



New South Wales

Strata Legislation Amendment Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Strata Schemes Management Act 1996* (the *Principal Act*):

- (a) to prevent certain persons from being appointed as strata managing agents or caretakers of strata schemes, and
- (b) to require the disclosure by strata managing agents, caretakers of strata schemes and legal practitioners engaged to provide legal services in relation to strata schemes of any connections they have with certain persons, and
- (c) to require the disclosure by persons standing for election or appointment as members of the executive committee of a strata scheme of any connections they have to the strata managing agent for the scheme, and
- (d) to provide that an owner of a lot in a strata scheme is jointly and severally liable with the occupier of the lot for damage caused by the occupier to the common property, and
- (e) to place limits on the number of persons that can reside on a lot in a strata scheme, and

- (f) to enable the Consumer, Trader and Tenancy Tribunal (the *Tribunal*) to make certain orders for the settlement of disputes in respect of strata management statements, and
- (g) to make it an offence to contravene an order made under that Act by an Adjudicator or the Tribunal, and
- (h) to change the requirements for serving a summons or other legal process on an owners corporation, and
- (i) to make other miscellaneous amendments in relation to the administration of strata schemes.

The Bill also makes consequential amendments to the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Strata Schemes Management Act 1996 No 138

Amendments relating to strata managing agents, caretakers, legal practitioners and executive committee members

Schedule 1 [1] inserts proposed sections 27A and 27B into the Principal Act. Proposed section 27A prevents the original owner, and certain other specified persons connected with the original owner, from being appointed as a strata managing agent and requires an owners corporation or executive committee to terminate an appointment that has been made on becoming aware that the strata managing agent is such a person.

Proposed section 27B requires a person to disclose certain connections that the person has to other specified persons before accepting an appointment as a strata managing agent. If the connection forms after the appointment, the disclosure must be made as soon as the strata managing agent becomes aware of that connection. The proposed section enables an owners corporation or executive committee to terminate the appointment of a strata managing agent on becoming aware that such a connection exists.

Schedule 1 [2] inserts proposed section 40D into the Principal Act which prevents the original owner, and certain other specified persons connected with the original owner, from being appointed as a caretaker for a strata scheme and requires an owners corporation to terminate an appointment that has been made on becoming aware that the caretaker is such a person.

Schedule 1 [21] inserts proposed section 230B into the Principal Act which requires a legal practitioner to disclose if the practitioner is connected with the original owner before undertaking to provide legal services to an owners corporation. If the connection forms after the practitioner is engaged to undertake those services, the disclosure must be made as soon as the legal practitioner becomes aware of that connection. The proposed section enables an owners corporation or executive committee to terminate the engagement of a legal practitioner on becoming aware that such a connection exists. **Schedule 1 [20]** makes a consequential amendment.

Schedule 1 [34] amends clause 3A of Schedule 3 to the Principal Act which currently prevents a person connected with the original owner or caretaker from being eligible to be elected to the executive committee of a strata scheme unless the person first discloses the connection. The amendment extends that provision to persons connected with the strata managing agent.

Schedule 1 [35] and [36] amend clause 3A of Schedule 3 to the Principal Act to make it an offence for a person to be elected or appointed as a member of an executive committee without making the disclosures required by that clause. The person also commits an offence each time the person votes on a matter as a member of the executive committee after failing to make such a disclosure.

Schedule 1 [37] amends clause 3A of Schedule 3 to the Principal Act to make it an offence for a person who becomes connected with the original owner, caretaker or strata managing agent after having being elected or appointed as a member of an executive committee to fail to disclose the connection.

Amendments relating to orders of Adjudicators and the Tribunal

Schedule 1 [12] and [13] amend section 162 of the Principal Act to enable the Tribunal to make an order terminating the appointment of a strata managing agent in circumstances where the appointment is required to be terminated in accordance with proposed section 27A and has not been terminated.

Schedule 1 [16] inserts proposed section 183C into the Principal Act to enable the Tribunal to make an order to settle a dispute or rectify a complaint concerning the management of a building or site that is subject to a strata management statement. The Tribunal can only make such an order if the strata management statement provides for disputes and complaints to be referred to the Tribunal or the Tribunal is satisfied that the dispute resolution process provided for in the strata management statement has been tried and has not succeeded.

Schedule 1 [17] amends section 198 of the Principal Act to increase the monetary penalties for contempt of the Tribunal from 5 penalty units to 50 penalty units (currently \$5,500).

Schedule 1 [18] inserts proposed section 201A into the Principal Act to make it an offence for a person to contravene an order made by the Tribunal or an Adjudicator under Chapter 5 of the Principal Act (which deals with the resolution of disputes in relation to strata schemes).

Schedule 1 [9]–[11], [14] and [15] make consequential amendments.

Amendments relating to responsibilities of owners of lots

Schedule 1 [8] inserts proposed sections 117A and 117B into the Principal Act.

Proposed section 117A provides that the owner of a lot is jointly and severally liable with the occupier of the lot for damage caused by the occupier to the common property. However, the owner is entitled to be indemnified by the occupier for any such damage.

