

**STRATA TITLES (AUCTIONEERS AND AGENTS)
AMENDMENT BILL, 1980**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Auctioneers and Agents (Amendment) Bill, 1980.

The objects of this Bill are—

- (a) to amend the Strata Titles Act, 1973, consequentially upon amendments to be made by the proposed Auctioneers and Agents (Amendment) Act, 1980, requiring strata managing agents to be licensed under the Auctioneers and Agents Act, 1941, and requiring agency agreements to be in writing (Schedule 1 (1), (2), (4), (6), (7) and (8));
 - (b) to make provision with respect to the handing over of certain records by strata managing agents on demand or on termination of appointment (Schedule 1 (3)); and
 - (c) to require a strata managing agent to furnish, on demand, particulars of accounts or transactions to the body corporate for or on behalf of which he acts (Schedule 1 (5)—proposed section 79).
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STRATA TITLES (AUCTIONEERS AND AGENTS)
AMENDMENT BILL, 1980

EXPLANATORY NOTE

(The Explanatory Note relates to the Bill as introduced into Parliament.)

The Bill is cognate with the Auctioneers and Agents (Amendment) Bill, 1980.

The object of the Bill is—

- (a) to amend the Strata Titles Act 1975, consequentially upon amendments to be made to the proposed Auctioneers and Agents (Amendment) Act, 1980, regarding estate managing agents to be licensed under the Auctioneers and Agents Act 1961, and regarding agency arrangements to be in writing; (Schedules 1 (1), (2), (4), (6), (7) and (8));
- (b) to make provision with respect to the handing over of certain records by estate managing agents on demand or on termination of appointment; (Schedule 1 (3)(a) and (3)(b));
- (c) to require a estate managing agent to furnish, on demand, particulars of records or transactions to the body corporate for or on behalf of a flat; (Schedule 1 (5)—proposed section 79).

**STRATA TITLES (AUCTIONEERS AND AGENTS)
AMENDMENT BILL, 1980**

It is enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Strata Titles (Auctioneers and Agents) Amendment Act, 1980."

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 3 and Schedule 1 shall commence on the day appointed and notified under section 2 (4) of the Auctioneers and Agents (Amendment) Act, 1980, in respect of the provisions of that Act specified in section 2 (1) (b) of that Act.

No. , 1980.

A BILL FOR

An Act to amend the Strata Titles Act, 1973, in relation to managing agents.

[MR EINFELD—30 October, 1980.]

Strata Titles (Auctioneers and Agents) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Strata Titles (Auctioneers and Agents) Amendment Act, 1980". Short title.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act. Commencement.

(2) Section 3 and Schedule 1 shall commence on the day
10 appointed and notified under section 2 (4) of the Auctioneers and Agents (Amendment) Act, 1980, in respect of the provisions of that Act specified in section 2 (4) (d) of that Act.

3. The Strata Titles Act, 1973, is amended in the manner set forth in Schedule 1. Amendment of Act No. 68, 1973.

15 **4.** The Strata Titles Commissioner appointed under section 97 (a) of the Strata Titles Act, 1973, shall forthwith after the commencement of Schedule 1 cause to be removed from the record of approved insurers required to be maintained by him pursuant to section 156 (2) of that Act the particulars relating to any
20 person who was an approved insurer for the purposes of section 79 of that Act immediately before that commencement. Record of approved insurers.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE STRATA TITLES ACT, 1973.

- (1) Section 5 (1), definition of "approved insurer"—
Omit paragraph (a).
- 5 (2) Section 68 (1A)—
Omit "who is the holder of a real estate agent's licence issued pursuant to the Auctioneers and Agents Act, 1941, and".
- (3) (a) Section 73 (6)—
- 10 Omit "within seven days after service on him of notice of a resolution of the council requiring him to do so, deliver", insert instead :—
within 7 days after service of a notice of a resolution of the council—
- 15 (d) requiring him to do so; or
(e) where he is a managing agent, terminating his appointment as managing agent,
deliver
- (b) Section 73 (6)—
- 20 Omit "\$500", insert instead "\$2,000".
- (c) Section 73 (7), (8)—
Omit section 73 (7), insert instead :—
- 25 (7) Nothing in subsection (6) shall be construed to take away or affect any just claim or lien which any managing agent may have against or upon any records, accounts or property of a body corporate.
- 30 (8) Nothing in subsection (6) affects the operation of section 38 of the Auctioneers and Agents Act, 1941.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE STRATA TITLES ACT, 1973—*continued.*

(4) Section 78 (1AA)—

After section 78 (1), insert :—

5 (1AA) A body corporate shall not appoint a person as managing agent unless the person is the holder of a strata managing agent's licence issued pursuant to the Auctioneers and Agents Act, 1941.

(5) Section 79—

10 Omit the section, insert instead :—

79. (1) A body corporate may cause to be served on a managing agent appointed by it a notice of a resolution of the body corporate requiring the managing agent to deliver to a member of the council specified in the notice a statement in writing setting forth any one or more of the following :—

Furnishing of particulars of trust account or transactions to body corporate.

