

CONCURRENCE COPY

STRATA TITLES (AMENDMENT) BILL, 1984

EXPLANATORY NOTE

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

The object of this Bill is to amend the Strata Titles Act, 1973 ("the Act")—

- (a) to require the original proprietor under a strata scheme to hold, as well as to convene, the initial meeting of the body corporate, to extend the time allowed for convening and holding the meeting and to provide for certain matters relating to the meeting (Schedule 1 (2));
- (b) to impose a joint and several liability, with a person who owes certain money in respect of a lot to the body corporate under a strata scheme, on a person who becomes proprietor of the lot while the money is owing (Schedule 1 (3));
- (c) to increase to 20 per cent after 3 months the present annual interest rate of 10 per cent payable in respect of unpaid contributions levied under a strata scheme (Schedule 1 (4));
- (d) to limit the debts that may be incurred by the body corporate under a strata scheme during the initial period of the strata scheme and to enable the body corporate to recover from the original proprietor as a debt the amount of any liability incurred by the original proprietor in excess of the limitation (Schedule 1 (5));
- (e) to make provision with respect to the accounting and other records to be kept, and the financial statements to be prepared, by the body corporate under a strata scheme and with respect to the recoupment of transfers between the funds maintained by such a body corporate (Schedule 1 (6));
- (f) to require insurance particulars to be entered in the strata roll kept by the body corporate under a strata scheme (Schedule 1 (7));
- (g) to make provision with respect to the records that, in certain circumstances, the body corporate under a strata scheme is required to make available for inspection and to limit the time within which such a body corporate is required to supply certain information (Schedule 1 (8));
- (h) to extend the range of persons to whom may be delegated certain functions of the body corporate, or the treasurer of the body corporate, under a strata scheme, being functions relating to financial matters (Schedule 1 (9));

- (i) to make further provision with respect to the functions of the body corporate under a strata scheme, and of the officers of such a body corporate, that may be delegated to a managing agent and with respect to certain functions that may not be so delegated (Schedule 1 (10));
- (j) to require notice of alienation of a lot in a strata scheme to be given to the body corporate by both the transferor and the transferee and to impose a penalty for failure to give the notice (Schedule 1 (11));
- (k) to clarify the items to be included in insurance cover for damage to a building the subject of a strata scheme and to require that insurance to be for a prescribed minimum, instead of a prescribed maximum, amount (Schedule 1 (12));
- (l) to make further provision with respect to insurance of the body corporate under a strata scheme against liability for damages, including a requirement to insure for a prescribed minimum amount instead of for a prescribed fixed amount (Schedule 1 (13));
- (m) to make further provision with respect to the giving of notice of a meeting of the council of the body corporate under a strata scheme (Schedule 2 (1), (2));
- (n) to make further provision with respect to the giving of notice of general meetings of the body corporate under a strata scheme (Schedule 2 (3) (a)–(c));
- (o) to abolish postal voting in relation to general meetings of the body corporate under a strata scheme and to require votes at such a meeting to be cast personally or by a duly appointed proxy (Schedule 2 (3) (d)–(g), (5), (7) (c), (8), (10), (12));
- (p) to require a person moving a motion or nominating a person for election at a general meeting of the body corporate under a strata scheme to be a person entitled to vote on the motion or at the election (Schedule 2 (4));
- (q) to enable the quorum at a general meeting of the body corporate under a strata scheme to be calculated either by reference to the number of persons present at the meeting or by reference to the unit entitlements of those persons (Schedule 2 (6) (b), (17) (b));
- (r) to enable the Strata Titles Commissioner (“the Commissioner”) to dismiss an application for an order under Part V of the Act on the ground that it is frivolous, vexatious, misconceived or lacking in substance and on certain other grounds (Schedule 3 (2));
- (s) to enable the Commissioner to clarify or correct an order or extend a time, and to place a 2 year limit on the operation of an order unless the order otherwise provides or is an order for the payment of damages (Schedule 3 (3));
- (t) to extend the range of matters in respect of which the Commissioner may make an interim order (Schedule 3 (4));

- (u) to prevent the body corporate under a strata scheme from requiring a proprietor to contribute towards the expenses of the body corporate in proceedings between the body corporate and the proprietor in which the proprietor is successful (Schedules 3 (6), (13), 4 (9));
- (v) to require an application for re-allocation of unit entitlements under a strata scheme to be accompanied by an appropriate certificate of valuation (Schedule 3 (7));
- (w) to confer on a Strata Titles Board ("a Board") power to invalidate, or to refuse to invalidate, proceedings at a meeting of the body corporate under a strata scheme where the provisions of the Act have not been complied with in relation to the meeting (Schedule 3 (8));
- (x) to make provision for the adjustment of underpaid or overpaid amounts where a Board varies the contributions required under a strata scheme (Schedule 3 (9));
- (y) to enable a Board to appoint a managing agent for a strata scheme where the Commissioner is satisfied that the management structure of the scheme has ceased to function or to function satisfactorily (Schedule 3 (10));
- (z) to provide for an appeal to a Board where the Commissioner dismisses an application as referred to in paragraph (r) above (Schedule 3 (11));
- (aa) to add to the methods by which service of a document may be effected on the proprietor of a lot in a strata scheme (Schedule 3 (16));
- (ab) to ensure the continuation of rights or privileges granted by by-laws made under a strata scheme before the commencement of the proposed Act (Schedule 3 (17));
- (ac) to make further provision with respect to the by-laws under a strata scheme (Schedule 4 (1));
- (ad) to restrict the right of co-proprietors to nominate each other for membership of the council of the body corporate under a strata scheme (Schedule 4 (2));
- (ae) to enable a proprietor to bring an action against the body corporate under a strata scheme of which he is a member and to restrict the right of subrogation of an insurer of such a body corporate (Schedule 4 (3));
- (af) to require a body corporate to display certain notices on the strata scheme notice board instead of merely within the building (Schedule 4 (4));
- (ag) to enable the Commissioner to settle a dispute, or rectify a complaint, by an award of damages and to deem the body corporate under a strata scheme to have refused to exercise a discretion if it fails to exercise the discretion within a period of 2 months of being asked to do so (Schedule 4 (5));
- (ah) to enable a managing agent under a strata scheme to apply to the Commissioner for certain orders (Schedule 4 (6));
- (ai) to enable the Commissioner, in certain circumstances, to make by-laws under a strata scheme (Schedule 4 (7));

