

FIRST PRINT

STRATA TITLES (LEASEHOLD) AMENDMENT BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Strata Titles (Amendment) Bill 1987.

The object of this Bill is to effect miscellaneous amendments to the Strata Titles (Leasehold) Act 1986, particularly in relation to the terms and conditions on which individuals are given exclusive rights or privileges with respect to the use of the common property in a leasehold strata scheme.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that, with minor exceptions, the amendments to the Principal Act will commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 gives effect to two Schedules of amendments to the Principal Act.

Clause 4 gives effect to a Schedule of savings and transitional provisions.

Schedule 1 (1) amends section 7 of the Principal Act to empower the Registrar-General to make requisitions with respect to the form of a proposed by-law lodged for registration in connection with a proposed leasehold strata plan. The by-law in question is one lodged by the original lessee of the strata scheme under proposed section 87 (9) (inserted by Schedule 1 (3) (c)).

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Schedule 1 (2) amends section 27 of the Principal Act to require the Registrar-General, when creating a folio of the Register for common property in a leasehold strata scheme, to make appropriate notations of the rights and privileges conferred on individuals, in respect of the common property or any part of it, by a by-law referred to in section 87 (7) of the Principal Act that takes effect on registration of the leasehold strata plan.

Schedule 1 (3) amends section 87 of the Principal Act in relation to by-laws conferring on individuals exclusive rights or privileges over common property in a leasehold strata scheme. Under the section, as amended—

- (a) such a by-law will no longer require a unanimous resolution of the body corporate in order to be made—a special resolution (that is, one passed by 75 per cent of the votes) will be sufficient;
- (b) if more than 1 lessee is granted rights or privileges under such a by-law, the by-law will be deemed to provide (unless it specifies some other arrangement) that any money payable by those lessees to the body corporate for the maintenance and upkeep of the common property will be borne by them proportionately according to the relative proportions of their respective unit entitlements; and
- (c) such a by-law may be made by the original lessee of the strata scheme, by lodging an appropriate instrument, together with the proposed leasehold strata plan, for registration.

Schedule 1 (4) omits section 148 of the Principal Act. Orders of the kind permitted to be made under that section by the Strata Titles Commissioner are now to be made under proposed section 156A (inserted by Schedule 1 (6)) by a Strata Titles Board.

Schedule 1 (5) amends section 156 of the Principal Act as a consequence of the amendments made by Schedule 1 (3).

Schedule 1 (6) inserts a new section 156A into the Principal Act. Under the proposed new section, a Strata Titles Board is empowered to make certain orders adjusting the rights of bodies corporate and the lessees of individual lots in the event of dispute between them concerning exclusive rights or privileges of individuals in respect of common property. The disputes contemplated are ones in which a body corporate and one or more lessees cannot agree as to the terms on which such rights or privileges should be granted, or in which individual lessees not having such rights or privileges think that the terms on which they have been granted to others are unjust. A Board is, in effect, empowered to make a by-law appropriate to the circumstances of the case.

Schedule 1 (7) amends section 179 of the Principal Act as a consequence of the insertion of proposed section 156A by Schedule 1 (6).

Schedule 2 (1) amends section 5 of the Principal Act as a consequence of the amendments made by Schedule 2 (9) and by Schedule 2 (12) to the Strata Titles (Amendment) Bill 1987.

Schedule 2 (2) amends section 86 of the Principal Act to provide that any first annual general meeting of a body corporate, although not convened and held in accordance with the section, but at which business appropriate to such a first annual general meeting is transacted, is nevertheless a valid first annual general meeting.

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Schedule 2 (3) amends section 94 of the Principal Act to impose liability on the body corporate for damage caused to a lot by servants, agents or contractors of the body corporate carrying out any authorised work.

Schedule 2 (4) amends section 99 of the Principal Act to vary the requirements relating to the arrangement of material kept in the strata roll. The amended requirements will avoid duplication of certain matter and generally simplify the keeping of the roll. The section is otherwise amended by the omission of certain matter as a consequence of the substitution of section 113 of the Principal Act by Schedule 2 (9), and by enabling strata roll information to be compiled otherwise than by receipt of notices under that section.

Schedule 2 (5) amends section 100 of the Principal Act in relation to the information contained in a strata roll that may be obtained by members of the public from a body corporate upon payment of a fee. The effect of the amendment is to combine information previously obtainable under 2 separate certificates (with payment of 2 fees) so that it is contained in 1 certificate (and may be obtained on payment of 1 fee).

Schedule 2 (6) amends section 101 of the Principal Act to abrogate the requirement that there be a minimum number of 3 persons to serve on the council of a body corporate.

Schedule 2 (7) amends section 104 of the Principal Act so that a proposal by the council of a body corporate may be vetoed by persons controlling one-third (rather than one-half) of the voting power on the body corporate who oppose the proposal.

Schedule 2 (8) repeals section 106 of the Principal Act. The section provided that in certain cases a proposal by the council of a body corporate involving expenditure had to be supported by a special resolution (that is, one passed by 75 per cent of the votes). As a consequence of the amendment made by Schedule 2 (7), the provisions of the section are considered redundant.

Schedule 2 (9) repeals section 113 of the Principal Act and replaces it with 2 new sections. The old section 113 provided that persons having certain specified interests in a lot in a leasehold strata scheme could (or had to, in some cases) notify the body corporate that they had those interests. The interests concerned were such as gave rise, or might in the event of certain contingencies have given rise, to an entitlement by those persons to vote at meetings of the body corporate. The section also provided that sublease interests in a lot had to be notified. The obligation to notify sublease interests remains, and is re-enacted as proposed new section 113A. The requirements of the old section 113 have been simplified so as to require notice to be given only of interests giving rise to a vested entitlement to vote.

Schedule 2 (10) amends section 125 of the Principal Act to provide that the costs of effluent services in respect of land included in a leasehold strata scheme are to be charged to and payable by the body corporate in the same way as the costs of water, sewerage and drainage services are charged and payable.

Schedule 2 (11) amends section 129 of the Principal Act to enable the Commissioner to obtain information, without charge, from a strata roll.

Schedule 2 (12) amends section 132 of the Principal Act to require the Commissioner, when referring an application for an order under Part 5 of the Principal Act to a Strata Titles Board, to serve a copy of the application on any person against whom the proposed order is directed.

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Schedule 2 (13) amends section 135 of the Principal Act to enable the Commissioner to make interim orders in relation to applications for an order by a Board as well as applications for an order by the Commissioner.

Schedule 2 (14) amends section 146 of the Principal Act to enable the Commissioner, if satisfied that a body corporate has, in a particular case, unreasonably withheld its consent under a by-law that prohibits the keeping of an animal on a lot or the common property without the consent of the body corporate, to declare that the animal may be kept in accordance with the order.

Schedule 2 (15) amends section 151 of the Principal Act to require a body corporate to display for 2 weeks, on the notice board for the leasehold strata scheme, a copy of an order of the Commissioner that has been served on it.

Schedule 2 (16) amends section 161 of the Principal Act to extend the time within which an application for an order under that section may be made from 14 days to 28 days after the relevant leasehold resolution was made.

Schedule 2 (17) amends section 162 of the Principal Act to enable an application for an order under that section to be made by any person having an interest in a lot in the relevant leasehold strata scheme.

Schedule 2 (18) amends section 165 of the Principal Act to allow a Strata Titles Board, on sufficient cause shown, to extend (from 21 days to 90 days) the time within which an appeal may be lodged against an order of the Commissioner.

Schedule 2 (19) amends section 173 of the Principal Act to require a body corporate to display for 2 weeks, on the notice board for the leasehold strata scheme, a copy of an order of a Board that has been served on it.

Schedule 2 (20) amends Schedule 3 to the Principal Act (which contains the statutory by-laws)—

- (a) to provide that, under those by-laws, the secretary of the body corporate shall be responsible for general administrative and secretarial duties in connection with the body corporate's affairs; and
- (b) to add to the by-law concerning the keeping of animals the requirement that a body corporate will not unreasonably refuse its approval to a person's keeping an animal in the person's lot or on the common property.

Schedule 2 (21) amends Schedule 4 to the Principal Act in relation to voting rights of co-lessees. Co-lessees will now be able to vote with the consent of their co-lessees (usually spouses) at the meeting or if they are the co-lessees first named on the strata roll.

Schedule 3 enacts appropriate savings, transitional and other provisions in connection with the amendments made by the proposed Act.