Proposed section 117B prevents the owner or occupier of a lot from allowing more persons over the age of 18 years to reside on the lot than the number obtained by multiplying each bedroom or other intended sleeping area in the lot by 2.

Amendments relating to service of documents

Schedule 1 [22] amends section 235 of the Principal Act to require service of a summons or other legal process on an owners corporation to be effected by leaving it with the chairperson or strata managing agent whose address for service has been recorded on the Register and posting it to the address recorded on the Register for service of notices on the owners corporation and the address of the strata scheme.

Schedule 1 [23] amends section 236 of the Principal Act to enable an owners corporation or an executive committee to serve a notice on a person by e-mailing it to the e-mail address provided by the person for service of notices.

Schedule 1 [25] amends section 239 of the Principal Act to require a person whose address is recorded on the folio of the Register for the strata scheme as an address for service of notices, and the owners corporation, to keep that information up to date.

Schedule 1 [24] makes a consequential amendment.

Miscellaneous amendments relating to administration of strata schemes

Schedule 1 [3] amends section 48 of the Principal Act to require an owners corporation of a strata scheme to lodge a consolidated copy of the by-laws for the scheme when registering an amendment or repeal of a by-law or a new by-law.

Schedule 1 [4] amends section 76 of the Principal Act to enable an owners corporation to levy additional payments to the sinking fund if faced with unexpected expenses to be paid from that fund. Currently, the owners corporation can only levy additional payments to the administrative fund.

Schedule 1 [5] amends section 76 of the Principal Act to provide that, if a quorum cannot be achieved for an annual general meeting in accordance with that Act, the payments required to be levied to the administrative fund and the sinking fund are taken to be the same amounts as levied in the previous year increased by the Consumer Price Index.

Schedule 1 [6] amends section 87 of the Principal Act to increase the insurance required to be taken out under that section in relation to a strata scheme (for example, to cover occupier's liability and workers compensation) from \$10,000,000 to \$20,000,000.

Schedule 1 [7] amends section 98 of the Principal Act to require certain additional matters to be recorded on the strata roll for a strata scheme. Those matters are licences granted by the owners corporation for use of the common property, plans and approvals for building work to the common property, details of loans to the owners corporation and copies of special resolutions passed to allow additions and alterations to the common property or the erection of new structures on the common property.

Schedule 1 [19] amends section 226 of the Principal Act to provide that a court is not to refuse to determine proceedings to enforce a right or remedy merely because the Principal Act or the *Community Land Management Act 1989* provides for the enforcement of those rights or remedies. However, the court can order the plaintiff to pay the defendant's costs if it is of the opinion, having regard to certain criteria, that the plaintiff has brought the proceedings in an inappropriate venue.

Schedule 1 [26] amends section 246 of the Principal Act to enable regulations to be made with respect to the procedures to be observed by the chairperson and secretary in relation to meetings of an owners corporation and by persons presiding at those meetings and with respect to a code of conduct for the chairperson, secretary and treasurer. **Schedule 1 [27]** makes a consequential amendment.

Schedule 1 [28] amends clause 10 of Schedule 2 to the Principal Act to provide that, if a person pays strata contributions levied on the person by cheque, those contributions are not taken to have been paid for the purpose of the person exercising voting rights at a general meeting of an owners corporation unless, when the meeting is held, at least 5 clear working days have passed since the cheque was received and no notice of the cheque being dishonoured has been received.

Schedule 1 [29] amends clause 19 of Schedule 2 to the Principal Act to limit the time at which a poll may be demanded after a vote has been taken at a general meeting of an owners corporation.

Schedule 1 [30] and [31] amend clause 31 of Schedule 2 to the Principal Act to enable the owners corporation by resolution at a general meeting to vary the time at which the annual general meeting is held, subject to certain limitations.

Schedule 1 [32] inserts proposed clauses 33A and 33B into Schedule 2 to the Principal Act.

Proposed clause 33A requires notice of a general meeting to include a report prepared by the executive committee explaining any proposed amendment, repeal or substitution of a by-law.

Proposed clause 33B requires notice of a general meeting to include any disclosures made under proposed section 27B or 230B since the last meeting.

Schedule 1 [33] amends clause 34 of Schedule 2 to the Principal Act to require notice of a general meeting to include proposed estimates of amounts needed to be credited to the administrative and sinking funds and proposed amounts of strata contributions based on those estimates.

Schedule 1 [38] inserts proposed clause 6A into Schedule 3 to the Principal Act to require notice of an executive committee meeting to include any disclosures made under proposed section 27B or 230B since the last meeting.

Schedule 1 [39] inserts proposed clause 17A into Schedule 3 to the Principal Act to enable the executive committee to transact business by telephone, closed-circuit television or other electronic means.

Schedule 1 [40] and [41] amend Schedule 4 to the Principal Act to make provision for savings and transitional matters as a consequence of the enactment of the proposed Act.

Schedule 2 Amendment of other Acts

Schedule 2 amends the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986* as a consequence of the amendments made to the Principal Act by Schedule 1 [3] and [22].