- (aj) to require certain modifications that a proprietor is permitted to make to common property under a strata scheme to be made in a workmanlike manner and thereafter maintained in good repair (Schedule 4 (11));
 - (ak) to eliminate from the statutory by-laws for a strata scheme the obligation at present placed on a tenant of a lot to provide proper floor coverings, that obligation remaining to be discharged by the proprietor of the lot (Schedule 4 (12));
 - (al) to add to the statutory by-laws for a strata scheme requirements relating to proposed alterations to a lot and the maintenance of the appearance of a lot (Schedule 4 (14));
 - (am) to penalise the body corporate under a strata scheme for failure to keep accounting and other records (Schedule 5 (2));
 - (an) to penalise the body corporate under a strata scheme for failure to keep the strata roll (Schedule 5 (3));
 - (ao) to penalise a managing agent for failure to perform a function of the body corporate under a strata scheme the performance of which has been delegated to the agent, being a failure for which the body corporate could have been penalised if the performance of the function had not been delegated (Schedule 5 (5));
 - (ap) to penalise the body corporate under a strata scheme if it fails to perform certain duties imposed on it by the Act (Schedule 5 (4), (6), (7));
 - (aq) to make certain transitional arrangements (clause 6 and Schedule 6); and
 - (ar) to make other provisions of a minor, ancillary or consequential nature.
-

STRATA TITLES (AMENDMENT) BILL, 1984

No. , 1984.

A BILL FOR

An Act to amend the Strata Titles Act, 1973, with respect to the management of strata schemes, the rights and obligations of bodies corporate and proprietors and the functions of the Strata Titles Commissioner and Strata Titles Boards and in certain other respects.

[MR WHELAN—1 *March*, 1984.]

Strata Titles (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 Short title.

1. This Act may be cited as the "Strata Titles (Amendment) Act, 1984".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall commence on the date of assent to this Act.

10 (2) Section 5, in its application to a provision of Schedules 1–5, shall commence on the day on which the provision commences.

(3) The several provisions of Schedules 1–5 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 Principal Act.

3. The Strata Titles Act, 1973, is referred to in this Act as the Principal Act.

Arrangement.

4. This Act contains the following Schedules:—

20 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT OF STRATA SCHEMES.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MEETINGS AND ELECTIONS.

Strata Titles (Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES COMMISSIONER AND STRATA TITLES BOARDS.

SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

5 SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

SCHEDULE 6.—TRANSITIONAL PROVISIONS.

Amendment of Act No. 68, 1973.

5. The Principal Act, is amended in the manner set forth in Schedules 10 1–5.

Transitional provisions.

6. Schedule 6 has effect.

SCHEDULE 1.

(Sec. 5.)

15 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT OF STRATA SCHEMES.

(1) Section 5 (1), definition of “proprietor”—

(a) From paragraph (b), omit “disponee”, insert instead “transferee”.

20 (b) From paragraph (b), omit “or (2A)”.

(2) (a) Section 57 (1)—

Omit “one month after”, insert instead “the period of 2 months that next succeeds”.

Strata Titles (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

- (b) Section 57 (1)—
5 After “convene”, insert “and hold”.
- (c) Section 57 (1)—
Omit “that month”, insert instead “that period”.
- (d) Section 57 (2) (e)—
Omit “and”.
- 10 (e) Section 57 (2) (f)—
Omit “him.”, insert instead “the managing agent; and”.
- (f) Section 57 (2) (g)—
After section 57 (2) (f), insert:—
- 15 (g) to consider the accounting records kept pursuant to
section 68 (1) (g) and the last preceding financial
statements prepared in accordance with section 68 (1)
(h).
- (g) Section 57 (4) (a)—
Omit “and” where thirdly occurring.
- 20 (h) Section 57 (4) (b)—
Omit “, the books of account and any notices or other records
relating to the strata scheme.”, insert instead “and any notices
or other records relating to the strata scheme; and”.

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

(i) Section 57 (4) (c)—

5 After section 57 (4) (b), insert:—

(c) the accounting records kept pursuant to section 68 (1) (g) and the last preceding financial statements prepared in accordance with section 68 (1) (h),

(j) Section 57 (6)—

10 After “subsection (1)” where firstly occurring, insert “or, having been so convened, is not held”.

(k) Section 57 (7B)—

After section 57 (7A), insert:—

15 (7B) Where a meeting of the body corporate convened in accordance with this section is held after the time limited by or under this section for the holding of the meeting, it does not on that account fail to be the first annual general meeting of the body corporate.

(l) Section 57 (8)—

20 After “convene”, insert “and hold”.

(m) Section 57 (8)—

After “convened”, insert “and held”.

(3) (a) Section 58 (9A)—

After section 58 (9), insert:—

25 (9A) Where a person becomes proprietor of a lot at a time when, pursuant to subsection (9) (a) or this subsection, another person is liable to pay money to the body corporate, the person

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

- 5 who so becomes proprietor is, subject to section 70 (3), jointly and severally liable with the other person to pay the money to the body corporate.
- (b) Section 58 (10)—
After “(7)”, insert “or pursuant to subsection (9A)”.
- (4) (a) Section 59 (4)—
10 After “(1)”, insert “and any interest thereon”.
- (b) Section 59 (4)—
After “contribution” where secondly and thirdly occurring, insert “and any interest thereon”.
- (c) Section 59 (7) (b)—
15 Omit the paragraph, insert instead:—
- (b) if not paid when it becomes due and payable, bears until paid—
- 20 (i) simple interest at an annual rate of 10 per cent during the next succeeding period of 3 months unless the body corporate by special resolution determines (either generally or in a particular case) that it shall bear no interest or interest at a specified lower rate; and
- 25 (ii) thereafter simple interest at an annual rate of 20 per cent unless the Commissioner in a particular case determines that it shall bear no interest or interest at a specified lower rate; and
- (d) Section 59 (7) (c)—
Before “may”, insert “together with any such interest.”.