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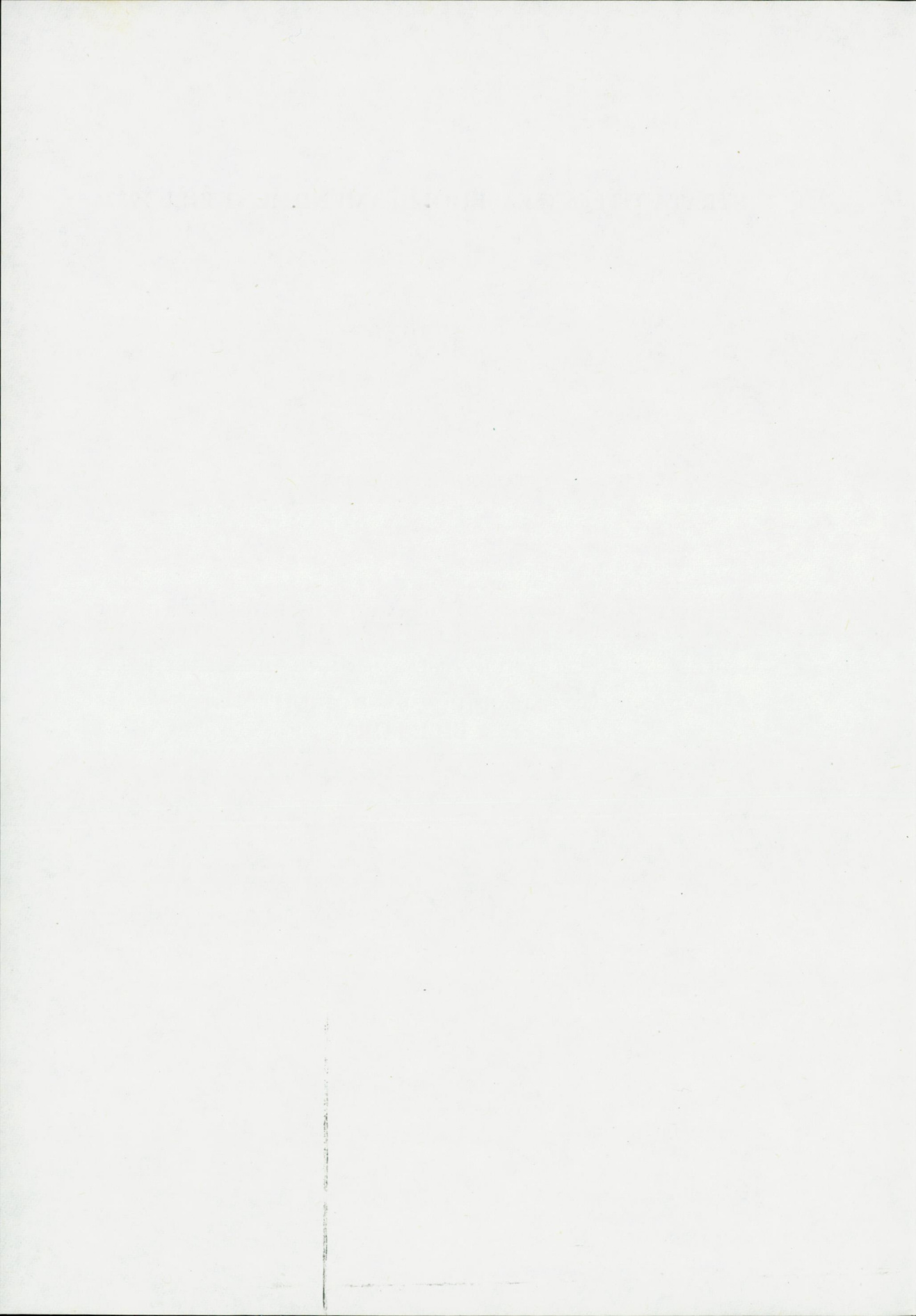
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STRATA TITLES (LEASEHOLD) AMENDMENT BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Strata Titles (Leasehold) Act 1986 with respect to the rights and privileges that may be conferred on individuals in relation to common property in a leasehold strata scheme and in other respects.

Strata Titles (Leasehold) Amendment 1987

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 (Leasehold) Amendment Act 1987".

Commencement

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

(2) The several provisions of Schedules 1 and 2 shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Section 3, in its application to a provision of Schedule 1 or 2,
15 commences on the day on which the provision commences.

Amendment of Act No. 219, 1986

3. The Strata Titles (Leasehold) Act 1986 is amended in the manner set forth in Schedules 1 and 2.

Savings and transitional provisions

20 **4.** Schedule 3 has effect.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY

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(1) Section 7 (Registration of strata plans)—

(a) Section 7 (1) (h)—

Omit "and".

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CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

(b) Section 7(1) (i), (j)—

At the end of section 7 (1) (i), insert:

; and

- 5 (j) any requisition made by the Registrar-General with respect to the registration of any instrument referred to in section 87 (9) lodged in connection with registration of the plan is complied with.

(2) Section 27 (**Folio where there is common property**)—

(a) Section 27 (2) (d)—

- 10 Omit “parcel and”, insert instead “parcel”.

(b) Section 27 (2) (d)—

After “parcel” where secondly occurring, insert “and any right of exclusive use and enjoyment, or any privilege, created by a by-law of the kind referred to in section 87 (7)”.

15 (3) Section 87 (**By-laws**)—

(a) Section 87 (2)—

Omit “in subsection (7) or”, insert instead “by subsection”.

(b) Section 87 (7), (7A)—

Omit section 87 (7), insert instead:

- 20 (7) Without limiting the generality of any other provision of this section, a by-law may, with the written consent of the lessor under the scheme and of the lessee or lessees of the lot or lots concerned, be made under subsection (2) for or with respect to conferring on
25 the lessee of a lot specified in the by-law, or the lessees of several lots so specified—

(a) a right of exclusive use and enjoyment of; or

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CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
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(b) special privileges in respect of,

the whole or any specified part of the common property, upon conditions (including the payment of money, at specified times or as required by the body corporate, by the lessee or lessees of the lot or lots concerned) specified in the by-law.

(7A) A by-law referred to in subsection (7) shall either—

(a) provide that the body corporate shall continue to be responsible for the proper maintenance, and keeping in a state of good and serviceable repair, of the common property or the relevant part of it; or

(b) impose on the lessee or lessees of the lot or lots concerned the responsibility for that maintenance and upkeep,

and in the case of a by-law that confers rights or privileges on more than one lessee, any money payable by virtue of the by-law by the lessees concerned—

(c) to the body corporate; or

(d) to any person for or towards the maintenance or upkeep of any common property,

shall, except to the extent that the by-law otherwise provides, be payable by the lessees concerned proportionately according to the relative proportions of their respective unit entitlements.

(c) Section 87 (9)–(10A)—

Omit section 87 (9) and (10), insert instead—

(9) If a plan lodged under section 7 for registration as a strata plan is accompanied by an instrument, in a form approved under the Real Property Act 1900, containing the terms of a proposed by-law of the kind referred to in subsection (7)—

(a) a by-law in those terms shall be deemed to have been made, and to take effect, on registration of the plan; and

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

(b) the by-law so made may be amended, added to or repealed in the same way as a by-law made by the body corporate under subsection (2).

5 (10) A by-law referred to in subsection (7), while it remains in force, continues to operate for the benefit of, and (subject to section 100 (5)) is binding upon, the lessee or lessees for the time being of the lot or lots specified in the by-law.

10 (10A) To the extent to which such a by-law makes a person directly responsible for the proper maintenance, and keeping in a state of good and serviceable repair, of any common property, it discharges the body corporate from its obligations under section 98 (1) (b).

(4) Section 148 (**Commissioner may make certain by-laws**)—

Omit the section.

15 (5) Section 156 (**Order revoking amendment of by-law or reviving repealed by-law**)—

Section 156 (3)—

After “lot”, insert “, or lessees of the lots.”.

(6) Section 156A—

20 After section 156, insert:

Orders with respect to by-laws conferring exclusive rights or privileges over common property

156A. (1) If a Board finds—

25 (a) on application made by a lessee, that the body corporate has unreasonably refused to make a by-law of the kind referred to in section 87 (7);

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CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

- 5 (b) on application made by a lessee or a body corporate, that the lessor under the leasehold strata scheme or the lessee of a lot has unreasonably refused to consent to the terms of a proposed by-law of that kind, or to the proposed amendment or repeal of such a by-law; or
- (c) on application made by any interested person, that the conditions of such a by-law relating to the maintenance or upkeep of any common property are unjust,
- 10 the Board may, subject to subsection (3), determine the application by an order prescribing the making, amendment or repeal, in terms of the order, of any such by-law or may, if it thinks fit, dismiss the application.
- (2) In considering whether to make an order under this section, the Board shall have regard to—
- 15 (a) the interests of all lessees in the use and enjoyment of their lots and common property; and
- (b) the rights and reasonable expectations of any lessee deriving or anticipating a benefit under a by-law of the kind referred to in section 87 (7).
- 20 (3) The Board shall not determine an application referred to in subsection (1) (a) by an order prescribing the making of a by-law in terms to which the applicant or the lessor under the leasehold strata scheme is not prepared to consent.
- 25 (4) An order under this section, when recorded under section 179, has effect, subject to any order of a superior court, as if its terms were a by-law.

(7) Section 179 (**Recording in Register of effect of certain orders**)—

Section 179 (1) (a)—

Omit “148, 155, 156, 157”, insert instead “155, 156, 156A, 157”.

