



New South Wales

# Strata Managing Agents Legislation Amendment Bill 2024

## Explanatory note

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

## Overview of Bill

The object of this Bill is to make miscellaneous amendments to various Acts and instruments about strata managing agents and for related purposes.

## 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 a day or days to be appointed by proclamation.

## **Schedule 1      Amendment of Strata Schemes Management Act 2015 No 50**

**Schedule 1[1]** inserts a definition of *commission*.

**Schedule 1[2]** increases maximum penalties for certain existing offences for strata managing agents or building managers.

**Schedule 1[3]** provides that an owners corporation may only give approval relating to a monetary commission or a training service provided to, or paid for, a strata managing agent by a resolution at a general meeting. The motion for the resolution must be accompanied by a document prepared by the strata managing agent containing certain details about the commission or training service.

**Schedule 1[4]** makes a consequential amendment.

**Schedule 1[5]** provides that a strata managing agent must report whether, during the preceding 12 months, a supplier of goods or services for the strata scheme or an original owner of the strata scheme has become connected with the agent, and further related information, at the annual general meeting of the owners corporation for the scheme.

**Schedule 1[6]** makes further provision about disclosure of information by strata managing agents.

**Schedule 1[7]** extends standing to the Commissioner for Fair Trading, or the Secretary of the Department of Customer Service if no one is employed as Commissioner for Fair Trading, to apply to the NSW Civil and Administrative Tribunal to seek an order that a strata managing agent must pay to the owners corporation the value of any commissions or training services provided to or paid for the agent and not disclosed in accordance with the Act or not disclosed in good faith.

**Schedule 1[8]** extends the interests that strata managing agents must disclose to include—

- (a) that the person is connected with another person who routinely supplies goods or services for other strata schemes for which the person is the strata managing agent, and
- (b) that the person gave advice, whether under a formal contract or not, to the original owner during the previous 2 years about the strata plan or another strata plan or a community plan, and
- (c) another interest prescribed by the regulations.

This amendment also specifies the form requirements of such a disclosure.

**Schedule 1[9]** makes a law revision amendment.

**Schedule 1[10]** introduces a penalty for the existing obligation for strata managing agents to provide the owners corporation with not less than 3 quotations (*insurance quotations*) from different providers for each type of insurance proposed by the agent to the owners corporation or provide written reasons if less than 3 quotations are provided. Contravention of the obligation will now be an offence.

**Schedule 1[11]** requires insurance quotations to include specific information, including a breakdown of charges, the persons to whom the commission and broker fee will ultimately be paid and a statement regarding whether the person providing the quotation is connected with the agent. The strata managing agent must provide the owners corporation with the insurance quotations or written reasons as soon as practicable.

**Schedule 1[12]** amends a definition relating to the limits on voting by proxy by building managers, on-site residential property managers and strata managing agents.

## **Schedule 2      Amendment of Strata Schemes Management Regulation 2016**

**Schedule 2[1]** prescribes additional circumstances where a person is connected with another person for the purposes of the *Strata Schemes Management Act 2015*, section 7(1)(f).

**Schedule 2[2]** increases penalties for certain offences under the Act.

**Schedule 2[3]** prescribes penalty notice offences, including offences introduced by **Schedule 1[6]**.

## **Schedule 3      Amendment of Community Land Management Act 2021 No 7**

**Schedule 3** provides for amendments to the *Community Land Management Act 2021* to ensure consistency with the amendments to the *Strata Schemes Management Act 2015*.

## **Schedule 4      Amendment of Community Land Management Regulation 2021**

**Schedule 4** provides for amendments to the *Community Land Management Regulation 2021* to ensure consistency with the amendments to the *Strata Schemes Management Regulation 2016*.

## **Schedule 5      Amendment of Property and Stock Agents Act 2002 No 66**

**Schedule 5[1]** increases the maximum penalty for the offence requiring all licensees or registered persons under the *Property and Stock Agents Act 2002* to act in accordance with the rules of conduct set out in the *Property and Stock Agents Regulation 2022*.

**Schedule 5[4]** makes it an offence for a licensee to require a person to pay a commission or expense in accordance with a term, condition or other provision that, under the regulations, must not be included in an agency agreement.

**Schedule 5[5]** increases the maximum penalty for the offence requiring a licensee to comply with the *Property and Stock Agents Act 2002*, Part 7, Division 5, which imposes disclosure obligations about trust accounts or transactions.

**Schedule 5[6] and [7]** make further provision about the appointment of accounts examiners.

**Schedule 5[8]** increases the maximum penalty for the offence of obstructing an authorised officer.

**Schedule 5[9]** inserts proposed section 210A about enforceable undertakings given by a holder of a licence or certificate of registration to the Secretary. **Schedule 5[2] and [3]** make consequential omissions.

## **Schedule 6      Amendment of Property and Stock Agents Regulation 2022**

**Schedule 6[1]** provides that a strata managing agency agreement with an owners corporation must not contain a provision that permits the strata management agent to require the person for whom the agent is acting, or another person, to pay a commission to the agent in relation to a prescribed purchase of insurance. A *prescribed purchase of insurance* is a purchase of an insurance policy where the person for whom the agent is acting obtained the quotation for the insurance policy and arranged the purchase of the insurance policy without the assistance of the agent. An agency agreement also must contain a provision that prohibits the agent requiring the person for whom the agent is acting, or another person, to pay a commission to the agent in relation to a prescribed purchase of insurance.

**Schedule 6[2] and [4]** increases the penalty notice offence amounts for several offences.

**Schedule 6[3]** introduces a new penalty notice offence.