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

- (e) Section 59 (7)—
5 After “so paid”, insert “or recovered”.
- (5) (a) Section 66 (1) (b)—
 Omit “forming part of the building”.
- (b) Section 66 (1) (b1)—
 After section 66 (1) (b), insert:—
- 10 (b1) incur a debt for an amount that exceeds the amount then
 available for repayment of the debt from its adminis-
 trative fund or its sinking fund;
- (c) Section 66 (2) (a)–(b1)—
 Omit section 66 (2) (a) and (b), insert instead:—
- 15 (a) the original proprietor is liable for—
 (i) the amount unpaid in respect of any debt
 incurred in contravention of subsection (1)
 (b1); and
 (ii) any loss suffered by the body corporate or a
20 proprietor as a result of any other contravention
 of subsection (1);
- (b) the body corporate may recover from the original
proprietor—
- 25 (i) as a debt—any amount for which the original
 proprietor is liable under paragraph (a) (i)
 together with the expenses of the body corporate
 incurred in recovering that amount; and
 (ii) as damages for breach of statutory duty—any
30 loss referred to in paragraph (a) (ii) that has
 been suffered by the body corporate; and

Strata Titles (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

5 (b1) there may be recovered from the original proprietor by any other proprietor, as damages for breach of statutory duty, any loss referred to in paragraph (a) (ii) that has been suffered by that other proprietor,

(6) (a) Section 68 (1) (f)—

Omit the paragraph, insert instead:—

10 (f) cause to be recorded in a loose-leaf or bound book particulars of the purport of notices served on the body corporate under this or any other Act, orders under Part V served on the body corporate and orders made by a court and served on the body corporate and, in
15 relation to each such notice or order—

(i) the date on which it was served and the manner of service;

(ii) the part of the parcel to which it relates;

20 (iii) the date by which compliance therewith is required; and

(iv) the date on which it is complied with;

(b) Section 68 (1) (g)—

Omit the paragraph, insert instead:—

(g) cause to be kept—

25 (i) minutes of its meetings that include particulars of motions passed at those meetings; and

(ii) the prescribed accounting records;

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

(c) Section 68 (1) (h)—

5 Omit the paragraph, insert instead:—

(h) cause to be prepared the prescribed financial statements
in respect of—

- 10 (i) the period that commences on the date of registration of the strata plan and ends on a date that is not earlier than 2 months before the date of the first annual general meeting; and
- 15 (ii) each period that commences on the date up to which those statements were last prepared under this paragraph and ends on a date that is not earlier than 2 months before the next succeeding annual general meeting;

(d) Section 68 (1) (h1)—

After section 68 (1) (h), insert:—

(h1) cause to be retained for the prescribed period—

- 20 (i) the records kept under, and the notices and orders referred to in, paragraph (f);
- (ii) the minutes and accounting records referred to in paragraph (g);
- 25 (iii) the financial statements referred to in paragraph (h);
- (iv) copies of correspondence received and sent by the body corporate;
- (v) notices of meetings of the body corporate and its council;
- 30 (vi) proxies delivered to the body corporate;

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

- 5 (vii) voting papers relating to motions for resolutions
by the body corporate and to the election of
office holders and the council;
- (viii) records served on it under section 78 (9) (a) or
127 (3A);
- (ix) notices given under section 81; and
- 10 (x) such other documents as may be prescribed;
- (e) Section 68 (1) (j), (k)—
After “determine” wherever occurring, insert “subject to
subsection (3)”.
- (f) Section 68 (1) (j), (k)—
15 Omit “in its opinion” wherever occurring.
- (g) Section 68 (3)—
After section 68 (2), insert:—
(3) A body corporate shall not make a determination under
20 subsection (1) (j) or (k) unless, at the meeting of the body
corporate at which the determination is to be made, a statement
of the existing financial situation and of estimated receipts and
payments has first been presented in relation to the fund in
respect of which the contributions are to be determined.
- (h) Section 68 (4A)—
25 After section 68 (4), insert:—
(4A) A body corporate that disburses moneys—
(a) by transfer from its administrative fund to its sinking
fund or by meeting from its administrative fund
30 expenditure that should have been met from its sinking
fund; or

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

- 5 (b) by transfer from its sinking fund to its administrative fund or by meeting from its sinking fund expenditure that should have been met from its administrative fund, shall, not later than 3 months after the transfer—
- 10 (c) in the case of a transfer or expenditure referred to in paragraph (a)—make a determination under subsection (1) (j); or
- (d) in the case of a transfer or expenditure referred to in paragraph (b)—make a determination under subsection (1) (k),
- 15 of an amount sufficient to recoup the amount of the disbursement.
- (7) (a) Section 69 (2)—
After “lot”, insert “, and one or more pages in respect of the common property,”.
- (b) Section 69 (3A)—
20 After section 69 (3), insert:—
(3A) The body corporate shall record on a page of the roll relating to common property the following information relating to all insurance effected by the body corporate:—
- 25 (a) the name of the insurance company;
(b) the number of the insurance policy;
(c) the amount of the insurance;
(d) the due date for payment of the premium; and
(e) the date on which the premium was last paid.
- (8) (a) Section 70 (1) (b)—
30 After “agent” where firstly occurring, insert “and for the exercise of the rights conferred by subsection (2B)”.

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

(b) Section 70 (1) (b) (ii)—

5 After “in”, insert “, and the records kept under,”.

(c) Section 70 (1) (b) (vi), (vii)—

Omit the subparagraphs, insert instead:—

(vi) the accounting records kept under section 68 (1) (g)
(ii);

10 (vii) the financial statements last prepared under section 68
(1) (h);

(d) Section 70 (1) (b) (viii)—

Omit “and” where secondly occurring.

(e) Section 70 (1) (b) (ix)–(xvi)—

15 Omit section 70 (1) (b) (ix), insert instead:—

(ix) the copies of correspondence retained under section 68
(1) (h1) (iv);

(x) notices of meetings retained under section 68 (1) (h1)
(v);

20 (xi) proxies retained under section 68 (1) (h1) (vi);

(xii) voting papers retained under section 68 (1) (h1)
(vii);

(xiii) notices retained under section 68 (1) (h1) (viii);

(xiv) documents retained under section 68 (1) (h1) (ix);

25 (xv) any other record or document in the custody or under
the control of the body corporate; and

(xvi) where the duties of the body corporate under this
paragraph have been delegated to a managing agent—
such other records (including records of the managing
agent) relating to the strata scheme as may be
30 prescribed,

*Strata Titles (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

- (f) Section 70 (1) (c)—
5 Omit “certify, as as the date of the certificate,” insert instead
“give, in the prescribed form, a certificate that, as at the date of
the certificate, specifies”.
- (g) Section 70 (1) (c) (i)—
After “(j)”, insert “, (1) (k)”.
- 10 (h) Section 70 (1) (c) (ii)—
Omit “contribution determined under section 68 (1) (j) and
of any contribution determined by the body corporate under
section 68 (1) (k)”, insert instead “contributions determined
under section 68 (1) (j) and (k), including any periodic
15 contributions referred to in section 68 (4)”.
- (i) Section 70 (1) (c) (vi)—
Omit “and” where secondly occurring.
- (j) Section 70 (1) (c) (vii)—
Omit “paragraph.”, insert instead “paragraph; and”.
- 20 (k) Section 70 (1) (c) (viii)—
After section 70 (1) (c) (vii), insert:—
(viii) such other information as is required to complete the
certificate in the form prescribed.
- (l) Section 70 (2A), (2B)—
25 After section 70 (2), insert:—
(2A) Information referred to in subsection (1) (a), and a
certificate referred to in subsection (1) (c), shall be provided
by the body corporate not later than 14 days after receipt by
it of the application for the information.
- 30 Penalty: \$200.