New South Wales

Strata Legislation Amendment Bill 2010

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Strata Schemes Management Act 1996 No 138	3
Schedule 2 Amendment of other Acts	19



New South Wales

Strata Legislation Amendment Bill 2010

No. , 2010

A Bill for

An Act to amend the *Strata Schemes Management Act 1996* in relation to the obligations of owners corporations, executive committees and owners and occupiers of lots, procedures for meetings and the finances of strata schemes; to amend other Acts consequentially; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Strata Legislation Amendment Act 2010</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

**Schedule 1 Amendment of Strata Schemes
Management Act 1996 No 138**

[1] Sections 27A and 27B

Insert after section 27:

**27A Prohibition on certain persons holding position of strata
managing agent**

- (1) The following persons may not be appointed as a strata managing agent of a strata scheme:
- (a) the original owner,
 - (b) if the original owner is a corporation:
 - (i) a corporation that, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a related body corporate of the original owner, or
 - (ii) a corporation that holds shares in the original owner or in a related body corporate of the original owner,
 - (c) if the original owner is an individual:
 - (i) a corporation that employs the original owner, or
 - (ii) a corporation in respect of which the original owner holds shares, or
 - (iii) a corporation in respect of which the original owner occupies a position of authority.
- (2) If an owners corporation or executive committee of a strata scheme becomes aware after the appointment of a strata managing agent of the scheme that the agent is a person referred to in subsection (1), the owners corporation or executive committee must terminate the strata managing agent's appointment as soon as possible.
- (3) An owners corporation or executive committee may terminate the appointment of a strata managing agent in accordance with this section whether or not the instrument of appointment of the strata managing agent provides for termination under this section and any such termination does not constitute a breach of contract.
- (4) No person is entitled to compensation or damages as a result of the termination of the appointment of a strata managing agent in accordance with this section.

27B Requirement to disclose certain connections	1
(1) For the purposes of this section, each of the following persons is a <i>relevant person</i> in relation to a strata scheme:	2
(a) the original owner,	3
(b) a caretaker appointed for the strata scheme,	4
(c) a person who is a party to a contract with the owners corporation.	5
(2) Before accepting an appointment as a strata managing agent of a strata scheme, a person must disclose in writing to the owners corporation if the person is connected with any of the relevant persons.	6
Maximum penalty: 55 penalty units.	7
(3) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes that, when accepting the appointment as strata managing agent, the defendant did not know, and could not reasonably be expected to have known, that the defendant was connected with a relevant person.	8
(4) As soon as possible after a strata managing agent of a strata scheme becomes aware that the agent is connected with a relevant person, the agent must disclose in writing to the owners corporation any connection that the person has with the relevant person and the date on which the connection commenced.	9
Maximum penalty: 55 penalty units.	10
(5) If an owners corporation or executive committee of a strata scheme becomes aware after the appointment of a strata managing agent for the scheme that the agent is connected with a relevant person, the owners corporation or the executive committee may terminate the appointment of the agent.	11
(6) An owners corporation or executive committee may terminate the appointment of a strata managing agent in accordance with this section whether or not the instrument of appointment of the strata managing agent provides for termination under this section and any such termination does not constitute a breach of contract.	12
(7) No person is entitled to compensation or damages as a result of the termination of the appointment of a strata managing agent in accordance with this section.	13
	14
	15
	16
	17
	18
	19
	20
	21
	22
	23
	24
	25
	26
	27
	28
	29
	30
	31
	32
	33
	34
	35
	36

[2] Section 40D	1
Insert after section 40C:	2
40D Prohibition on certain persons holding position of caretaker	3
(1) The following persons may not be appointed as a caretaker for a strata scheme:	4
(a) the original owner,	5
(b) if the original owner is a corporation:	6
(i) a corporation that, within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth, is a related body corporate of the original owner, or	7
(ii) a corporation that holds shares in the original owner or in a related body corporate of the original owner,	8
(c) if the original owner is an individual:	9
(i) a corporation that employs the original owner, or	10
(ii) a corporation in respect of which the original owner holds shares, or	11
(iii) a corporation in respect of which the original owner occupies a position of authority.	12
(2) If an owners corporation for a strata scheme becomes aware after the appointment of a caretaker for the scheme that the caretaker is a person referred to in subsection (1), the owners corporation must:	13
(a) terminate the caretaker's appointment, and	14
(b) determine whether a new caretaker is to be appointed.	15
(3) The action required to be taken by the owners corporation under subsection (2) is to be taken:	16
(a) at the general meeting of the owners corporation at which the owners corporation becomes aware that the caretaker is a person referred to in subsection (1), or	17
(b) if the owners corporation becomes aware that the caretaker is a person referred to in subsection (1) otherwise than at a general meeting, at the next general meeting after the owners corporation becomes so aware.	18
(4) An owners corporation may terminate the appointment of a caretaker in accordance with this section whether or not the caretaker agreement provides for termination under this section and any such termination does not constitute a breach of contract.	19
	20
	21
	22
	23
	24
	25
	26
	27
	28
	29
	30
	31
	32
	33
	34
	35
	36
	37