20 (a) the name of the trust account on which the managing agent operates in accordance with the provisions of section 36 of the Auctioneers and Agents Act, 1941, the name of the bank on which that account is current, the balance of the money standing to the credit of the body corporate in that account as at a date specified in the notice and particulars of all cheques drawn on that account for or on behalf of the body corporate as at that date and not presented and duly paid;

25 (b) the name of any other accounts on which the managing agent operates for or on behalf of the body corporate in accordance with section 68, the name of the bank on which those accounts are current, the balance of the money standing

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Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE STRATA TITLES ACT, 1973—*continued.*

5 to the credit of those accounts as at a date specified in the notice and particulars of all cheques drawn on those accounts as at that date and not presented and duly paid;

10 (c) full particulars as to any money paid by any person to the managing agent or received by him for or on behalf of the body corporate in connection with his acting as a strata managing agent and, if it is not still held by him, the manner and time of disbursement of that money;

15 (d) full particulars as to any specified transaction by or with the managing agent as managing agent acting for or on behalf of the body corporate.

(2) A managing agent shall not—

20 (a) fail, without reasonable excuse, proof whereof shall lie on him, to deliver a statement in writing in accordance with subsection (1) within 7 days after service on him of a notice requiring him to do so; or

(b) knowingly furnish false or misleading information in any such statement.

Penalty : \$2,000.

25 (3) A managing agent is not required to furnish to a body corporate any particulars with regard to any of the matters referred to in subsection (1) which relate to any transaction by or with him more than 3 years before the date of service of the notice.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE STRATA TITLES ACT, 1973—*continued.*

5 (4) Without affecting the application of the foregoing provisions of this section to managing agents, the provisions—

10 (a) of this section, other than subsection (1) (c) or (d), apply to any person who is required by section 36 (6) of the Auctioneers and Agents Act, 1941, to keep a trust account, and so apply while he is required to keep that account; and

15 (b) of this section, other than subsection (1) (a), apply to any person who is required by section 38 (2) of the Auctioneers and Agents Act, 1941, to preserve any written record referred to in that subsection, and so apply while he is required to preserve that written record.

20 (5) Subsections (3), (4), (5), (6) and (7) of section 38A of the Auctioneers and Agents Act, 1941, do not apply to or in respect of a person to or in respect of whom any of the provisions of this section apply.

(6) Section 127 (1)—

25 Omit “appoint a managing agent (being a person who has, in accordance with section 79, lodged with the Commissioner a bond and who has consented in writing to the appointment)”, insert instead “appoint a person, being a person who is the holder of a strata managing agent’s licence issued pursuant to the Auctioneers and Agents Act, 1941, and who has consented in writing to the appointment,
30 as a managing agent”.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE STRATA TITLES ACT, 1973—*continued.*

(7) Section 156 (1)—

Omit “section 79 or”.

5 (8) Schedule 4, clause 23—

Omit the clause.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980
(20c)

Strata Titles (Licencees and Agents) Amendment.

SCHEDULE 1—continued.

AMENDMENTS TO THE STRATA TITLES ACT, 1973—continued.

(7) Section 156 (1)—

Omit "section 79 or".

(8) Schedule 4 clause 23—

Omit the clause.

- (a) to include in the schedule of the body corporate for the year ending 31st December 1980 the amount of the liability incurred by the body corporate in the year ending 31st December 1980 in respect of the liability referred to in paragraph (a) of section 11(1) of the Act, in so far as that liability is not included in the schedule of the body corporate for the year ending 31st December 1980 in respect of the liability referred to in paragraph (a) of section 11(1) of the Act;
- (b) to include in the schedule of the body corporate for the year ending 31st December 1980 the amount of the liability incurred by the body corporate in the year ending 31st December 1980 in respect of the liability referred to in paragraph (a) of section 11(1) of the Act, in so far as that liability is not included in the schedule of the body corporate for the year ending 31st December 1980 in respect of the liability referred to in paragraph (a) of section 11(1) of the Act;

the effect of the Bill is—
 that the Bill is to be read as if it contained the following provisions (inserted in the Bill in the order in which they appear in this Bill):

EXPLANATORY NOTE

AMENDMENT BILL 1980
 PUBLIC FINANCE (AMENDMENTS) BILL 1980



**STRATA TITLES (AUCTIONEERS AND AGENTS)
AMENDMENT ACT, 1980, No. 190**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 190, 1980.

An Act to amend the Strata Titles Act, 1973, in relation to
managing agents. [Assented to, 19th December, 1980.]

Strata Titles (Auctioneers and Agents) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "Strata Titles (Auctioneers and Agents) Amendment Act, 1980".

Commence-
ment.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 3 and Schedule 1 shall commence on the day appointed and notified under section 2 (4) of the Auctioneers and Agents (Amendment) Act, 1980, in respect of the provisions of that Act specified in section 2 (4) (d) of that Act.

Amendment
of Act No.
68, 1973.