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SCHEDULE 2

(Sec. 3)

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986

- 5 (1) Section 5 (**Interpretation**)—
- (a) Section 5 (1), definition of “Board”—
- Omit the definition, insert instead:
- “Board” means a Strata Titles Board constituted in accordance with section 98A of the Strata Titles Act 1973;
- 10 (b) Section 5 (1), definition of “lessee”—
- (i) From paragraph (a), omit “, (c)”.
- (ii) Omit paragraphs (b) and (c), insert instead:
- (b) a person whose name has been entered on the strata roll as a lessee pursuant to section 99; or
- 15 (c) Section 5 (6)—
- Omit the subsection.
- (2) Section 86 (**Meetings of body corporate**)—
- (a) Section 86 (2) (c)—
- Omit “where there are more than 3 lessees,”.
- 20 (b) Section 86 (3)—
- Omit the subsection, insert instead:
- (3) For the purposes of this section, the first annual general meeting of the body corporate is—
- (a) a meeting convened and held in accordance with subsection (1); or
- 25 (b) in default of compliance by the original lessee or lessor with that subsection—
- (i) a meeting convened and held pursuant to an order under subsection (6); or

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(LEASEHOLD) ACT 1986—*continued*

- 5 (ii) if no application is made by any person under subsection (6)—the first meeting, however convened and whenever held, of the body corporate having an agenda consisting of the items mentioned in subsection (2).
- (c) Section 86 (6)—
Omit “and the meeting convened by that person shall for the purposes of subsection (3) be deemed to be the meeting convened under subsection (1)”.
- 10 (d) Section 86 (10)—
Omit the subsection.
- (e) Section 86 (11)—
After “order” where secondly occurring, insert “or otherwise”.
- (3) Section 94 (**Power of entry**)—
- 15 Section 94 (3)—
After section 94 (2), insert:
- (3) The body corporate shall be liable for any damage to a lot or any of its contents caused by or arising out of—
- (a) the carrying out of any work referred to in this section; or
- 20 (b) the exercise of a power of entry conferred by this section (except to the extent that the damage arose by reason of obstruction or hindrance in contravention of subsection (2)).
- (4) Section 99 (**Strata roll**)—
- 25 (a) Section 99 (2)—
Omit “, the subject of the leasehold strata scheme concerned”, insert instead “and the leasehold strata scheme in general”.

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(LEASEHOLD) ACT 1986—*continued*

(b) Section 99 (3)–(6)—

Omit section 99 (3) and (4), insert instead:

(3) There shall be recorded in the pages concerning a particular lot—

- 5 (a) the lessee's name and address for service of notices; and
 (b) information provided under section 113 or obtained from
 the Register in connection with the lot.

(4) There shall be recorded in the pages concerning the common property and the strata scheme in general—

- 10 (a) the leasehold strata plan number and the address of the
 leasehold strata scheme building;
- (b) the names of the original lessee and any managing agent
 of the body corporate and their respective addresses for
 service of notices;
- 15 (c) the total unit entitlement of the scheme and the unit
 entitlement of each lot;
- (d) particulars of insurance effected by the body corporate,
 including—
- (i) the name of the insurance company;
- 20 (ii) the number of the insurance policy;
- (iii) the nature of the risk insured;
- (iv) the amount of the insurance;
- (v) the due date for payment of the premium; and
- (vi) the date on which the premium was last paid; and
- 25 (e) the by-laws for the time being in force in respect of the
 leasehold strata scheme.

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(LEASEHOLD) ACT 1986—*continued*

(5) The body corporate may make or amend the entries in the roll on the basis of information—

(a) contained in the Register; or

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(b) provided under section 113, to the extent that information so provided is not inconsistent with information contained in the Register.

(6) Information provided under section 113 may be presumed to be consistent with information contained in the Register until the contrary is evident.

10 (5) Section 100 (**Supply of certificates and information by body corporate**)—

(a) Section 100 (1)—

Omit “one or more of the following things as is or are”, insert instead “of the following as may be”.

15 (b) Section 100 (1) (a)—

Omit the paragraph, insert instead:

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(a) give, in the prescribed form, a certificate that states, as at the date of the certificate, the name and address of each member of the council and of any managing agent appointed under this Act for the leasehold strata scheme and specifies in respect of the lot in relation to which the application is made—

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(i) the amount of any regular periodic contributions determined by the body corporate under section 98 (1) (k), (1) (l) and (5) and the periods in respect of which those contributions are payable;

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(LEASEHOLD) ACT 1986—*continued*

- 5 (ii) whether there is any amount unpaid of any contributions determined under section 98 (1) (k) and (l), including any periodic contributions referred to in section 98 (5), and, if so, the amount unpaid and, in the case of a contribution levied under section 98 (1) (l), the date on which any such contribution was levied;
- 10 (iii) whether there is any amount unpaid of any contribution levied under section 98 (1) (r) and, if so, the amount unpaid and the date on which it was levied;
- (iv) whether there is any amount unpaid by a lessee under a by-law referred to in section 87 (7);
- 15 (v) whether there is any amount unpaid of any contribution levied under section 188 (2) and, if so, the amount unpaid and the date on which it was levied;
- 20 (vi) whether there is any amount recoverable from the lessee of that lot under section 90 (3) or (4) and, if so, the amount recoverable;
- (vii) any amount and rate of interest payable under section 89 (6) in respect of any unpaid contribution referred to in this paragraph; and
- 25 (viii) such other information as is required to complete the certificate in the form prescribed;
- (c) Section 100 (1) (c)—
Omit the paragraph.
- (d) Section 100 (3)—
30 Omit “Information referred to in subsection (1) (a), and a certificate referred to in subsection (1) (c),”, insert instead “A certificate referred to in subsection (1) (a)”.

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(LEASEHOLD) ACT 1986—*continued*

(e) Section 100 (5)—

Omit “(1) (c)”, insert instead “(1) (a)”.

(6) Section 101 (**Constitution of councils**)—

(a) Section 101 (2), (3)—

5 Omit the subsections, insert instead:

(2) The council shall consist of such number of members, being not more than 9, as the body corporate may determine.

(b) Section 101 (4)—

Omit “subsection (3)”, insert instead “subsection (2)”.

10 (c) Section 101 (4)—

Omit “or, if the number of lessees increases to more than 3, at an extraordinary general meeting convened for the purpose”.

(7) Section 104 (**Meetings of councils**)—

Section 104 (3)—

15 Omit “one-half”, insert instead “one-third”.

(8) Section 106 (**Statutory restrictions on powers of councils**)—

Omit the section.

(9) Sections 113, 113A—

Omit section 113, insert instead:

20 **Notices to be given by lessees and others**

113. (1) A person who, by virtue of the person’s interest in the leasehold of a lot, has (subject to this section and Schedule 4) the right to cast a vote (whether on the person’s own behalf or by a nominee) at meetings of the body corporate may notify the body corporate in writing of that interest.

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(2) Such a notice shall specify—

(a) the person’s full name and address for service of notices;

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(LEASEHOLD) ACT 1986—*continued*

- (b) the lot concerned and the exact nature of the person's interest in its leasehold;
- (c) the date on which the person acquired the interest; and
- 5 (d) if the voting entitlement conferred by the interest is one which, according to Schedule 4, is to be exercised by a nominee—the nominee's full name and address for service of notices,

10 and shall, if the interest is a mortgage, include confirmation by the mortgagor or be verified by statutory declaration of the mortgagee.

(3) If the interest is that of—

(a) the executor or administrator of the estate of a deceased person; or

(b) the liquidator or receiver in bankruptcy of any person,

15 or some other interest arising—

(c) by operation of law or the order of any court; or

(d) in any manner otherwise than by transfer of the interest from some other person or the discharge of a mortgage,

20 the notice shall specify the manner in which the interest arose and shall be verified by statutory declaration.

(4) The secretary of the body corporate, if of the opinion that a person entitled or obliged to give notice under this section has not done so, may by a requisition in writing served on the person require the person—

25 (a) to state, within 14 days, whether or not the person is a person entitled or required to give notice under this section; and

(b) if the person is such a person, to give that notice.

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(LEASEHOLD) ACT 1986—*continued*

(5) A person is not entitled to cast a vote at a meeting of the body corporate—

(a) if the person has not complied with a requisition served on the person under subsection (4); or

5 (b) in the case of a vote to be tendered through a nominee—
if the nominee's full name and address for service of notices have not been notified under this section.

10 (6) A person who has given notice under this section may by further notice advise any change of nominee or of the person's or any nominee's address for service.

Notice of subleases

15 113A. (1) Notice of any sublease, or the assignment of any sublease, shall be given by the lessee to the body corporate within 14 days after the commencement of the sublease or the execution of the assignment.

(2) The notice shall specify—

(a) the name of the sublessee or assignee;

(b) the date of commencement or assignment of the sublease, as the case requires; and

20 (c) the name of any agent acting for the lessee in respect of the sublease.

(10) Section 125 (**Charges for services**)—

Omit "or drainage", insert instead " , drainage or effluent".

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*(11) Section 129 (**Commissioner may inspect certain records**)—

(a) Section 129 (1)—

5 Omit “Where application is made for an order under this Part in relation to a leasehold strata scheme”, insert instead “If the Commissioner informs the body corporate that the Commissioner wishes to obtain information from the body corporate for assistance in the exercise of any of the Commissioner’s functions under this Act”.