(5)	No person is entitled to compensation or damages as a result of the termination of the appointment of a caretaker in accordance with this section.	1 2 3
[3]	Section 48 What steps must an owners corporation take to make an amendment effective?	4 5
	Omit section 48 (1) (a). Insert instead:	6
	(a) the owners corporation has lodged in the office of the Registrar-General a notification in the form approved under the <i>Real Property Act 1900</i> accompanied by:	7 8 9
	(i) a copy of the special resolution of the owners corporation approving the amendment, repeal or new by-law, and	10 11 12
	(ii) a consolidated copy of all the by-laws for the strata scheme incorporating that amendment, repeal or new by-law, and	13 14 15
[4]	Section 76 Owners corporation to set levy for contributions to administrative and sinking funds	16 17
	Insert “or the sinking fund (as the case may be)” after “administrative fund” in section 76 (4).	18 19
[5]	Section 76 (6) and (7)	20
	Insert after section 76 (5):	21
	(6) Despite any other provision of this Act, if a quorum is not present as required by clause 12 (5) of Schedule 2 at an adjourned annual general meeting of the owners corporation at which the amounts to be levied as contributions to the administrative fund and sinking fund are to be determined, those amounts are taken to have been determined to be the same amounts as the contributions last determined, increased to take account of the relevant Consumer Price Index.	22 23 24 25 26 27 28 29
	(7) For the purposes of subsection (6), the relevant Consumer Price Index is the Consumer Price Index (All Groups Index) for Sydney last issued by the Australian Statistician before the date of the adjourned annual general meeting.	30 31 32 33
[6]	Section 87 What other insurance must an owners corporation take out?	34
	Omit “\$10,000,000” from section 87 (2).	35
	Insert instead “\$20,000,000”.	36

[7] Section 98 What must be recorded in the strata roll?	1
Insert after section 98 (2) (e):	2
(f) a copy of each licence granted by the owners corporation for the use of common property and that is in force,	3 4
(g) plans and approvals for all building work that has been carried out to the common property,	5 6
(h) details of each loan to the owners corporation,	7
(i) a copy of each special resolution passed for the purposes of section 65A.	8 9
[8] Sections 117A and 117B	10
Insert after section 117:	11
117A Owner and occupier liable for damage to common property caused by occupier	12 13
(1) The owner and occupier of a lot are jointly and severally liable for damage caused to the common property by the occupier.	14 15
(2) The owner of a lot is entitled to be indemnified by an occupier of the lot for any amount of damage caused to the common property by the occupier in respect of which the owner is liable under subsection (1).	16 17 18 19
117B Owner and occupier not to permit overcrowding	20
The owner and occupier of a lot must not permit more persons over the age of 18 to reside on the lot than the number obtained by multiplying 2 by the number of rooms in the lot that were constructed for the purpose of bedrooms or sleeping areas.	21 22 23 24
[9] Chapter 5 Disputes and orders of Adjudicators and Tribunal	25
Insert under the heading “ General orders for settlement of disputes ” after the matter relating to section 139 in the introductory note:	26 27

To settle disputes or rectify complaints concerning management of a building or its site subject to a strata management statement	Person bound by the statement	183C
---	-------------------------------	------

- [10] **Chapter 5, introductory note** 1
- Omit the matter relating to orders appointing strata managing agents. 2
- Insert instead: 3

Orders appointing strata managing agents and terminating appointments

To appoint strata managing agent	Person who obtained order under this Act that imposed duty on owners corporation or office holder of executive committee that has not been complied with Person having estate or interest in lot or, in the case of leasehold strata scheme, lease of lot Authority having benefit of positive covenant that imposes duty on owners corporation Judgment creditor to whom owners corporation owes judgment debt	162
To terminate appointment of strata managing agent	Owners corporation Owner of lot	162

- [11] **Chapter 5, Part 4, Division 10, heading** 4
- Insert “and terminating appointments” after “agents”. 5
- [12] **Section 162 Orders appointing strata managing agent to exercise certain functions or terminating appointment of strata managing agent** 6
- Insert after section 162 (2): 7
- (2A) **Order terminating appointment of strata managing agent** 8
- An Adjudicator may by order terminate the appointment of a strata managing agent. 9
- [13] **Section 162 (3A)** 10
- Insert at the end of section 162 (3A) (d): 11
- , or 12
- (e) an owners corporation has failed to terminate the appointment of a strata managing agent in accordance with section 27A (2). 13
- 14
- 15
- 16
- 17

[14] Section 162 (7)	1
Insert “(other than an order under subsection (2A))” after “under this section”.	2
[15] Section 162 (8)	3
Insert after section 162 (7):	4
(8) An application for an order under subsection (2A) may be made only by the owners corporation or the owner of a lot in the strata scheme concerned.	5 6 7
[16] Section 183C	8
Insert after section 183B:	9
183C Orders relating to strata management statements	10
(1) The Tribunal may make an order to settle a dispute, or rectify a complaint, concerning the management of a building or its site that is subject to a strata management statement, but only if:	11 12 13
(a) the strata management statement provides for the reference of disputes or complaints to the Tribunal, or	14 15
(b) in a case where the strata management statement does not so provide, the Tribunal is of the opinion that the method of settling such disputes or complaints provided for in the statement has been tried and has not resulted in the settlement of the dispute or rectification of the complaint concerned.	16 17 18 19 20 21
(2) An application for an order under this section may be made only by a person who is bound by the strata management statement. However, such an application may not be made by the owner of a lot in a strata scheme if the owners corporation of the strata scheme is bound by the strata management statement.	22 23 24 25 26
[17] Section 198 Contempt of Tribunal	27
Omit “5 penalty units” wherever occurring in section 198 (1) and (2).	28
Insert instead “50 penalty units”.	29
[18] Section 201A	30
Insert after section 201:	31
201A Failure to comply with order of Tribunal or Adjudicator	32
(1) A person who is subject to an order under this Chapter must not contravene the order. Maximum penalty: 200 penalty units.	33 34 35