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

5 (2B) A person entitled to inspect a document made available under subsection (1) (b) may take extracts from, or make a copy of, the document but may not, without the consent of the body corporate, remove the document from the custody of the body corporate for the purpose of inspecting the document, taking extracts therefrom or making a copy thereof.

10 (9) (a) Section 73 (5) (b)—

Omit “or” where secondly occurring.

(b) Section 73 (5) (c)—

Omit “order.”, insert instead “order;”.

(c) Section 73 (5) (d), (e)—

15 After section 73 (5) (c), insert:—

(d) a registered public accountant authorised by the body corporate to exercise or perform the power, authority, duty or function; or

20 (e) during the initial period only—a person authorised by the original proprietor to exercise or perform the power, authority, duty or function.

(10) (a) Section 78 (1)—

Omit “wholly or”, insert instead “the appointment and delegation or revoke”.

25 (b) Section 78 (1A) (a)—

Omit “or”.

(c) Section 78 (1A) (b)—

Omit “75.”, insert instead “75; or”.

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

(d) Section 78 (1A) (c)—

5 After section 78 (1A) (b), insert:—

- (c) make a determination under section 68 (1) (j) or (k)
(including such a determination made under section 68
(4A)) or levy contributions under section 68 (1) (p).

(e) Section 78 (7), (8), (9)—

10 After section 78 (6), insert:—

(7) Notwithstanding any provision referred to in subsection
(6) made by the instrument of appointment of a managing
agent, the chairman, secretary and treasurer of the body cor-
porate, and the council, may continue to exercise and perform
15 all or any of the powers, authorities, duties and functions that
the managing agent is by that subsection authorised to exercise
and perform.

(8) Any act or thing done or suffered by a managing agent
in the exercise or performance of any power, authority, duty or
function of a chairman, secretary, treasurer or council conferred
or imposed on the managing agent pursuant to subsection (6)
20 has the same force and effect as it would have had if it had been
done or suffered, and shall be deemed to have been done or
suffered, by the chairman, secretary, treasurer or council, as the
case may be.

(9) A managing agent who exercises or performs a power,
authority, duty or function pursuant to a delegation by a body
corporate under subsection (1) shall, forthwith after its exercise
or performance—

30 (a) make a written record specifying the power, authority,
duty or function and the manner of its exercise or
performance; and

(b) serve the record on the body corporate.

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

(11) (a) Section 81 (2)—

5 Omit the subsection, insert instead:—

(2) Not later than 14 days after the delivery to a transferee of an executed transfer of a lot, the transferor and the transferee shall each give to the body corporate written notice of the transfer, specifying in the notice the full names of the transferor and the transferee, the date of delivery of the transfer to the transferee and, in the case of the notice given by the transferee, the address for the service of notices on the transferee.

10

Penalty: \$100.

(b) Section 81 (2A)—

15 Omit the subsection.

(c) Section 81 (10) (a)—

After “may”, insert “or must”.

(d) Section 81 (10)—

After “entitled” wherever occurring, insert “or required”.

(e) Section 81 (11)—

20 After “entitled” where firstly occurring, insert “or required”.

(12) (a) Section 82 (1), definition of “building”—

Omit the definition, insert instead:—

“building” includes—

- 25 (a) proprietors’ improvements and proprietors’ fixtures forming part of the building other than paint, wallpaper and temporary wall, floor and ceiling coverings;
- 30 (b) a building consisting entirely of common property; and

Strata Titles (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT OF STRATA SCHEMES—*continued.*

- 5 (c) anything prescribed as forming part of a building for the purposes of this definition,
but does not include—
- (d) fixtures removable by a lessee at the expiration of a tenancy; or
- 10 (e) anything prescribed as not forming part of a building for the purposes of this definition;
- (b) Section 82 (1), definition of “proprietor’s fixture”—
Omit the definition.
- (c) Section 82 (2)—
Omit “and not exceeding”, insert instead “that is not less than”.
- 15 (13) (a) Section 84 (1) (b)—
Omit “occurring upon the common property; and”, insert instead “for which the body corporate could become liable in damages;”.
- (b) Section 84 (1) (c)—
20 Omit “insure.”, insert instead “insure; and”.
- (c) Section 84 (1) (d)—
After section 84 (1) (c), insert:—
- (d) of any other class prescribed for the purposes of this subsection.
- 25 (d) Section 84 (2)—
Omit the subsection, insert instead:—
- (2) Insurance effected pursuant to subsection (1) shall be so effected with an approved insurer and shall be for a cover of not less than the prescribed amount or an amount calculated
- 30 or determined in the prescribed manner.

Strata Titles (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MANAGEMENT
OF STRATA SCHEMES—*continued.*

(14) (a) Schedule 1, clause 11 (d)—

5 Omit “books of account”, insert instead “accounting records”.

(b) Schedule 1, clause 11 (d)—

Omit “statement of accounts”, insert instead “financial statements”.

(15) (a) Schedule 2, Part 1, clause 1 (5) (a)—

10 Omit “statement of accounts”, insert instead “financial statements”.

(b) Schedule 2, Part 1, clause 1 (5) (b)—

Omit “those accounts”, insert instead “those financial statements”.

15

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MEETINGS
AND ELECTIONS.

(1) (a) Schedule 1, clause 4—

20 Omit “twenty-four”, insert instead “72”.

(b) Schedule 1, clause 4—

Omit “the agenda”, insert instead “a detailed agenda”.