(b) Section 129 (3)—

10 After section 129 (2), insert:

(3) No charge is payable by the Commissioner for or in connection with the performance by the body corporate of any such duty.

(12) Section 132 (**Reference of application to Board**)—

15 (a) Section 132 (2) (a) (iii)—

Omit “and”.

(b) Section 132 (2) (a) (v)—

After section 132 (2) (a) (iv), insert:

20 (v) any person who, by the order sought, would be required to do, or to refrain from doing, a specified act; and

(13) Section 135 (**Interim orders**)—

(a) Section 135 (2)—

After “this Division” where firstly occurring, insert “or Division 3”.

25 (b) Section 135 (2) (a)—

After “this Division”, insert “or under Division 3, as the case may be,”.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*(14) Section 146 (**Orders relating to keeping of animals**)—

Section 146 (2), (3)—

At the end of section 146, insert:

5 (2) If, pursuant to an application by the occupier of a lot in a leasehold strata scheme in respect of which clause (2) of by-law 28 in Schedule 3 (or a provision to the like effect in any by-laws) is for the time being in force, the Commissioner is satisfied—

(a) that the application is made with the consent of the lessee of the applicant's lot (if the applicant is not the lessee); and

10 (b) that the body corporate has unreasonably withheld its consent to the keeping by the applicant of an animal upon the lot or the common property,

the Commissioner may by order declare that the applicant may keep the animal in such manner as may be specified in the order.

15 (3) An order under subsection (2) is binding on the body corporate and is a good defence to any action against the applicant for breach of any by-law by virtue of the keeping of the animal in a manner authorised by the order.

(15) Section 151 (**Copy of order to be served**)—

20 (a) Section 151 (1A)—

After section 151 (1), insert:

25 (1A) On receipt of a copy of the order, the body corporate shall, unless the order otherwise provides, cause it to be prominently displayed, within 72 hours of its receipt and for 14 days thereafter, on the notice board maintained under the by-laws.

(b) Section 151 (2)—

Omit "subsection (1)", insert instead "this section".

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*(16) Section 161 (**Order where voting rights denied or due notice of item of business not given**)—

Section 161 (2)—

Omit “14”, insert instead “28”.

5 (17) Section 162 (**Order with respect to insurance**)—

(a) Section 162 (1)—

Omit “an application by the lessor under the scheme, the lessee or an enrolled mortgagee of a lease of a lot or by an authority having the benefit of a positive covenant”, insert instead:

10 an application by—

(a) the lessor under the scheme;

(b) the lessee or an enrolled mortgagee of a lease of a lot;

(c) an authority having the benefit of a positive covenant for an order under this subsection; or

15 (d) any person having an interest in the leasehold of a lot.

(b) Section 162 (2)—

Omit “an application by the lessor under the scheme, a lessee or an enrolled mortgagee of a lease of a lot”, insert instead:

an application by—

20 (a) the lessor under the scheme;

(b) the lessee or an enrolled mortgagee of a lease of a lot; or

(c) any person having an interest in the leasehold of a lot.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*(18) Section 165 (**Appeal against order of Commissioner**)—

Section 165 (1)—

Omit “prescribed fee, not later than 21 days after the order takes effect.”, insert instead:

5 prescribed fee—

(e) not later than 21 days after the order takes effect; or

10 (f) by leave of the Board (given on sufficient cause being shown why the application was not lodged within the time limited by paragraph (e))—within 90 days after the order takes effect.

(19) Section 173 (**Copy of order to be served**)—

Section 173 (3)—

After section 173 (2), insert:

15 (3) On receipt of a copy of the order, the body corporate shall, unless the order otherwise provides, cause it to be displayed, within 72 hours of its receipt and for 14 days thereafter, on the notice board maintained under the by-laws.

(20) Schedule 3 (**By-laws**)—

(a) Clause 11 (f), (g)—

20 Omit the paragraphs, insert instead:

(f) the convening of meetings of the council and (apart from its first annual general meeting) of the body corporate; and

25 (g) attendance to matters of an administrative or secretarial nature in connection with the exercise or performance, by the body corporate or the council, of its respective functions.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(b) Clause 28 (2)—

At the end of clause 28, insert:

(2) The body corporate shall not unreasonably withhold its approval of the keeping of an animal upon a lot or the common property.

(21) Schedule 4 (**Meetings, and voting at meetings, of body corporate**)—

(a) Part 1, clause 3 (3), (3A)—

Omit clause 3 (3), insert instead:

(3) Co-mortgagees are entitled to cast a vote by a person duly appointed as a proxy by all of them jointly.

(3A) A co-lessee is entitled to cast a vote at a meeting—

(a) in the absence of the other co-lessees;

(b) with the consent of the other co-lessees given by them at the meeting; or

(c) if (in default of any consent under paragraph (b)) that co-lessee is the co-lessee first named on the strata roll,

or by a proxy duly appointed by all the co-lessees jointly.

(b) Part 1, clause 3 (7)—

Omit “(13) and (14)”, insert instead “(5)”.

(c) Part 2, clause 5 (3), (3A)—

Omit clause 5 (3), insert instead:

(3) Co-mortgagees are entitled to cast a vote by a person duly appointed as a proxy by all of them jointly.

(3A) A co-lessee is entitled to cast a vote at a meeting—

(a) in the absence of the other co-lessees;

(b) with the consent of the other co-lessees given by them at the meeting; or

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(c) if (in default of any consent under paragraph (b)) that co-lessee is the co-lessee first named on the strata roll,

or by a proxy duly appointed by all the co-lessees jointly.

(d) Part 2, clause 5 (7)—

5 Omit “(13) and (14)”, insert instead “(5)”.

SCHEDULE 3

(Sec. 4)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Interpretation

10 1. In this Schedule, “the Principal Act” means the Strata Titles (Leasehold) Act 1986.

Lessees

2. No amendment made by this Act affects the status, as a lessee within the meaning of the Principal Act, of any person who was such a lessee immediately before the amendment took effect.

15 First annual general meetings of bodies corporate

3. A meeting held before the commencement of Schedule 2 (2) (b) which would (if section 86 of the Principal Act, as amended by this Act, had then been in force) have been the first annual general meeting of a body corporate, shall be deemed to have been its first annual general meeting.

20 By-laws concerning individual rights and privileges over common property

4. A by-law made in accordance with section 87 of the Principal Act, as in force immediately before the commencement of Schedule 1 (3), continues in force as if made under that section as amended by this Act.

Liability for damage to lots

25 5. Section 94 of the Principal Act, as amended by this Act, does not apply in respect of any damage caused by or arising out of work that was carried out before the commencement of schedule 2 (3).

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 3—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued***Strata rolls**

6. To the extent to which, before the commencement of Schedule 2 (4), a strata roll was kept and maintained in a manner that accords with section 99 of the Principal Act, as amended by this Act, the strata roll shall be deemed to have been validly kept and maintained.

Certificates of body corporate

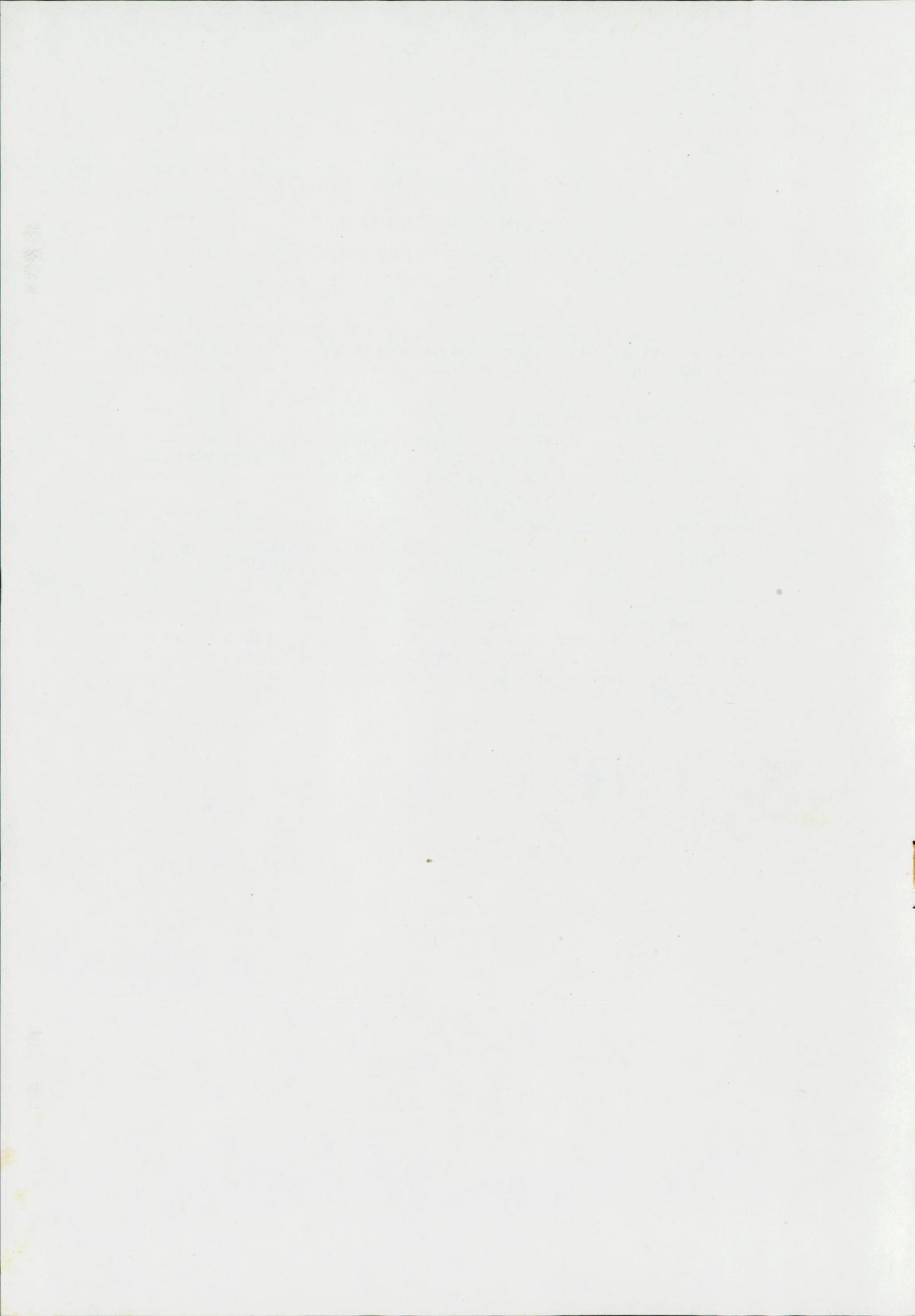
7. A certificate given, before the commencement of schedule 2 (5), under section 100 (1) (c) of the Principal Act shall be deemed, for the purposes of section 100 (5) of the Principal Act, as amended by this Act, to be a certificate given under section 100 (1) (a) of that Act, as so amended.