(2)	A person is not liable to any penalty in respect of an offence under this section if the person has been ordered to pay a civil penalty under section 202 in respect of the same contravention.	1 2 3
[19]	Section 226 Other rights and remedies not affected by this Act	4
	Omit section 226 (2) and (3). Insert instead:	5
(2)	In any proceedings to enforce a right or remedy referred to in subsection (1), the court in which the proceedings are taken is not to refuse to determine the proceedings or to grant any relief or remedy merely because this Act or Part 4 of the <i>Community Land Management Act 1989</i> makes provision for the enforcement of those rights or remedies.	6 7 8 9 10 11
(3)	However, in any such proceedings, the court in which the proceedings are taken must order the plaintiff to pay the defendant's costs if the court is of the opinion that, having regard to the following matters, the proceedings should not have been brought in that court:	12 13 14 15 16
(a)	whether the matter would be dealt with more expeditiously and cheaply if brought in another forum,	17 18
(b)	whether the enforcement of the right or remedy by the court would be likely to resolve the issues in dispute,	19 20
(c)	whether the plaintiff would be able to get an appropriate remedy in another forum,	21 22
(d)	whether the plaintiff would suffer any substantial hardship if the court refused to hear and determine the proceedings,	23 24
(e)	any other matter the court considers relevant.	25
[20]	Chapter 7, Part 1A, heading	26
	Omit the heading. Insert instead:	27
	Part 1A Legal services provided to owners corporation	28 29
[21]	Section 230B	30
	Insert after section 230A:	31
230B	Requirement to disclose certain connections	32
(1)	Before undertaking to provide any legal services to an owners corporation, a legal practitioner must disclose in writing to the	33 34

owners corporation if the practitioner is connected with the original owner.	1
Maximum penalty: 55 penalty units.	2
(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that, when undertaking to perform those legal services, the defendant did not know, and could not reasonably be expected to have known, that the defendant was connected with the original owner.	3
(3) As soon as possible after a legal practitioner who is providing legal services to an owners corporation becomes aware that the practitioner is connected with the original owner, the practitioner must disclose in writing to the owners corporation any connection that the person has with the original owner and the date when the connection commenced.	4
Maximum penalty: 55 penalty units.	5
(4) If an owners corporation or executive committee of a strata scheme becomes aware after engaging a legal practitioner to provide legal services in relation to the scheme that the practitioner is connected with the original owner, the owners corporation is, within 42 days, to determine at a general meeting whether the practitioner's engagement should be terminated and a different practitioner engaged.	6
(5) Subsection (4) does not prevent the owners corporation or executive committee from terminating the engagement of the legal practitioner at any time for any other reason.	7
(6) The termination of the engagement of a legal practitioner in accordance with this section does not constitute a breach of contract and no person is entitled to compensation or damages as a result of the termination.	8
[22] Section 235 Service of documents on an owners corporation	9
Omit section 235 (1). Insert instead:	10
(1) A summons or other legal process may be served on an owners corporation by doing both of the following:	11
(a) leaving it with the chairperson or strata managing agent whose address for service has been recorded in the folio of the Register,	12
(b) posting it, by prepaid mail, to the owners corporation at the address recorded in the folio of the Register as the address for the service of documents on the owners corporation and at the address of the strata scheme concerned.	13

[23] Section 236 Service of documents by owners corporation and others	1
Insert after section 236 (6):	2
(7) Service of certain documents by electronic means	3
A notice that is required to be given to a person under this Act by an owners corporation or an executive committee may be given to the person by electronic means, but only if the person has given the owners corporation an e-mail address for the service of notices under this Act and the notice is sent to that address.	4 5 6 7 8
[24] Section 239 Address for service of documents on owners corporation	9
Insert “and other documents” after “notices” in section 239 (1).	10
[25] Section 239 (1A)–(1C)	11
Insert after section 239 (1):	12
(1A) A person whose address is recorded in the folio of the Register as the Chairperson’s or strata managing agent’s address for a strata scheme must lodge in the office of the Registrar-General a notice in the form approved under the <i>Real Property Act 1900</i> within 7 days after a change in the person’s address or after ceasing to be the Chairperson or strata managing agent, as the case may be. Maximum penalty: 10 penalty units.	13 14 15 16 17 18 19
(1B) An owners corporation must lodge in the office of the Registrar-General a notice in the form approved under the <i>Real Property Act 1900</i> within 7 days after a person whose address is recorded in the folio of the Register as the Chairperson or strata managing agent for the strata scheme concerned ceases to be the Chairperson or strata managing agent, as the case may be. Maximum penalty: 10 penalty units.	20 21 22 23 24 25 26
(1C) An owners corporation is not guilty of an offence under subsection (1B) for failing to lodge a notice within that 7-day period if a notice to the same effect was lodged within that period in accordance with subsection (1A).	27 28 29 30
[26] Section 246 Regulations	31
Insert after section 246 (2) (l):	32
(m) the procedures to be observed by the chairperson and secretary in relation to meetings of the owners corporation and by persons presiding at such meetings,	33 34 35
(n) a code of conduct for the chairperson, secretary and treasurer.	36 37