(c) Schedule 1, clause 4—

25 Omit “and including a form of motion for each proposed resolution to be considered at the meeting”.

Strata Titles (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MEETINGS
AND ELECTIONS—*continued.*

- (2) Schedule 1, clause 8—
- 5 Omit “A council”, insert instead “Unless each proprietor under the strata scheme has previously been provided with copies of the minutes referred to in paragraphs (a) and (b), a council”.
- (3) (a) Schedule 2, Part 1, clause 1 (5) (c)—
- Omit the paragraph, insert instead:—
- 10 (c) include the information referred to in section 69 (3A) in relation to each current insurance policy held by the body corporate.
- (b) Schedule 2, Part 1, clause 1 (6) (a1)—
- After clause 1 (6) (a), insert:—
- 15 (a1) clearly indicate which, if any, of the motions referred to in paragraph (a) requires for its passing a special resolution and which, if any, of them requires for its passing a unanimous resolution;
- (c) Schedule 2, Part 1, clause 1 (6) (b)—
- 20 Omit the paragraph, insert instead:—
- (b) be accompanied by a copy of the minutes of the latest general meeting if the notice is to—
- (i) a proprietor who has not previously been given a copy of those minutes; or
- 25 (ii) a proprietor who, before the notice is given, makes a request for a copy of those minutes that has not been complied with; and
- (d) Schedule 2, Part 1, clause 1 (6) (c)—
- 30 Omit “and, where the notice is for an annual general meeting, each person to whom a ballot-paper is given in accordance with subclause (5) (c),”.

Strata Titles (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MEETINGS
AND ELECTIONS—*continued.*

(e) Schedule 2, Part 1, clause 1 (6) (c) (iii)—

5 Omit the subparagraph, insert instead:—

(iii) either in person at the meeting or by duly appointed proxy whose instrument of appointment is given to the secretary of the body corporate at or before the meeting.

10 (f) Schedule 2, Part 1, clause 1 (7)—

After “clause”, insert “or the motion is a motion to amend a motion of which notice has so been given”.

(g) Schedule 2, Part 1, clause 1 (8)—

Omit the subclause.

15 (4) Schedule 2, Part 1, clause 1A—

After clause 1, insert:—

Restriction on moving motion or nominating candidate.

20 1A. A person is not entitled to move a motion at a meeting or to nominate a person for election as a member of the council unless the person is entitled to vote on the motion or at the election.

(5) Schedule 2, Part 1, clause 2 (3)—

25 Omit “or by furnishing to the secretary of the body corporate a voting-paper referred to in clause 1 (6) (b) indicating their joint vote on that motion or, where relevant, a ballot-paper, duly completed, referred to in clause 1 (5) (c)”.

Strata Titles (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MEETINGS
AND ELECTIONS—*continued.*

- (6) (a) Schedule 2, Part 1, clause 3 (1)—
5 Before “proxy”, insert “duly appointed”.
- (b) Schedule 2, Part 1, clause 3 (2)—
 Omit the subclause, insert instead:—
- (2) Except as provided by subclause (3), the quorum for
considering a motion or holding an election is constituted by—
- 10 (a) one-half of the number of persons entitled to vote on the
 motion or at the election; or
- (b) proprietors whose unit entitlements total not less than
 one-half of the aggregate unit entitlement.
- (c) Schedule 2, Part 1, clause 3 (3)—
15 Before “proxy”, insert “duly appointed”.
- (7) (a) Schedule 2, Part 1, clause 4 (a)—
 After “unenforceable;”, insert “or”.
- (b) Schedule 2, Part 1, clause 4 (b)—
 Omit “motion; or”, insert instead “motion.”.
- 20 (c) Schedule 2, Part 1, clause 4 (c)—
 Omit the paragraph.

Strata Titles (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MEETINGS
AND ELECTIONS—*continued.*

(8) Schedule 2, Part 1, clause 5—

5 Omit the clause, insert instead:—

Method of casting votes.

10 5. Except as provided by clause 2 (3), a vote on a motion submitted at a general meeting of a body corporate or on any election of members of the council may be cast personally or by duly appointed proxy.

(9) Schedule 2, Part 1, clause 6—

Omit the clause.

(10) Schedule 2, Part 1, clause 8—

Omit the clause.

15 (11) Schedule 2, Part 1, clause 9—

Omit “The chairman at any general meeting of the body corporate”, insert instead “If requested so to do by a person present and entitled to vote at a general meeting of the body corporate, the chairman”.

(12) (a) Schedule 2, Part 1, clause 11 (1)—

20 Omit “personally, by proxy or in writing”, insert instead “personally or by duly appointed proxy”.

(b) Schedule 2, Part 1, clause 11 (2) (a)—

Omit “or on the voting-paper on which he votes in respect of that motion”.

Strata Titles (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MEETINGS
AND ELECTIONS—*continued.*

(c) Schedule 2, Part 1, clause 11 (2)—

- 5 Omit “personally, by proxy or in writing”, insert instead
“personally or by duly appointed proxy”.

(13) Schedule 2, Part 1, clause 18—

After clause 17, insert:—

Interpretation.

- 10 18. In this Part, a reference to a duly appointed proxy is a
reference to a person appointed as a proxy by an instrument in the
prescribed form.

(14) Schedule 2, Part 2, clause 1 (2)—

At the end of clause 1, insert:—

- 15 (2) In this Part, a reference to a duly appointed proxy is a
reference to a person appointed as a proxy by an instrument in the
form prescribed for the purposes of clause 18 of Part 1.

(15) Schedule 2, Part 2, clause 3 (1) (b) (iii)—

- 20 Omit “proxy”, insert instead “duly appointed proxy whose instrument
of appointment is”.

(16) Schedule 2, Part 2, clause 5 (3)—

Omit “and if notice of his appointment”, insert instead “if the
instrument of appointment of the proxy”.

Strata Titles (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MEETINGS
AND ELECTIONS—*continued.*

(17) (a) Schedule 2, Part 2, clause 6 (1)—

5 Before “proxy” insert “duly appointed”.

(b) Schedule 2, Part 2, clause 6 (2)—

Omit the subclause, insert instead:—

(2) Except as provided by subclause (3), the quorum for
considering a matter at a meeting is constituted by—

10 (a) one-half of the number of persons entitled to vote on the
 matter; or

(b) proprietors whose unit entitlements total not less than
 one-half of the aggregate unit entitlement.

(c) Schedule 2, Part 2, clause 6 (3)—

15 Before “proxy”, insert “duly appointed”.

(18) Schedule 2, Part 2, clause 10—

Omit “The chairman at a meeting”, insert instead “If requested so
to do by a person present and entitled to vote at a meeting, the
chairman”.

20 (19) Schedule 2, Part 2, clause 12—

Before “proxy” wherever occurring, insert “duly appointed”.

Strata Titles (Amendment).

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS.

5 (1) Section 4—

From the matter relating to Division 5 of Part V, omit “131”, insert instead “131A”.

(2) (a) Section 101 (1)—

Omit “After”, insert instead “Subject to subsection (3), after”.

