation) is convicted or found guilty of any of the offences above, their registration will be automatically cancelled 30 days later.

## Profession indemnity insurance

A registered manager must be covered by professional indemnity insurance, and notify the Business Licensing Authority if they cease to be covered. Their registration will be automatically cancelled 30 days after coverage ceases.