[27] Section 246 (2A)	1
Insert after section 246 (2):	2
(2A) A regulation relating to the matter referred to in subsection (2) (m) or (n) may apply, adopt or incorporate by reference wholly or partly, and with or without modification, any published document as in force at a particular time or as in force from time to time.	3 4 5 6 7
[28] Schedule 2 Meetings and procedure of owners corporation	8
Insert after clause 10 (8):	9
(8A) For the purposes of subclause (8), payment by means of a cheque of an amount owing is taken to have been made before a meeting only if the cheque was received at least 5 clear working days before the meeting and no notice has been received by the time of the meeting of the cheque having been dishonoured.	10 11 12 13 14
[29] Schedule 2, clause 19 (2A)	15
Insert after clause 19 (2):	16
(2A) In the case of a poll demanded after a vote has been taken, the demand may be made no later than the completion of consideration of the next item on the agenda if one or more items on the agenda remain to be considered.	17 18 19 20
[30] Schedule 2, clause 31 (1)	21
Omit “An”. Insert instead “Subject to subclause (1A), an”.	22
[31] Schedule 2, clause 31 (1A)	23
Insert after clause 31 (1):	24
(1A) An owners corporation may vary the time at which the annual general meeting is required to be held by resolution passed at a general meeting so long as:	25 26 27
(a) the variation results in an annual general meeting being held in each year, and	28 29
(b) the time for holding the meeting has not already been varied by order of an Adjudicator under section 152.	30 31

[32] Schedule 2, clauses 33A and 33B	1
Insert after clause 33:	2
33A Notice including proposal relating to by-laws	3
Notice of a general meeting that includes a form of motion to amend, repeal or substitute a by-law must include a report prepared by the executive committee explaining the effect of the proposed amendment, repeal or substitution of the by-law.	4 5 6 7
33B Notice of general meeting to include disclosures	8
Notice of a general meeting must include a copy of any disclosure made to the owners corporation by a strata managing agent under section 27B, or a legal practitioner under section 230B, since the last general meeting.	9 10 11 12
[33] Schedule 2, clause 34 (b1)	13
Insert after clause 34 (b):	14
(b1) include proposed estimates of amounts needed to be credited to the administrative and sinking funds as referred to in section 75 and proposed amounts of contributions based on the proposed estimates, and	15 16 17 18
[34] Schedule 3 Constitution of executive committee of the owners corporation and meetings of executive committee	19 20
Omit “or caretaker” wherever occurring in clause 3A (1), (3) and (4).	21
Insert instead “, caretaker or strata managing agent”.	22
[35] Schedule 3, clause 3A (1A)–(1D)	23
Insert after clause 3A (1):	24
(1A) A person who is elected as a member of the executive committee after failing to make a disclosure in accordance with subclause (1) in relation to that election is guilty of an offence. Maximum penalty: 55 penalty units.	25 26 27 28
(1B) A member of the executive committee is guilty of an offence in relation to each occasion on which the member votes on a matter being considered by the executive committee after failing to make a disclosure in accordance with subclause (1) or (4). Maximum penalty: 55 penalty units.	29 30 31 32 33

(1C)	If an owners corporation becomes aware after the election of a member of the executive committee that the member is a person referred to in subclause (1), the owners corporation must:	1 2 3
(a)	declare the member's position vacant, and	4
(b)	determine whether a new member of the executive committee is to be elected.	5 6
(1D)	The action required to be taken by the owners corporation under subclause (1C) is to be taken:	7 8
(a)	at the general meeting at which the owners corporation becomes aware that the member is a person referred to in subclause (1), or	9 10 11
(b)	if the owners corporation becomes aware that the member is a person referred to in subclause (1) otherwise than at a general meeting, at the next general meeting after the owners corporation becomes so aware.	12 13 14 15
[36]	Schedule 3, clause 3A (3A)–(3D)	16
	Insert after clause 3A (3):	17
(3A)	A person who is appointed to act in the place of a member of the executive committee after failing to make a disclosure in accordance with subclause (3) in relation to that appointment is guilty of an offence. Maximum penalty: 55 penalty units.	18 19 20 21 22
(3B)	A person who is appointed to act in the place of a member of the executive committee is guilty of an offence in relation to each occasion on which the person votes on a matter being considered by the executive committee as a member of the executive committee after failing to make a disclosure in accordance with subclause (3) or (4). Maximum penalty: 55 penalty units.	23 24 25 26 27 28 29
(3C)	If an executive committee becomes aware after the appointment of a person to act in the place of a member of the executive committee that the person is a person referred to in subclause (3), the executive committee must:	30 31 32 33
(a)	withdraw its consent to the person's appointment, and	34
(b)	determine whether to give consent to the appointment of a different person to act in the place of the member of the executive committee.	35 36 37