10 (b) Section 101 (1) (e)—

Omit the paragraph.

(c) Section 101 (2)—

After “(1)”, insert “(f) or”.

(d) Section 101 (3)—

15 After section 101 (2), insert:—

(3) The Commissioner may, without being obliged to comply with subsection (1) (c) or (d) and notwithstanding that a time specified under subsection (1) (d) may not have expired, by order dismiss an application for an order under this
20 Part if—

(a) the application is frivolous, vexatious, misconceived or lacking in substance;

(b) a decision in favour of the applicant is not within the jurisdiction of the Commissioner; or

25 (c) the applicant has unreasonably delayed complying with a requirement under subsection (1) (a).

Strata Titles (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS—*continued.*

(3) (a) Section 104 (6)—

5 After “subject to”, insert “subsection (7) and”.

(b) Section 104 (7), (8), (9)—

 After section 104 (6), insert:—

10 (7) Subsection (6) does not operate to prevent the Commissioner from varying an order for the purpose of correcting or clarifying it or extending a time and the order as so varied shall be deemed to be the order instead of the original order.

15 (8) Except to the extent that the order otherwise provides, an order under this Division (not being an order for payment of damages referred to in section 105 (1A)) ceases to have any force or effect upon the expiration of the period of 2 years that next succeeds the making of the order.

20 (9) Notwithstanding section 59, where an order against a body corporate is made under this Division on the application of the proprietor of a lot, the body corporate may not levy in respect of that lot a contribution towards the expenses of the body corporate in relation to the application.

(4) (a) Section 104A—

 Omit “section 105 (1)” wherever occurring, insert instead “this Division”.

25 (b) Section 104A (2) (b), (5)—

 Omit “subsection (6)” wherever occurring, insert instead “section 115”.

(c) Section 104A (6)—

 Omit the subsection.

Strata Titles (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS—*continued.*

(5) (a) Section 115 (d)—

5 After “person”, insert “against whom the order was sought and any other person”.

(b) Section 115 (2)—

At the end of section 115, insert:—

10 (2) In subsection (1), “order” includes a variation of an order, an interim order and a renewal or revocation of an interim order.

(6) Section 116 (2)—

At the end of section 116, insert:—

15 (2) Notwithstanding section 59, where an order against a body corporate is made under this Division on the application of the proprietor of a lot, the body corporate may not levy in respect of that lot a contribution towards the expenses of the body corporate in relation to the application.

(7) Section 119 (2)—

20 At the end of section 119, insert:—

25 (2) An application under subsection (1) shall be accompanied by a certificate specifying the valuation at the time of registration of the strata plan or, as the case may be, the strata plan of subdivision, of each of the lots to which the application relates, being a certificate given by the holder of a current certificate of registration under the Valuers Registration Act, 1975, as a practising real estate valuer.

Strata Titles (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS—*continued.*

(8) Section 122A—

5 After section 122, insert:—

Power of Board to invalidate proceedings.

10 122A. (1) Where, pursuant to an application by a proprietor or first mortgagee of a lot for an order under this section, a Board considers that the provisions of this Act have not been complied with in relation to a meeting of the body corporate, the Board may, by order—

- (a) invalidate any resolution of, or election held by, the persons present at the meeting; or
- (b) refuse to invalidate any such resolution or election.

15 (2) A Board shall not make an order under subsection (1) refusing to invalidate a resolution or election unless it considers—

- (a) that the failure to comply with the provisions of this Act did not prejudicially affect any person; and
- 20 (b) that compliance with the provisions of this Act would not have resulted in a failure to pass the resolution, or have affected the result of the election, as the case may be.

(9) (a) Section 123—

After “amount” where firstly occurring, insert “levied or”.

Strata Titles (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS—*continued.*

(b) Section 123 (2)—

5 At the end of section 123, insert:—

(2) Where an order of a Board under subsection (1) takes effect in relation to a contribution levied by a body corporate that has been wholly or partly paid in respect of a lot, the body corporate shall—

10 (a) where the contribution required to be paid in respect of the lot pursuant to the order of the Board is greater than the amount already paid in respect of the lot—be deemed to have determined to make a levy under section 59 of an amount equal to the difference between the amount already paid in respect of the lot and the amount of the contribution required to be paid in respect of the lot pursuant to the order of the Board; or

15 (b) where the contribution required to be paid in respect of the lot pursuant to the order of the Board is less than the amount already paid in respect of the lot—refund to the proprietor by whom, or on whose behalf, the payment had already been made an amount equal to the difference between the amount already paid in respect of the lot and the amount of the contribution required to be paid in respect of the lot pursuant to the order of the Board.

20

25

(10) (a) Section 127 (1A)—

After section 127 (1), insert:—

(1A) Where—

30 (a) in the course of investigations made under section 101 (1) (f) in relation to an application that the Commissioner proposes to refer to a Board; or

Strata Titles (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS—*continued.*

5 (b) pursuant to an application by a body corporate, a proprietor, a person having an estate or interest in a lot or an occupier of a lot made to the Commissioner under this subsection for referral to a Board,

10 the Commissioner is satisfied that the management structure of the strata scheme to which the application relates is not functioning, or is not functioning satisfactorily, the Board to which the Commissioner refers the application may, by order, appoint a managing agent (being a person eligible for appointment under subsection (1) who is selected by the Board from a panel of nominees of prescribed persons or bodies) to exercise and perform the powers, authorities, duties and functions conferred and imposed on the managing agent by an order under
15 subsection (2).

(b) Section 127 (2)—

After “(1)”, insert “or (1A)”.

20 (c) Section 127 (2A)—

After section 127 (2), insert:—

25 (2A) An order made under subsection (1A) may be revoked or varied by a Board on the application of a person entitled to make an application under subsection (1A) (b) and, if not sooner revoked, ceases to have effect at the expiration of such period (not exceeding 12 months) that next succeeds the making of the order as is specified by the Board in the order.

Strata Titles (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS—*continued.*

(d) Section 127 (3), (3A)—

5 Omit section 127 (3), insert instead:—

(3) Where a Board makes an order under subsection (1) or (1A)—

10 (a) no person other than the managing agent appointed by the order may, while that managing agent holds office as such, exercise or perform any power, authority, duty or function which the managing agent is authorised to perform by that order or an order under subsection (2); and

15 (b) any act or thing done or suffered by that managing agent in the exercise or performance of such a power, authority, duty or function has the same effect as it would have had if the order had not been made and it had been done or suffered by the person or body who, but for the order, would have been entitled or required to exercise or perform the power, authority, duty or function.