Requirement to serve certain notices

8. Section 132 (2) of the Principal Act, as amended by this Act, does not apply in respect of an application lodged before the commencement of Schedule 2 (12).

By-laws made by order of Commissioner

9. A by-law in force, immediately before the commencement of Schedule 1 (4), by virtue of an order made under section 148 of the Principal Act shall, subject to the Principal Act, as amended by this Act, continue in force and shall be deemed to be a by-law in force by virtue of an order made under section 156A of the Principal Act, as so amended.



STRATA TITLES (LEASEHOLD) AMENDMENT BILL 1987

NEW SOUTH WALES



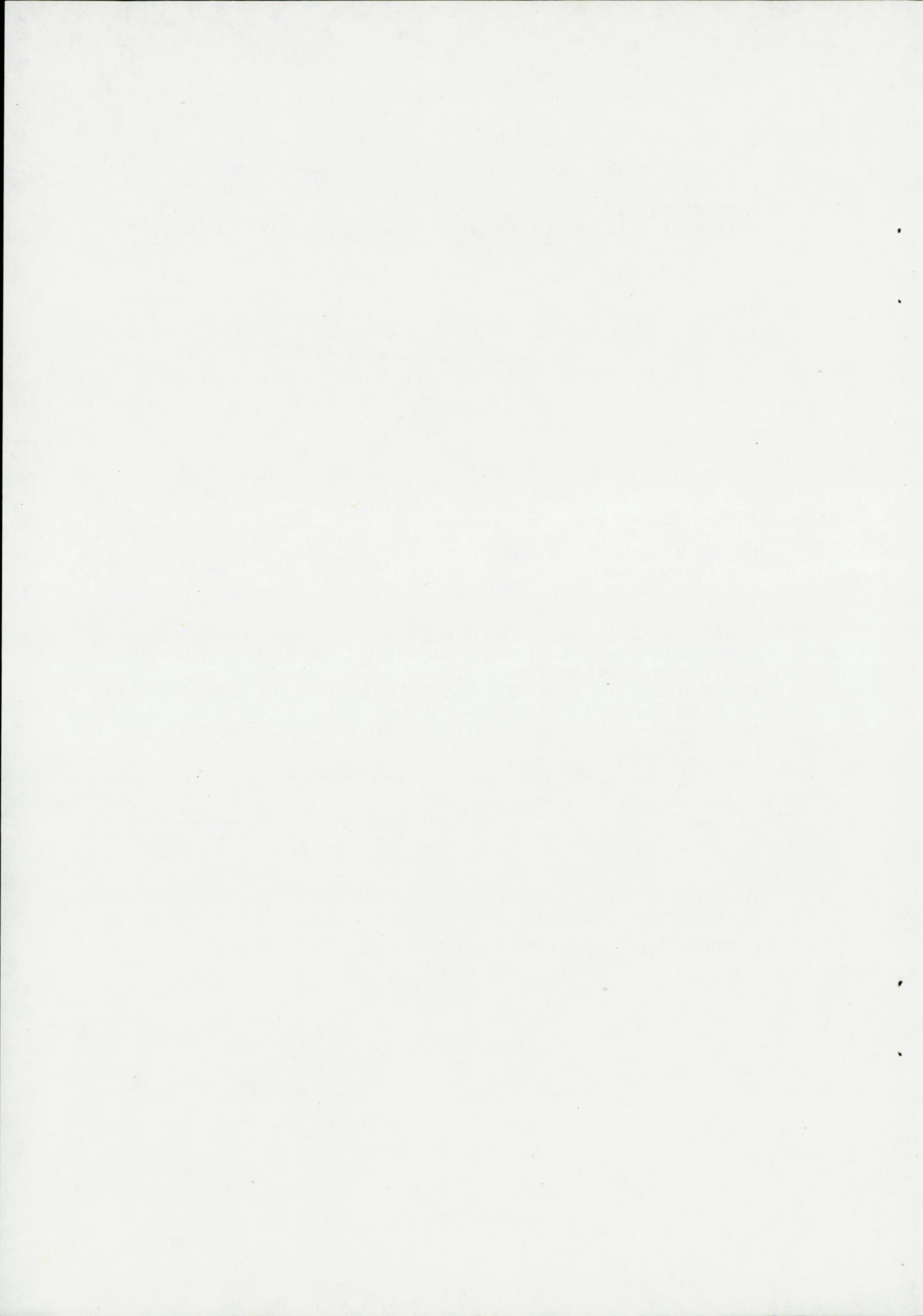
TABLE OF PROVISIONS

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1986 CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN RELATION
TO COMMON PROPERTY

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS



I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, , 1987*

NEW SOUTH WALES



Act No. , 1987

An Act to amend the Strata Titles (Leasehold) Act 1986 with respect to the rights and privileges that may be conferred on individuals in relation to common property in a leasehold strata scheme and in other respects.

Strata Titles (Leasehold) Amendment 1987

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 (Leasehold) Amendment Act 1987".

Commencement

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

(2) The several provisions of Schedules 1 and 2 shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Section 3, in its application to a provision of Schedule 1 or 2, commences on the day on which the provision commences.

Amendment of Act No. 219, 1986

3. The Strata Titles (Leasehold) Act 1986 is amended in the manner set forth in Schedules 1 and 2.

Savings and transitional provisions

4. Schedule 3 has effect.

SCHEDULE 1

(Sec. 3)

**AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY**

(1) Section 7 (**Registration of strata plans**)—

(a) Section 7 (1) (h)—

Omit "and".

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

(b) Section 7(1) (i), (j)—

At the end of section 7 (1) (i), insert:

; and

- (j) any requisition made by the Registrar-General with respect to the registration of any instrument referred to in section 87 (9) lodged in connection with registration of the plan is complied with.

(2) Section 27 (**Folio where there is common property**)—

(a) Section 27 (2) (d)—

Omit “parcel and”, insert instead “parcel,”.

(b) Section 27 (2) (d)—

After “parcel” where secondly occurring, insert “and any right of exclusive use and enjoyment, or any privilege, created by a by-law of the kind referred to in section 87 (7)”.

(3) Section 87 (**By-laws**)—

(a) Section 87 (2)—

Omit “in subsection (7) or”, insert instead “by subsection”.

(b) Section 87 (7), (7A)—

Omit section 87 (7), insert instead:

(7) Without limiting the generality of any other provision of this section, a by-law may, with the written consent of the lessor under the scheme and of the lessee or lessees of the lot or lots concerned, be made under subsection (2) for or with respect to conferring on the lessee of a lot specified in the by-law, or the lessees of several lots so specified—

- (a) a right of exclusive use and enjoyment of; or

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

(b) special privileges in respect of,

the whole or any specified part of the common property, upon conditions (including the payment of money, at specified times or as required by the body corporate, by the lessee or lessees of the lot or lots concerned) specified in the by-law.