Strata Legislation Amendment Bill 2010

Schedule 1 Amendment of Strata Schemes Management Act 1996 No 138

(3D)	The action required to be taken by the executive committee under subclause (3C) is to be taken:	1
		2
(a)	at the meeting of the executive committee at which the committee becomes aware that the person concerned is a person referred to in subclause (3), or	3
		4
		5
(b)	if the executive committee becomes aware that the person concerned is a person referred to in subclause (3) otherwise than at a meeting of the executive committee, at the next meeting of the executive committee after the executive committee becomes so aware.	6
		7
		8
		9
		10
[37]	Schedule 3, clause 3A (4)	11
	Insert at the end of the subclause:	12
	Maximum penalty: 55 penalty units.	13
[38]	Schedule 3, clause 6A	14
	Insert after clause 6:	15
	6A Notice of executive committee meeting to include disclosures	16
	Notice of an executive committee meeting must include a copy of any disclosure made to the owners corporation by a strata managing agent under section 27B, or a legal practitioner under section 230B, since the last executive committee meeting.	17
		18
		19
		20
[39]	Schedule 3, clause 17A	21
	Insert after clause 17:	22
	17A Transaction of meetings by telephone etc	23
	The executive committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members and each other person who is present at the meeting and entitled to attend.	24
		25
		26
		27
		28
		29
[40]	Schedule 4 Savings, transitional and other provisions	30
	Insert at the end of clause 1 (1):	31
	<i>Strata Legislation Amendment Act 2010</i>	32

[41] Schedule 4	1
Insert at the end of the Schedule with appropriate Part and clause numbers:	2
Part Provisions consequent on enactment of Strata Legislation Amendment Act 2010	3 4
Definitions	5
In this Part:	6
<i>amending Act</i> means the <i>Strata Legislation Amendment Act 2010</i> .	7 8
Strata rolls	9
A requirement to record a document or information on the strata roll that is imposed by an amendment to section 98 by the amending Act extends to recording any such document that was created before the commencement of the amendment and any such information that related to an event that occurred before that commencement if the document or information is reasonably available.	10 11 12 13 14 15 16
Strata managing agents, caretakers and other appointments	17
(1) A requirement in section 27A (2) (as inserted by the amending Act) to terminate a strata managing agent's appointment:	18 19
(a) extends to strata managing agents appointed before the commencement of that subsection, and	20 21
(b) is to be read as a requirement to terminate the appointment within 60 days after the commencement of that subsection if the owners corporation or executive committee became aware before that commencement that the strata managing agent was a person referred to in section 27A (1) (as inserted by the amending Act).	22 23 24 25 26 27
(2) Section 27B (2) (as inserted by the amending Act) is to be read as requiring a person who held the position of strata managing agent immediately before the commencement of that subsection to disclose, within 60 days after that commencement, any connection with a relevant person of which the agent was aware before that commencement.	28 29 30 31 32 33
(3) Section 230B (3) (as inserted by the amending Act) is to be read as requiring a legal practitioner who was providing legal services to an owners corporation immediately before the commencement of that subsection to disclose, within 60 days after that	34 35 36 37

commencement, any connection with the original owner of which the practitioner was aware before that commencement.	1 2
(4) A requirement in section 230B (4) (as inserted by the amending Act) in relation to the engagement of a legal practitioner:	3 4
(a) extends to practitioners engaged before the commencement of that subsection, and	5 6
(b) is to be read as a requirement to convene and hold a general meeting within 60 days after the commencement of that subsection if the owners corporation or executive committee became aware before that commencement that the practitioner was connected to the original owner.	7 8 9 10 11
Meetings and procedure	12
(1) Clause 10 (8A) of Schedule 2 (as inserted by the amending Act) does not apply to a payment made by means of a cheque before the commencement of that subclause.	13 14 15
(2) Clauses 33A, 33B and 34 (b1) of Schedule 2 and clause 6A of Schedule 3 (as inserted by the amending Act) do not apply to notices sent before the commencement of those provisions.	16 17 18
Insurance	19
The amendment made to section 87 by the amending Act does not apply to an owners corporation until the next renewal of the insurance required under that section occurring after the commencement of that amendment.	20 21 22 23
Owner's and occupier's liability for damage to common property	24
Section 117A (as inserted by the amending Act) does not apply to or in respect of any damage to common property occurring before the commencement of that section.	25 26 27
Notices of change of information	28
A requirement imposed by section 239 (1A) or (1B) (as inserted by the amending Act) to lodge a notice within 7 days after a particular event occurs is to be read as a requirement to lodge the notice within 7 days after the commencement of that subsection if the event concerned occurred before that commencement.	29 30 31 32 33