20 (3A) A managing agent appointed under subsection (1) or (1A) who exercises or performs a power, authority, duty or function pursuant to an order under subsection (1) or (2) shall, forthwith after its exercise or performance—

25 (a) make a written record specifying the power, authority, duty or function and the manner of its exercise or performance; and

30 (b) serve the record on the body corporate for the strata scheme to which the order relates.

(11) (a) Section 128 (1B)—

After section 128 (1A), insert:—

35 (1B) Where the Commissioner makes an order under section 101 (3) dismissing an application, a person aggrieved by the order may appeal to a Board against the order by lodging a

Strata Titles (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS—*continued.*

5 written notice of appeal with the Commissioner, accompanied
by the prescribed fee, not later than 21 days after the order
takes effect.

(b) Section 128 (5) (a) (i)—

After “appellant”, insert “, the person against whom the order
was sought”.

10 (c) Section 128 (7)—

After “stay”, insert “, until the appeal is determined,”.

(12) Section 130 (1)—

After “Division 4”, insert “or on an application referred to it under
section 100 (2)”.

15 (13) Section 131A—

After section 131, insert:—

Expenses of body corporate on appeal to Board.

20 131A. Notwithstanding section 59, where the body corporate is the
respondent to a successful appeal to a Board under this Division by
the proprietor of a lot, the body corporate may not levy in respect of
that lot a contribution towards the expenses of the body corporate in
relation to the appeal.

(14) Section 134 (2) (a)—

25 Omit “and in the submission that person has stated that he wishes
to appear before a Board in the event of the application being so
referred”.

Strata Titles (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STRATA TITLES
COMMISSIONER AND STRATA TITLES BOARDS—*continued.*

(15) Section 153 (3) (c)—

5 Omit the paragraph, insert instead:—

(c) in the case of a proprietor—

- (i) personally;
- (ii) by post to the address of the proprietor's lot;
- 10 (iii) by leaving it on the lot (otherwise than on a part of the lot provided for the accommodation of a vehicle or as a storeroom);
- (iv) by leaving it in any place provided on the parcel for the receipt of articles posted to the address of the lot; or
- 15 (v) in any manner authorised by the by-laws for the service of notice on proprietors.

(16) Schedule 4, clause 15 (5)—

After "applicant" where firstly occurring, insert "or a predecessor in title to the lot of which the applicant is proprietor".

20

SCHEDULE 4.

(Sec. 5.)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 58 (3)—

25 After "corporate", insert "not later than 2 years after the passing of the resolution for the amendment, addition or repeal".

(b) Section 58 (6)—

After "by-law", insert "and no by-law made after the date of assent to the Strata Titles (Amendment) Act, 1984,".

Strata Titles (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 58 (7)—

5 After “subsection”, insert “if the proprietor of the lot at the time the by-law is made to effect the amendment, addition or repeal has given written consent to its being made”.

(d) Section 58 (7A)—

After section 58 (7), insert:—

10 (7A) After the expiration of the period of 2 years that next succeeds the making, or purported making, of a by-law referred to in subsection (7), (including a by-law so referred to that amends, adds to or repeals another by-law) it shall be conclusively presumed that all conditions and preliminary steps precedent to the making of the by-law have been complied with
15 and performed.

(e) Section 58 (8)—

After “made”, insert “and the proprietor and occupier thereof for the time being”.

(f) Section 58 (12)—

20 After section 58 (11), insert:—

(12) To the extent to which a by-law purports to prohibit or restrict—

25 (a) the keeping on a lot of a dog used as a guide by a completely or partially blind proprietor or occupier of a lot;
or

(b) the use of a dog as a guide on a lot or common property by a completely or partially blind person,

the by-law has no force or effect.

Strata Titles (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Section 71 (5A)—

After section 71 (5), insert:—

5 (5A) A person who is co-proprietor of a lot may not be a candidate for election as a member of the council unless the person is nominated for office—

(a) by a proprietor who is not a co-proprietor of the lot; or

10 (b) by a co-proprietor of the lot who is not a candidate for election as such a member,

but a proprietor of a lot who is not a co-proprietor of the lot may nominate himself or herself for election as such a member.

(3) Section 84 (4), (5)—

After section 84 (3), insert:—

15 (4) A proprietor may bring against the body corporate of which the proprietor is a member any action that the proprietor might have brought against the body corporate if the proprietor had not been a member of the body corporate.

20 (5) Where an insurer of a body corporate admits a claim by the body corporate based on an act or omission by a proprietor who is a member of the body corporate, the insurer has no right of subrogation in relation to the proprietor based on that act or omission unless it is proved that the act or omission was wilful.

(4) Section 103 (a)—

25 Omit “within the building”, insert instead “on the notice board maintained under the by-laws”.

(5) (a) Section 105 (1A), (1B)—

After section 105 (1), insert:—

30 (1A) An order made by the Commissioner under subsection (1) may be an order for, or an order that includes provision for, the payment by a person to another person of damages not exceeding \$500.

Strata Titles (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (1B) Where, pursuant to subsection (1A), damages are ordered to be paid, the order operates, and may be entered up, as a judgment for the amount of the damages under the Courts of Petty Sessions (Civil Claims) Act, 1970, against the person ordered to pay the damages and in favour of the person to whom the damages are ordered to be paid.

(b) Section 105 (2A)—

10 After section 105 (2), insert:—

(2A) For the purposes of subsection (2), where—

(a) application is made to a body corporate to exercise a discretion referred to in that subsection; and

15 (b) the body corporate does not, before the expiration of the period of 2 months that next succeeds the making of the application—

(i) exercise or perform a power, authority, duty or function in accordance with the application; or

20 (ii) inform the applicant that it has decided not to exercise or perform the power, authority, duty or function in accordance with the application,

the body corporate shall be deemed to have decided not to exercise or perform the power, authority, duty or function.

(6) Sections 112, 113—

25 After “corporate,” wherever occurring, insert “managing agent.”

Strata Titles (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Section 113A—

After section 113, insert:—

5 **Commissioner may make certain by-laws.**

113A. (1) Where, pursuant to an application made by a proprietor under this section, the Commissioner considers that the body corporate has unreasonably refused to make a by-law under section 58 (7) with respect to any fixture or fitting to be attached to the common property, the Commissioner may—

- 10 (a) by order, exercise the powers conferred on the body corporate under section 58 (7) with respect to the making of a by-law in relation to the fixture or fitting; and
- 15 (b) include among the terms and conditions specified in the by-law terms and conditions relating to insurance of the fixture or fitting.