(7A) A by-law referred to in subsection (7) shall either—

(a) provide that the body corporate shall continue to be responsible for the proper maintenance, and keeping in a state of good and serviceable repair, of the common property or the relevant part of it; or

(b) impose on the lessee or lessees of the lot or lots concerned the responsibility for that maintenance and upkeep,

and in the case of a by-law that confers rights or privileges on more than one lessee, any money payable by virtue of the by-law by the lessees concerned—

(c) to the body corporate; or

(d) to any person for or towards the maintenance or upkeep of any common property,

shall, except to the extent that the by-law otherwise provides, be payable by the lessees concerned proportionately according to the relative proportions of their respective unit entitlements.

(c) Section 87 (9)–(10A)—

Omit section 87 (9) and (10), insert instead—

(9) If a plan lodged under section 7 for registration as a strata plan is accompanied by an instrument, in a form approved under the Real Property Act 1900, containing the terms of a proposed by-law of the kind referred to in subsection (7)—

(a) a by-law in those terms shall be deemed to have been made, and to take effect, on registration of the plan; and

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

(b) the by-law so made may be amended, added to or repealed in the same way as a by-law made by the body corporate under subsection (2).

(10) A by-law referred to in subsection (7), while it remains in force, continues to operate for the benefit of, and (subject to section 100 (5)) is binding upon, the lessee or lessees for the time being of the lot or lots specified in the by-law.

(10A) To the extent to which such a by-law makes a person directly responsible for the proper maintenance, and keeping in a state of good and serviceable repair, of any common property, it discharges the body corporate from its obligations under section 98 (1) (b).

(4) Section 148 (**Commissioner may make certain by-laws**)—

Omit the section.

(5) Section 156 (**Order revoking amendment of by-law or reviving repealed by-law**)—

Section 156 (3)—

After “lot”, insert “, or lessees of the lots,”.

(6) Section 156A—

After section 156, insert:

Orders with respect to by-laws conferring exclusive rights or privileges over common property

156A. (1) If a Board finds—

(a) on application made by a lessee, that the body corporate has unreasonably refused to make a by-law of the kind referred to in section 87 (7);

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
 CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
 RELATION TO COMMON PROPERTY—*continued*

- (b) on application made by a lessee or a body corporate, that the lessor under the leasehold strata scheme or the lessee of a lot has unreasonably refused to consent to the terms of a proposed by-law of that kind, or to the proposed amendment or repeal of such a by-law; or
- (c) on application made by any interested person, that the conditions of such a by-law relating to the maintenance or upkeep of any common property are unjust,

the Board may, subject to subsection (3), determine the application by an order prescribing the making, amendment or repeal, in terms of the order, of any such by-law or may, if it thinks fit, dismiss the application.

(2) In considering whether to make an order under this section, the Board shall have regard to—

- (a) the interests of all lessees in the use and enjoyment of their lots and common property; and
- (b) the rights and reasonable expectations of any lessee deriving or anticipating a benefit under a by-law of the kind referred to in section 87 (7).

(3) The Board shall not determine an application referred to in subsection (1) (a) by an order prescribing the making of a by-law in terms to which the applicant or the lessor under the leasehold strata scheme is not prepared to consent.

(4) An order under this section, when recorded under section 179, has effect, subject to any order of a superior court, as if its terms were a by-law.

(7) Section 179 (**Recording in Register of effect of certain orders**)—

Section 179 (1) (a)—

Omit “148, 155, 156, 157”, insert instead “155, 156, 156A, 157”.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2

(Sec. 3)

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986

(1) Section 5 (**Interpretation**)—

(a) Section 5 (1), definition of “Board”—

Omit the definition, insert instead:

“Board” means a Strata Titles Board constituted in accordance with section 98A of the Strata Titles Act 1973;

(b) Section 5 (1), definition of “lessee”—

(i) From paragraph (a), omit “, (c)”.

(ii) Omit paragraphs (b) and (c), insert instead:

(b) a person whose name has been entered on the strata roll as a lessee pursuant to section 99; or

(c) Section 5 (6)—

Omit the subsection.

(2) Section 86 (**Meetings of body corporate**)—

(a) Section 86 (2) (c)—

Omit “where there are more than 3 lessees,”.

(b) Section 86 (3)—

Omit the subsection, insert instead:

(3) For the purposes of this section, the first annual general meeting of the body corporate is—

(a) a meeting convened and held in accordance with subsection (1); or

(b) in default of compliance by the original lessee or lessor with that subsection—

(i) a meeting convened and held pursuant to an order under subsection (6); or

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (ii) if no application is made by any person under subsection (6)—the first meeting, however convened and whenever held, of the body corporate having an agenda consisting of the items mentioned in subsection (2).
- (c) Section 86 (6)—
Omit “and the meeting convened by that person shall for the purposes of subsection (3) be deemed to be the meeting convened under subsection (1)”.
- (d) Section 86 (10)—
Omit the subsection.
- (e) Section 86 (11)—
After “order” where secondly occurring, insert “or otherwise”.
- (3) Section 94 (**Power of entry**)—
Section 94 (3)—
After section 94 (2), insert:
- (3) The body corporate shall be liable for any damage to a lot or any of its contents caused by or arising out of—
- (a) the carrying out of any work referred to in this section; or
- (b) the exercise of a power of entry conferred by this section (except to the extent that the damage arose by reason of obstruction or hindrance in contravention of subsection (2)).
- (4) Section 99 (**Strata roll**)—
- (a) Section 99 (2)—
Omit “, the subject of the leasehold strata scheme concerned”, insert instead “and the leasehold strata scheme in general”.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(b) Section 99 (3)–(6)—

Omit section 99 (3) and (4), insert instead:

(3) There shall be recorded in the pages concerning a particular lot—

- (a) the lessee's name and address for service of notices; and
- (b) information provided under section 113 or obtained from the Register in connection with the lot.

(4) There shall be recorded in the pages concerning the common property and the strata scheme in general—

- (a) the leasehold strata plan number and the address of the leasehold strata scheme building;
- (b) the names of the original lessee and any managing agent of the body corporate and their respective addresses for service of notices;
- (c) the total unit entitlement of the scheme and the unit entitlement of each lot;
- (d) particulars of insurance effected by the body corporate, including—
 - (i) the name of the insurance company;
 - (ii) the number of the insurance policy;
 - (iii) the nature of the risk insured;
 - (iv) the amount of the insurance;
 - (v) the due date for payment of the premium; and
 - (vi) the date on which the premium was last paid; and
- (e) the by-laws for the time being in force in respect of the leasehold strata scheme.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(5) The body corporate may make or amend the entries in the roll on the basis of information—

- (a) contained in the Register; or
- (b) provided under section 113, to the extent that information so provided is not inconsistent with information contained in the Register.

(6) Information provided under section 113 may be presumed to be consistent with information contained in the Register until the contrary is evident.

(5) Section 100 (**Supply of certificates and information by body corporate**)—

(a) Section 100 (1)—

Omit “one or more of the following things as is or are”, insert instead “of the following as may be”.

(b) Section 100 (1) (a)—

Omit the paragraph, insert instead:

- (a) give, in the prescribed form, a certificate that states, as at the date of the certificate, the name and address of each member of the council and of any managing agent appointed under this Act for the leasehold strata scheme and specifies in respect of the lot in relation to which the application is made—
 - (i) the amount of any regular periodic contributions determined by the body corporate under section 98 (1) (k), (1) (l) and (5) and the periods in respect of which those contributions are payable;

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (ii) whether there is any amount unpaid of any contributions determined under section 98 (1) (k) and (l), including any periodic contributions referred to in section 98 (5), and, if so, the amount unpaid and, in the case of a contribution levied under section 98 (1) (l), the date on which any such contribution was levied;
 - (iii) whether there is any amount unpaid of any contribution levied under section 98 (1) (r) and, if so, the amount unpaid and the date on which it was levied;
 - (iv) whether there is any amount unpaid by a lessee under a by-law referred to in section 87 (7);
 - (v) whether there is any amount unpaid of any contribution levied under section 188 (2) and, if so, the amount unpaid and the date on which it was levied;
 - (vi) whether there is any amount recoverable from the lessee of that lot under section 90 (3) or (4) and, if so, the amount recoverable;
 - (vii) any amount and rate of interest payable under section 89 (6) in respect of any unpaid contribution referred to in this paragraph; and
 - (viii) such other information as is required to complete the certificate in the form prescribed;
- (c) Section 100 (1) (c)—
Omit the paragraph.
- (d) Section 100 (3)—
Omit “Information referred to in subsection (1) (a), and a certificate referred to in subsection (1) (c),”, insert instead “A certificate referred to in subsection (1) (a)”.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (e) Section 100 (5)—
Omit “(1) (c)”, insert instead “(1) (a)”.
- (6) Section 101 (**Constitution of councils**)—
(a) Section 101 (2), (3)—
Omit the subsections, insert instead:
(2) The council shall consist of such number of members, being not more than 9, as the body corporate may determine.
- (b) Section 101 (4)—
Omit “subsection (3)”, insert instead “subsection (2)”.
- (c) Section 101 (4)—
Omit “or, if the number of lessees increases to more than 3, at an extraordinary general meeting convened for the purpose”.
- (7) Section 104 (**Meetings of councils**)—
Section 104 (3)—
Omit “one-half”, insert instead “one-third”.
- (8) Section 106 (**Statutory restrictions on powers of councils**)—
Omit the section.
- (9) Sections 113, 113A—
Omit section 113, insert instead:
Notices to be given by lessees and others
113. (1) A person who, by virtue of the person’s interest in the leasehold of a lot, has (subject to this section and Schedule 4) the right to cast a vote (whether on the person’s own behalf or by a nominee) at meetings of the body corporate may notify the body corporate in writing of that interest.
(2) Such a notice shall specify—
(a) the person’s full name and address for service of notices;

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (b) the lot concerned and the exact nature of the person's interest in its leasehold;
- (c) the date on which the person acquired the interest; and
- (d) if the voting entitlement conferred by the interest is one which, according to Schedule 4, is to be exercised by a nominee—the nominee's full name and address for service of notices,

and shall, if the interest is a mortgage, include confirmation by the mortgagor or be verified by statutory declaration of the mortgagee.