Schedule 2	Amendment of other Acts	1
2.1	Strata Schemes (Freehold Development) Act 1973 No 68	2
[1]	Section 8 Registration of strata plans	3
	Omit section 8 (2) (a). Insert instead:	4
	(a) the address of the body corporate for the service of documents and the address of the chairperson for the service of a summons or other legal process if there is no strata managing agent, and	5 6 7 8
	(a1) the name and business address of the strata managing agent if an agent is appointed, and	9 10
[2]	Section 22 Folio where no common property	11
	Omit section 22 (1) (b). Insert instead:	12
	(b) the name of the body corporate, and	13
	(b1) the address of the body corporate for the service of documents and the address of the chairperson for the service of a summons or other legal process if there is no strata managing agent, and	14 15 16 17
	(b2) the name and business address of the strata managing agent if an agent is appointed, and	18 19
[3]	Section 22 (2) (a)	20
	Omit “the address for service of notices on the body corporate”.	21
	Insert instead “an address recorded under subsection (1) (b1) or (b2)”.	22
[4]	Section 22 (2) (b)	23
	Omit the paragraph. Insert instead:	24
	(b) record the copy of the current consolidated by-laws and the relevant special resolution accompanying a notification under section 48 of the <i>Strata Schemes Management Act 1996</i> , and	25 26 27 28

[5] Section 22 (2A)	1
Insert after section 22 (2):	2
(2A) If a recording is made in accordance with subsection (2) (b), the Registrar is to remove from the Register the copy of the previous by-laws for the strata scheme concerned and all previous recordings relating to notifications under section 48 of the <i>Strata Schemes Management Act 1996</i> for that strata scheme.	3 4 5 6 7
[6] Section 23 Folio where there is common property	8
Omit section 23 (2) (b). Insert instead:	9
(b) the address of the body corporate for the service of documents and the address of the chairperson for the service of a summons or other legal process if there is no strata managing agent, and	10 11 12 13
(b1) the name and business address of the strata managing agent if an agent is appointed, and	14 15
[7] Section 23 (2) (e)	16
Omit “the address for service of notices on the body corporate”.	17
Insert instead “an address recorded under paragraph (b) or (b1)”.	18
[8] Section 23 (2) (f)	19
Omit the paragraph. Insert instead:	20
(f) record the copy of the current consolidated by-laws and the relevant special resolution accompanying a notification under section 48 of the <i>Strata Schemes Management Act 1996</i> , and	21 22 23 24
[9] Section 23 (2A)	25
Insert after section 23 (2):	26
(2A) If a recording is made in accordance with subsection (2) (f), the Registrar is to remove from the Register the copy of the previous by-laws for the strata scheme concerned and all previous recordings relating to notifications under section 48 of the <i>Strata Schemes Management Act 1996</i> for that strata scheme.	27 28 29 30 31

2.2 Strata Schemes (Leasehold Development) Act 1986 No 219	1
[1] Section 7 Registration of strata plans	2
Omit section 7 (2A) (a). Insert instead:	3
(a) the address of the proposed body corporate for the service of documents and the address of the chairperson for the service of a summons or other legal process if there is no strata managing agent, and	4 5 6 7
(a1) the name and business address of the strata managing agent if an agent is appointed, and	8 9
[2] Section 25 Folio where no common property	10
Omit section 25 (1) (b). Insert instead:	11
(b) the name of the body corporate, and	12
(b1) the address of the body corporate for the service of documents and the address of the chairperson for the service of a summons or other legal process if there is no strata managing agent, and	13 14 15 16
(b2) the name and business address of the strata managing agent if an agent is appointed, and	17 18
[3] Section 25 (2) (a)	19
Omit “the address for service of notices on the body corporate”.	20
Insert instead “an address recorded under subsection (1) (b1) or (b2)”.	21
[4] Section 25 (2) (b)	22
Omit the paragraph. Insert instead:	23
(b) record the copy of the current consolidated by-laws and the relevant special resolution accompanying a notification under section 48 of the <i>Strata Schemes Management Act 1996</i> , and	24 25 26 27
[5] Section 25 (2A)	28
Insert after section 25 (2):	29
(2A) If a recording is made in accordance with subsection (2) (b), the Registrar is to remove from the Register the copy of the previous by-laws for the strata scheme concerned and all previous recordings relating to notifications under section 48 of the <i>Strata Schemes Management Act 1996</i> for that strata scheme.	30 31 32 33 34

[6] Section 27 Folio where there is common property	1
Omit section 27 (2) (b). Insert instead:	2
(b) the address of the body corporate for the service of documents and the address of the chairperson for the service of a summons or other legal process if there is no strata managing agent, and	3 4 5 6
(b1) the name and business address of the strata managing agent if an agent is appointed, and	7 8
[7] Section 27 (2) (e)	9
Omit “the address for service of notices on the body corporate”.	10
Insert instead “an address recorded under paragraph (b) or (b1)”.	11
[8] Section 27 (2) (f)	12
Omit the paragraph. Insert instead:	13
(f) record the copy of the current consolidated by-laws and the relevant special resolution accompanying a notification under section 48 of the <i>Strata Schemes Management Act 1996</i> , and	14 15 16 17
[9] Section 27 (2A)	18
Insert after section 27 (2):	19
(2A) If a recording is made in accordance with subsection (2) (f), the Registrar is to remove from the Register the copy of the previous by-laws for the strata scheme concerned and all previous recordings relating to notifications under section 48 of the <i>Strata Schemes Management Act 1996</i> for that strata scheme.	20 21 22 23 24