(2) In making a by-law under subsection (1), the Commissioner shall specify in the order whether or not section 58 (8) is to apply to the by-law and section 58 (8) shall, or shall not, apply accordingly.

20

(8) Section 141 (1) (a)—

After “section” where firstly occurring, insert “113A,”.

(9) Section 150 (1)—

After “corporate” where firstly occurring, insert “, or by the body corporate against one or more proprietors (including one or more proprietors joined in third party proceedings)”.

25

(10) Schedule 1, clause 13—

Before “approval”, insert “written”.

Strata Titles (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(11) (a) Schedule 1, clause 16 (b)—

Omit “lot.”, insert instead:—

5

lot,

subject to the locking or safety device or the screen or other device, as the case may be, being installed in a workmanlike manner and subject to its appearance, after it has been installed, being in keeping with the appearance of the rest of the building.

10

(b) Schedule 1, clause 16 (2)—

At the end of clause 16, insert:—

(2) Notwithstanding section 68 (1) (b), the proprietor of a lot shall maintain and keep in a state of good and serviceable repair any installation referred to in subclause (1) that services the lot.

15

(12) Schedule 1, clause 25—

Omit “or occupier” where firstly occurring.

(13) Schedule 1, clause 27—

Omit “A proprietor”, insert instead “Subject to section 58 (12), a proprietor”.

20

(14) Schedule 1, clauses 28, 29—

After clause 27, insert:—

Notice of alteration to lot.

25

28. The proprietor of a lot shall not alter the structure of the lot without giving to the body corporate, not later than 14 days before commencement of the alteration, a written notice describing the proposed alteration.

Strata Titles (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.***Appearance of lot.**

- 5 29. The proprietor or occupier of a lot shall not, without the written consent of the body corporate, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

SCHEDULE 5.

(Sec. 5.)

10 **AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.**

(1) Section 4—

From the matter relating to Division 3 of Part IV, omit “78, 79”, insert instead “78–79A”.

(2) Section 68 (6)—

15 After section 68 (5), insert:—

(6) A body corporate that contravenes subsection (1) (f) or (g) is guilty of an offence against this Act and liable on conviction—

- (a) in the case of a contravention of subsection (1) (f)—to a penalty not exceeding \$200; or
- 20 (b) in the case of a contravention of subsection (1) (g)—to a penalty not exceeding \$500.

(3) Section 69 (1)—

At the end of the subsection, insert “Penalty: \$500.”.

Strata Titles (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

(4) Section 70 (1)—

5 At the end of the subsection, insert “Penalty: \$200.”.

(5) Section 79A—

After section 79, insert:—

Delegated duty—liability of managing agent.

79A. Where—

10 (a) a contravention by a body corporate of a provision of this Act that imposes a duty on the body corporate is an offence against this Act; and

(b) the performance of the duty has been delegated to a managing agent,

15 the provision shall, while the delegation remains in force, be construed as if a reference therein to the body corporate were a reference to the managing agent.

(6) Section 83 (1)—

At the end of the subsection, insert “Penalty: \$500.”.

20 (7) Section 84 (1)—

At the end of the subsection, insert “Penalty: \$500.”.

Strata Titles (Amendment).

SCHEDULE 6.

(Sec. 6.)

TRANSITIONAL PROVISIONS.

Interest on overdue contributions.

- 5 1. Section 59 (4) of the Principal Act, as amended by this Act, applies to and in respect of a contribution levied before the commencement of Schedule 1 (4) that becomes due and payable after that commencement and so applies in the same way as it applies to and in respect of a contribution levied after that commencement.

Record of notices and orders.

- 10 2. Section 68 (1) (f) of the Principal Act, as amended by this Act, applies to and in respect of notices and orders served on a body corporate before the commencement of Schedule 1 (6) (a) and in its custody or under its control immediately before that commencement and so applies in the same way as it applies to and in respect of notices and orders served on the body corporate after that commencement.

15 Financial statements.

3. Notwithstanding the provisions of section 68 (1) (h) of the Principal Act, as amended by this Act—

- 20 (a) in relation to the first annual general meeting of a body corporate held after the commencement of Schedule 1 (6) (c)—those provisions may be construed as if section 68 (1) (g) and (h) of the Principal Act, as in force immediately before that commencement, had continued in force until the annual general meeting; and
- 25 (b) in relation to the next succeeding annual general meeting—those provisions may be construed as if the commencement of the period referred to therein were as specified in section 68 (1) (h) of the Principal Act as in force immediately before the commencement of Schedule 1 (6) (c).

Retention of records, etc.

- 30 4. Section 68 (1) (h1) of the Principal Act, as amended by this Act, applies to and in respect of documents referred to in that paragraph that, immediately before the commencement of Schedule 1 (6) (d), were in the custody or under the control of a body corporate, and so applies in the same way as it applies to and in respect of documents so referred to that are brought into existence after that commencement.

Inspection of records of body corporate.

- 35 5. Until a body corporate is, pursuant to section 68 (1) (h) of the Principal Act, as amended by this Act, required to prepare the prescribed financial statements, compliance with section 70 (1) (b) (vi) and (vii) of the Principal Act, as in force immediately before the commencement of Schedule 1 (8), shall be deemed to be compliance with section 70 (1) (b) (vi) and (vii) of the Principal Act, as amended by this Act.

Strata Titles (Amendment).

SCHEDULE 6—*continued.*

TRANSITIONAL PROVISIONS—*continued.*

Notice and conduct of meeting of council or body corporate.

6. An amendment of a provision of the Principal Act by a provision of Schedule 2 does not have effect in relation to—

- (a) a notice of a meeting of a council or body corporate given before the commencement of the amendment; or
- (b) a meeting of a council or a body corporate of which due notice was given before the commencement of the amendment.

10 Dismissal of application to Commissioner.

7. Section 101 (3) of the Principal Act, as amended by this Act, applies to and in respect of an application to the Commissioner made before the commencement of Schedule 3 (2) (d) in the same way as it applies to such an application made after that commencement.

15 Application for exercise of discretion by body corporate.

8. Section 105 (2A) (b) of the Principal Act, as amended by this Act, applies to and in respect of an application to a body corporate made before the commencement of Schedule 4 (5) (b) in respect of which the body corporate has not informed the applicant as provided by section 105 (2A) (b) (ii) of the Principal Act, as so amended, and so applies as if the application had been made immediately after that commencement.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

(\$2.50)