(3) If the interest is that of—

- (a) the executor or administrator of the estate of a deceased person; or
- (b) the liquidator or receiver in bankruptcy of any person,

or some other interest arising—

- (c) by operation of law or the order of any court; or
- (d) in any manner otherwise than by transfer of the interest from some other person or the discharge of a mortgage,

the notice shall specify the manner in which the interest arose and shall be verified by statutory declaration.

(4) The secretary of the body corporate, if of the opinion that a person entitled or obliged to give notice under this section has not done so, may by a requisition in writing served on the person require the person—

- (a) to state, within 14 days, whether or not the person is a person entitled or required to give notice under this section; and
- (b) if the person is such a person, to give that notice.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(5) A person is not entitled to cast a vote at a meeting of the body corporate—

- (a) if the person has not complied with a requisition served on the person under subsection (4); or
- (b) in the case of a vote to be tendered through a nominee— if the nominee's full name and address for service of notices have not been notified under this section.

(6) A person who has given notice under this section may by further notice advise any change of nominee or of the person's or any nominee's address for service.

Notice of subleases

113A. (1) Notice of any sublease, or the assignment of any sublease, shall be given by the lessee to the body corporate within 14 days after the commencement of the sublease or the execution of the assignment.

(2) The notice shall specify—

- (a) the name of the sublessee or assignee;
- (b) the date of commencement or assignment of the sublease, as the case requires; and
- (c) the name of any agent acting for the lessee in respect of the sublease.

(10) Section 125 (**Charges for services**)—

Omit "or drainage", insert instead " , drainage or effluent".

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(11) Section 129 (**Commissioner may inspect certain records**)—

(a) Section 129 (1)—

Omit “Where application is made for an order under this Part in relation to a leasehold strata scheme”, insert instead “If the Commissioner informs the body corporate that the Commissioner wishes to obtain information from the body corporate for assistance in the exercise of any of the Commissioner’s functions under this Act”.

(b) Section 129 (3)—

After section 129 (2), insert:

(3) No charge is payable by the Commissioner for or in connection with the performance by the body corporate of any such duty.

(12) Section 132 (**Reference of application to Board**)—

(a) Section 132 (2) (a) (iii)—

Omit “and”.

(b) Section 132 (2) (a) (v)—

After section 132 (2) (a) (iv), insert:

(v) any person who, by the order sought, would be required to do, or to refrain from doing, a specified act; and

(13) Section 135 (**Interim orders**)—

(a) Section 135 (2)—

After “this Division” where firstly occurring, insert “or Division 3”.

(b) Section 135 (2) (a)—

After “this Division”, insert “or under Division 3, as the case may be,”.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(14) Section 146 (**Orders relating to keeping of animals**)—

Section 146 (2), (3)—

At the end of section 146, insert:

(2) If, pursuant to an application by the occupier of a lot in a leasehold strata scheme in respect of which clause (2) of by-law 28 in Schedule 3 (or a provision to the like effect in any by-laws) is for the time being in force, the Commissioner is satisfied—

- (a) that the application is made with the consent of the lessee of the applicant's lot (if the applicant is not the lessee); and
- (b) that the body corporate has unreasonably withheld its consent to the keeping by the applicant of an animal upon the lot or the common property,

the Commissioner may by order declare that the applicant may keep the animal in such manner as may be specified in the order.

(3) An order under subsection (2) is binding on the body corporate and is a good defence to any action against the applicant for breach of any by-law by virtue of the keeping of the animal in a manner authorised by the order.

(15) Section 151 (**Copy of order to be served**)—

(a) Section 151 (1A)—

After section 151 (1), insert:

(1A) On receipt of a copy of the order, the body corporate shall, unless the order otherwise provides, cause it to be prominently displayed, within 72 hours of its receipt and for 14 days thereafter, on the notice board maintained under the by-laws.

(b) Section 151 (2)—

Omit "subsection (1)", insert instead "this section".

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(16) Section 161 (**Order where voting rights denied or due notice of item of business not given**)—

Section 161 (2)—

Omit “14”, insert instead “28”.

(17) Section 162 (**Order with respect to insurance**)—

(a) Section 162 (1)—

Omit “an application by the lessor under the scheme, the lessee or an enrolled mortgagee of a lease of a lot or by an authority having the benefit of a positive covenant”, insert instead:

an application by—

- (a) the lessor under the scheme;
- (b) the lessee or an enrolled mortgagee of a lease of a lot;
- (c) an authority having the benefit of a positive covenant for an order under this subsection; or
- (d) any person having an interest in the leasehold of a lot.

(b) Section 162 (2)—

Omit “an application by the lessor under the scheme, a lessee or an enrolled mortgagee of a lease of a lot”, insert instead:

an application by—

- (a) the lessor under the scheme;
- (b) the lessee or an enrolled mortgagee of a lease of a lot; or
- (c) any person having an interest in the leasehold of a lot.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(18) Section 165 (**Appeal against order of Commissioner**)—

Section 165 (1)—

Omit “prescribed fee, not later than 21 days after the order takes effect.”, insert instead:

prescribed fee—

- (e) not later than 21 days after the order takes effect; or
- (f) by leave of the Board (given on sufficient cause being shown why the application was not lodged within the time limited by paragraph (e))—within 90 days after the order takes effect.

(19) Section 173 (**Copy of order to be served**)—

Section 173 (3)—

After section 173 (2), insert:

(3) On receipt of a copy of the order, the body corporate shall, unless the order otherwise provides, cause it to be displayed, within 72 hours of its receipt and for 14 days thereafter, on the notice board maintained under the by-laws.

(20) Schedule 3 (**By-laws**)—

(a) Clause 11 (f), (g)—

Omit the paragraphs, insert instead:

- (f) the convening of meetings of the council and (apart from its first annual general meeting) of the body corporate; and
- (g) attendance to matters of an administrative or secretarial nature in connection with the exercise or performance, by the body corporate or the council, of its respective functions.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(b) Clause 28 (2)—

At the end of clause 28, insert:

(2) The body corporate shall not unreasonably withhold its approval of the keeping of an animal upon a lot or the common property.

(21) Schedule 4 (**Meetings, and voting at meetings, of body corporate**)—

(a) Part 1, clause 3 (3), (3A)—

Omit clause 3 (3), insert instead:

(3) Co-mortgagees are entitled to cast a vote by a person duly appointed as a proxy by all of them jointly.

(3A) A co-lessee is entitled to cast a vote at a meeting—

(a) in the absence of the other co-lessees;

(b) with the consent of the other co-lessees given by them at the meeting; or

(c) if (in default of any consent under paragraph (b)) that co-lessee is the co-lessee first named on the strata roll,

or by a proxy duly appointed by all the co-lessees jointly.

(b) Part 1, clause 3 (7)—

Omit “(13) and (14)”, insert instead “(5)”.

(c) Part 2, clause 5 (3), (3A)—

Omit clause 5 (3), insert instead:

(3) Co-mortgagees are entitled to cast a vote by a person duly appointed as a proxy by all of them jointly.

(3A) A co-lessee is entitled to cast a vote at a meeting—

(a) in the absence of the other co-lessees;

(b) with the consent of the other co-lessees given by them at the meeting; or

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(c) if (in default of any consent under paragraph (b)) that co-lessee is the co-lessee first named on the strata roll,

or by a proxy duly appointed by all the co-lessees jointly.

(d) Part 2, clause 5 (7)—

Omit “(13) and (14)”, insert instead “(5)”.

SCHEDULE 3

(Sec. 4)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Interpretation

1. In this Schedule, “the Principal Act” means the Strata Titles (Leasehold) Act 1986.

Lessees

2. No amendment made by this Act affects the status, as a lessee within the meaning of the Principal Act, of any person who was such a lessee immediately before the amendment took effect.

First annual general meetings of bodies corporate

3. A meeting held before the commencement of Schedule 2 (2) (b) which would (if section 86 of the Principal Act, as amended by this Act, had then been in force) have been the first annual general meeting of a body corporate, shall be deemed to have been its first annual general meeting.

By-laws concerning individual rights and privileges over common property

4. A by-law made in accordance with section 87 of the Principal Act, as in force immediately before the commencement of Schedule 1 (3), continues in force as if made under that section as amended by this Act.

