

Strata Management Act 2013: FAQs on Exemption Orders

On 23 June 2021, the government gazetted four exemption orders¹ that modified the timeline of various events under the Strata Management Act 2013 (“SMA 2013”). These exemption orders come into operation retrospectively from 18 March 2020 and will remain in force until 30 June 2021 (“Exemption Period”).

These Frequently Asked Questions (“FAQs”) simplify the exemptions granted to key stakeholders in strata management, namely, management corporation (“MC”), joint management body (“JMB”) and developer under the SMA 2013. At the outset, it is important to highlight that these exemption orders do not apply or affect any legal proceedings, judgment or awards between 18 March 2020 and 23 June 2021.

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Question 1: When is the deadline for the MC to file with Commissioner of Building (“COB”) a certified true copy of the audited accounts together with the auditor’s report (“the Accounts”)?

Answer: The Accounts that need to be filed within the Exemption Period shall be filed by 1 July 2021.

Question 2: The MC has not convened any annual general meeting (“AGM”) since 18 March 2020, when is the deadline for the AGM to be held?

Answer: The AGM which is supposed to take place during the Exemption Period pursuant to the SMA 2013 shall be convened by 1 July 2021.

Joint Management Body

Question 1: JMB is prohibited under the SMA 2013 to enter into any contract relating to the maintenance and management of building and common properties for any period exceeding 12 months. What is the effect of the contract expiring during the Exemption Period?

Answer: The aforesaid 12-month restriction does not apply to such contracts expiring within the Exemption Period and that the contractual period of such contracts entered within the Exemption Period shall not exceed one month after the AGM is convened.

Joint Management Body (Cont')

Question 2: When is the deadline for the JMB to file with COB a certified true copy of the audited accounts together with the auditor's report ("the Accounts")?

Answer: The Accounts that have to be filed within the Exemption Period shall be submitted to the COB latest by 1 July 2021.

Question 3: The JMB has not convened any AGM since 18 March 2020, when is the deadline for the AGM to be convened?

Answer: The AGM that has to take place within the Exemption Period shall be convened by 1 July 2021.

Question 4: Upon its establishment, a JMB is required to open and maintain a maintenance account and a sinking fund account in accordance with the SMA 2013. What should be done if these accounts have not been opened by the JMB within the Exemption Period?

Answer: Both maintenance account and sinking fund account shall be established by the JMB latest by 1 July 2021.

Question 5: The SMA 2013 obligates a JMB to transfer all balance of moneys in both maintenance account and sinking fund as well as handover assets, liabilities, records relating to the maintenance of building and common property, audited or unaudited accounts, etc. to the MC ("Transfer") within one month from the date of the first AGM of the MC. In view of such time frame, is there an extension of time granted to the JMB for such handover?

Answer: The abovementioned Transfer shall be performed latest by 1 July 2021. In the event that unaudited accounts are handed over, the audited accounts that has to be handed to the MC within the Exemption Period shall be done latest by 1 July 2021.

Developer - Management by developer prior to the establishment of JMB

Question 1: Developer is duty bound to establish both maintenance account and sinking fund account during the management period before a JMB exists. What is the implication on such duty if the developer's management period falls within the Exemption Period?

Answer: The developer is not required to open a maintenance account and a sinking fund account if the developer's management period expires within the Exemption Period.

Question 2: When is the deadline for the developer to file with COB a certified true copy of the audited accounts together with the auditor's report ("the Accounts")?

Answer: The Accounts shall be filed with the COB latest by 1 July 2021 if such filing has not been done within the Exemption Period.

Developer - Management by developer prior to the establishment of JMB (cont')

Question 3: A developer is required to hand over control to JMB before the developer's management period expires. Assuming such management period expires within the Exemption Period, is there an extension of time granted to the developer in this regard?

Answer: Yes, provided that the developer's management period expires within the Exemption Period. Although the exemption order² does not specify the deadline for such handover to be performed, it is advised that the handover should be performed soonest possible to avoid unnecessary dispute between the developer and JMB.

Question 4: What should be done by the developer if the first AGM of the JMB has not been convened within 12 months after the delivery of vacant possession of a parcel to purchasers?

Answer: The first AGM of the JMB is to be convened within the Exemption Period and the developer shall convene the first AGM latest by 1 July 2021.

Developer - Management by developer before the first AGM of MC

Question 5: Can a developer enter into a contract relating to the maintenance and management of building and common property for any period extending beyond the expiration of the preliminary management period?

Answer: Provided that the preliminary management period expires within the Exemption Period, the contractual period of such maintenance and management of building and common property entered by the developer within the Exemption Period shall not exceed one month after the AGM of MC is convened.

Question 6: When is the deadline for the developer to open a maintenance account and a sinking fund account in the name of the MC?

Answer: The developer shall establish both maintenance account and sinking fund account in the name of the MC latest by 1 July 2021.

Question 7: When is the deadline for the developer to file with COB a certified true copy of the audited accounts together with the auditor's report ("the Accounts")?

Answer: If the filing of the Accounts was not done during the Exemption Period, 1 July 2021 is the deadline imposed for the Accounts to be filed with the COB.

Question 8: A developer is required to hand over control to MC before the preliminary management period expires. Is there an extension of time granted to the developer in this regard?

Answer: Yes, provided the developer's management period shall expire within the Exemption Period. Although the exemption order did not specify the deadline for such handover to be performed, it is advised that the handover to be performed at the soonest possible to avoid unnecessary contention between the developer and MC.

² P.U.(A) 274/2021 Strata Management (Exemption to Developer) Order 2021

Developer - Management by developer before the first AGM of MC (cont')

Question 9: Is there an extension of time granted to the developer to convene the first AGM of the MC?

Answer: Provided that the first AGM of the MC is to be convened within the Exemption Period, the developer shall convene the AGM latest by 1 July 2021.

Question 10: Is there an extension of time granted to the developer to pay to COB the deposit to rectify defects on common property?

Answer: Provided that the period of which the deposit needs to be paid fall within the Exemption Period, the developer shall pay the deposit latest by 1 July 2021.

Question 11: Can a developer claim for the refund of the unexpended deposit before the expiry of the defect liability period?

Answer: Yes, provided that:-

- (i) the developer submits an application for the repayment of the common property deposit to the COB within the Exemption Period; and
- (ii) the COB is satisfied with the conditions of the common property before the deposit of the common property is refunded to the developer.

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