3. The Strata Titles Act, 1973, is amended in the manner set forth in Schedule 1.

Record of
approved
insurers.

4. The Strata Titles Commissioner appointed under section 97 (a) of the Strata Titles Act, 1973, shall forthwith after the commencement of Schedule 1 cause to be removed from the record of approved insurers required to be maintained by him pursuant to section 156 (2) of that Act the particulars relating to any person who was an approved insurer for the purposes of section 79 of that Act immediately before that commencement.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE STRATA TITLES ACT, 1973.

- (1) Section 5 (1), definition of "approved insurer"—

Omit paragraph (a).

- (2) Section 68 (1A)—

Omit "who is the holder of a real estate agent's licence issued pursuant to the Auctioneers and Agents Act, 1941, and".

- (3) (a) Section 73 (6)—

Omit "within seven days after service on him of notice of a resolution of the council requiring him to do so, deliver", insert instead :—

within 7 days after service of a notice of a resolution of the council—

(d) requiring him to do so; or

(e) where he is a managing agent, terminating his appointment as managing agent,

deliver

- (b) Section 73 (6)—

Omit "\$500", insert instead "\$2,000".

- (c) Section 73 (7), (8)—

Omit section 73 (7), insert instead :—

(7) Nothing in subsection (6) shall be construed to take away or affect any just claim or lien which any managing agent may have against or upon any records, accounts or property of a body corporate.

(8) Nothing in subsection (6) affects the operation of section 38 of the Auctioneers and Agents Act, 1941.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE STRATA TITLES ACT, 1973—*continued.*

(4) Section 78 (1AA)—

After section 78 (1), insert :—

(1AA) A body corporate shall not appoint a person as managing agent unless the person is the holder of a strata managing agent's licence issued pursuant to the Auctioneers and Agents Act, 1941.

(5) Section 79—

Omit the section, insert instead :—

79. (1) A body corporate may cause to be served on a managing agent appointed by it a notice of a resolution of the body corporate requiring the managing agent to deliver to a member of the council specified in the notice a statement in writing setting forth any one or more of the following :—

- (a) the name of the trust account on which the managing agent operates in accordance with the provisions of section 36 of the Auctioneers and Agents Act, 1941, the name of the bank on which that account is current, the balance of the money standing to the credit of the body corporate in that account as at a date specified in the notice and particulars of all cheques drawn on that account for or on behalf of the body corporate as at that date and not presented and duly paid;
- (b) the name of any other accounts on which the managing agent operates for or on behalf of the body corporate in accordance with section 68, the name of the bank on which those accounts are current, the balance of the money standing

Furnishing of particulars of trust account or transactions to body corporate.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE STRATA TITLES ACT, 1973—*continued.*

to the credit of those accounts as at a date specified in the notice and particulars of all cheques drawn on those accounts as at that date and not presented and duly paid;

- (c) full particulars as to any money paid by any person to the managing agent or received by him for or on behalf of the body corporate in connection with his acting as a strata managing agent and, if it is not still held by him, the manner and time of disbursement of that money;
- (d) full particulars as to any specified transaction by or with the managing agent as managing agent acting for or on behalf of the body corporate.

(2) A managing agent shall not—

- (a) fail, without reasonable excuse, proof whereof shall lie on him, to deliver a statement in writing in accordance with subsection (1) within 7 days after service on him of a notice requiring him to do so; or
- (b) knowingly furnish false or misleading information in any such statement.

Penalty : \$2,000.

(3) A managing agent is not required to furnish to a body corporate any particulars with regard to any of the matters referred to in subsection (1) which relate to any transaction by or with him more than 3 years before the date of service of the notice.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE STRATA TITLES ACT, 1973—*continued.*

(4) Without affecting the application of the foregoing provisions of this section to managing agents, the provisions—

- (a) of this section, other than subsection (1) (c) or (d), apply to any person who is required by section 36 (6) of the Auctioneers and Agents Act, 1941, to keep a trust account, and so apply while he is required to keep that account; and
- (b) of this section, other than subsection (1) (a), apply to any person who is required by section 38 (2) of the Auctioneers and Agents Act, 1941, to preserve any written record referred to in that subsection, and so apply while he is required to preserve that written record.

(5) Subsections (3), (4), (5), (6) and (7) of section 38A of the Auctioneers and Agents Act, 1941, do not apply to or in respect of a person to or in respect of whom any of the provisions of this section apply.

(6) Section 127 (1)—

Omit “appoint a managing agent (being a person who has, in accordance with section 79, lodged with the Commissioner a bond and who has consented in writing to the appointment)”, insert instead “appoint a person, being a person who is the holder of a strata managing agent’s licence issued pursuant to the Auctioneers and Agents Act, 1941, and who has consented in writing to the appointment, as a managing agent”.

Strata Titles (Auctioneers and Agents) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE STRATA TITLES ACT, 1973—*continued.*

(7) Section 156 (1)—

Omit “section 79 or”.

(8) Schedule 4, clause 23—

Omit the clause.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 19th December, 1980.*

