

**STBB's REFERENCE GUIDE TO THE SECTIONAL TITLES SCHEMES MANAGEMENT ACT
For Managing Agents, Trustees, Owners and Property Practitioners**

In this, the forty-fifth set of notes for your STSMA Reference Guide, Prescribed Management Rule 24 is discussed.

	<u>PRESCRIBED MANAGEMENT RULE 24 – FINANCIAL MANAGEMENT – ADMINISTRATIVE AND RESERVE FUNDS</u>	<u>REFERENCES & SEARCH WORDS</u>
PMR 24(1)	The funds collected in the administrative fund (in terms of the obligation contained in section 3 of the Act) must be applied to fund the operating expenses of the body corporate for the relevant financial year.	Operating costs paid from administrative fund
PMR 24(2)	The reserve fund, which section 3 obliges a body corporate to set up and maintain up to certain prescribed minimum levels, must be applied to pay for the implementation of the MRRP (Maintenance, Repair and Replacement Plan) of the body corporate.	Reserve fund applied towards MRRP expenses only
PMR 24(3)	<p>The obligatory reserve fund (as imposed in section 3) has to have a minimum balance, prescribed in Regulation 2 and must be made up generally from the income that the body corporate makes. PMR 24(3) describes it in the following, requiring contributions to come from:</p> <ul style="list-style-type: none"> • The contribution from owners that was included in the annual levy determination. In the annual budget when the levies for the next year is determined, that determination must include a contribution towards the MRRP (see PMR 22(2) for the calculation); <ul style="list-style-type: none"> ○ Any amounts received under an insurance policy in respect of damage or destruction of property for which the body corporate is responsible; 	What is reserve fund made up of?

- Any interest that the body corporate earns on the investment of the money in the reserve fund;
- Any amounts that the body corporate determines must go to such account; and
- all other body corporate income must be paid into the administrative fund.

PMR 24(4)

Since the levies received from owners are paid into the administrative fund, PMR 24(4) specifically empowers the body corporate to transfer the portion thereof that was levied in respect of the MRRP (i.e. the reserve fund) from the administrative fund to the reserve fund. In this way it can be said that the portion of the levy that was raised for the reserve fund is being “ring-fenced”.

Levies paid into administrative fund

Payment from the administrative fund to the reserve fund

PMR 24(5)

The money in the reserve fund, as can be seen from previous provisions in this Rule, is ear-marked to go towards expenditure identified in the MRRP. Therefore PMR 24(5) dictates the ways in which money may be paid out of the reserve fund, as follows:

Payment from reserve fund

(a) at any time if in accordance with (i) a trustee resolution; and (ii) the approved MRRP; or

Limitations and procedure for payments from reserve fund in respect of urgent matters

(b) in the case of urgency, there is a trustee resolution that (i) the maintenance, repair or replacement expense is indeed urgent.

What can be so urgent? PMR 24(5)(b) states that such urgency can be, for example:

(i) where necessary to comply with an order of a court or an adjudicator;

(ii) to repair, maintain or replace any property for which the body corporate is responsible and where, viewed reasonably, it is necessary to immediately incur the expense so as to ensure safety or prevent significant loss or damage to

persons or property;

- (iii) to repair any property for which the body corporate is responsible *where the need for the repairs could not have been reasonably foreseen* in preparing the MRRP;
or
- (iv) to enable the body corporate to obtain adequate insurance for property that the body corporate is required to insure.

There are two important tasks to comply with further when such urgent expenditure from the reserve fund is made, namely:

- PMR 24(5)(b) requires that the trustees must report to the owners on any such expenditure as soon as possible after it is made.
- The second requirement appears in PMR 24(6) discussed below.

PMR 24(6)

Urgent expenditure from the reserve fund must further comply with any restrictions imposed or directions given by owners and may not be more than-

- (i) what is needed to address the urgency (in other words, only the urgency must be addressed at this stage, and not other maintenance or repairs as well), and the decision what is necessary must be exercised reasonably; or
- (ii) any limitation imposed by the body corporate on expenditure.

Limitation in respect of payment in instances of urgency

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