Liability for damage to lots

5. Section 94 of the Principal Act, as amended by this Act, does not apply in respect of any damage caused by or arising out of work that was carried out before the commencement of schedule 2 (3).

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 3—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued***Strata rolls**

6. To the extent to which, before the commencement of Schedule 2 (4), a strata roll was kept and maintained in a manner that accords with section 99 of the Principal Act, as amended by this Act, the strata roll shall be deemed to have been validly kept and maintained.

Certificates of body corporate

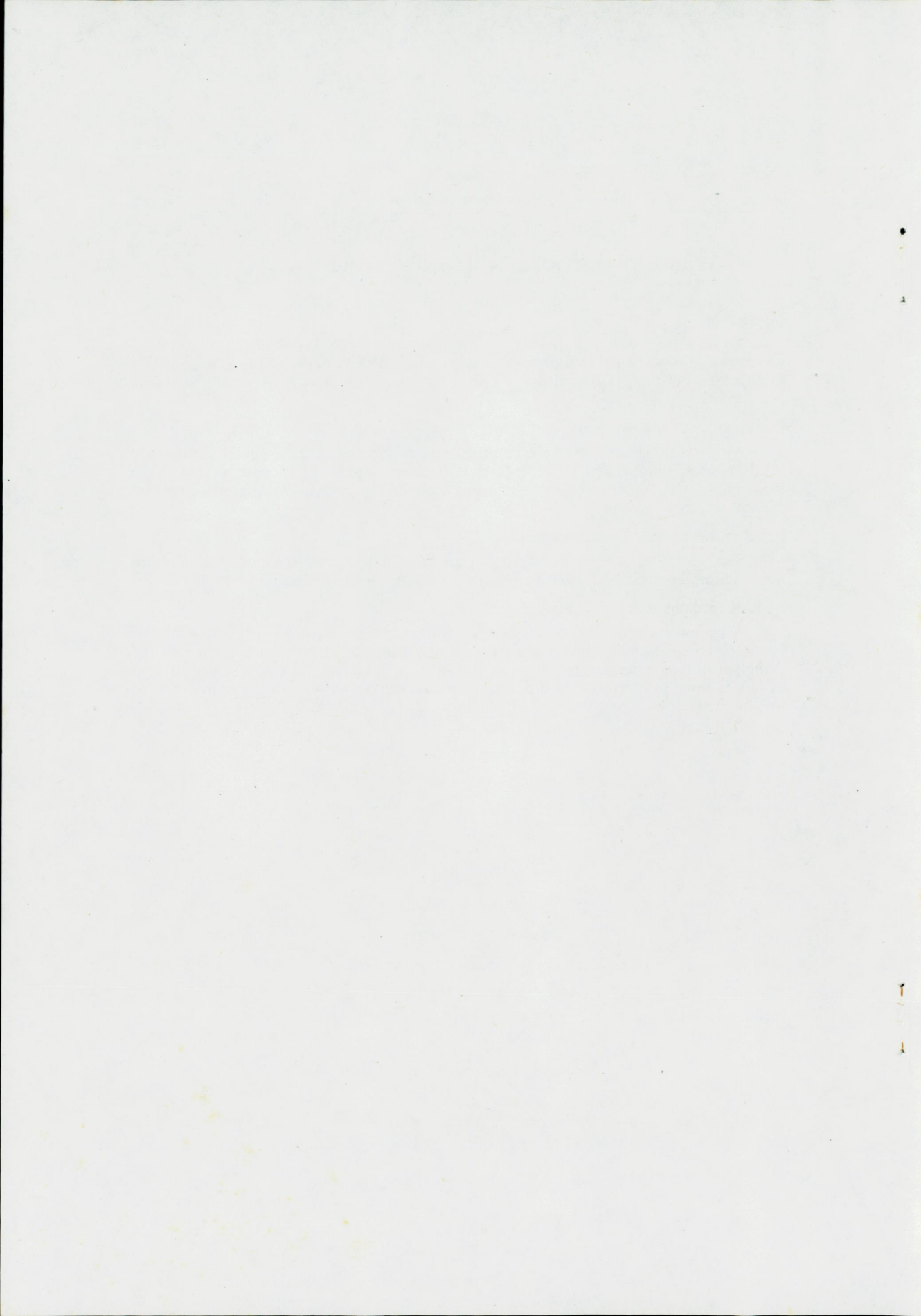
7. A certificate given, before the commencement of schedule 2 (5), under section 100 (1) (c) of the Principal Act shall be deemed, for the purposes of section 100 (5) of the Principal Act, as amended by this Act, to be a certificate given under section 100 (1) (a) of that Act, as so amended.

Requirement to serve certain notices

8. Section 132 (2) of the Principal Act, as amended by this Act, does not apply in respect of an application lodged before the commencement of Schedule 2 (12).

By-laws made by order of Commissioner

9. A by-law in force, immediately before the commencement of Schedule 1 (4), by virtue of an order made under section 148 of the Principal Act shall, subject to the Principal Act, as amended by this Act, continue in force and shall be deemed to be a by-law in force by virtue of an order made under section 156A of the Principal Act, as so amended.



STRATA TITLES (LEASEHOLD) AMENDMENT ACT 1987
No. 148

NEW SOUTH WALES



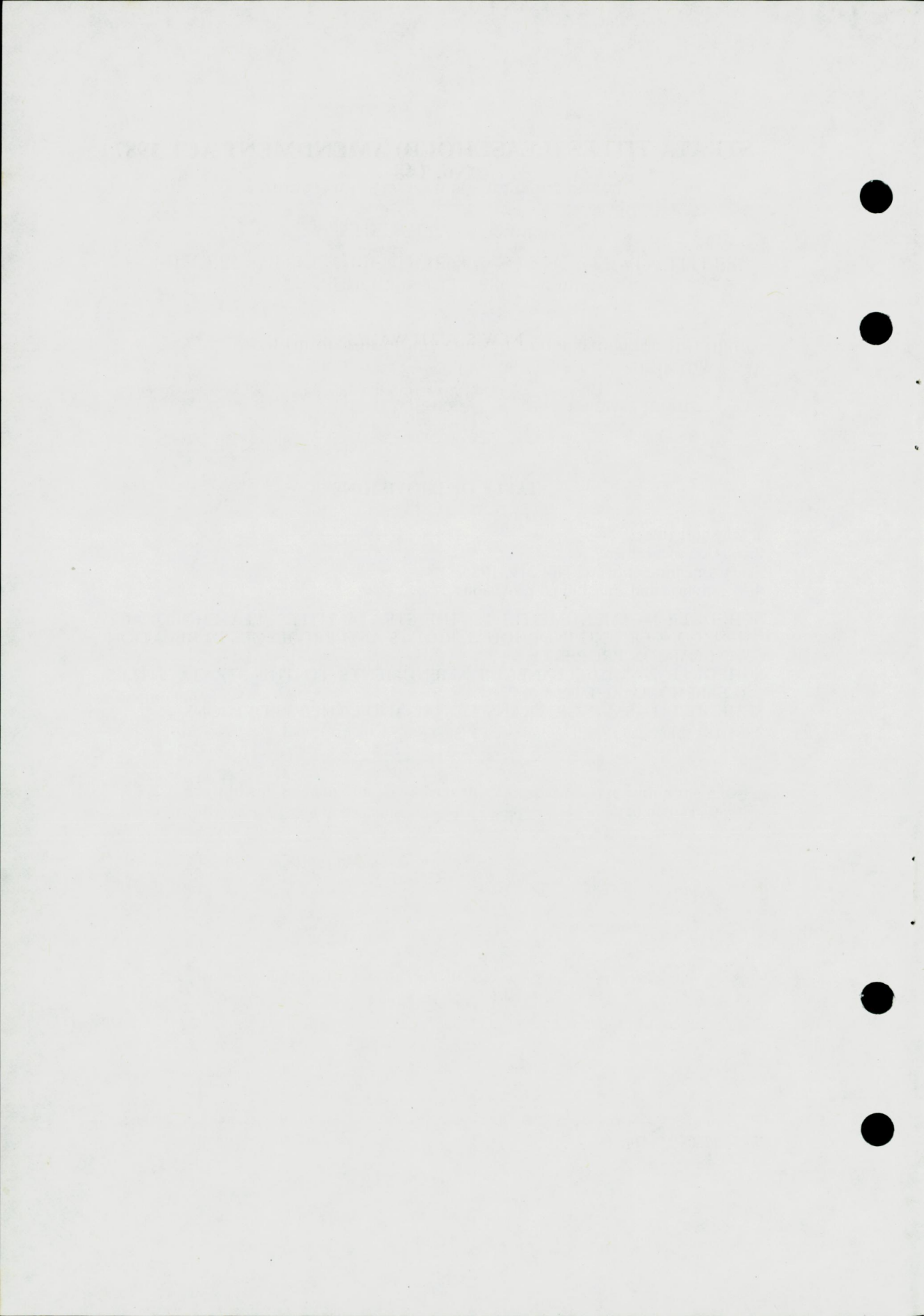
TABLE OF PROVISIONS

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STRATA TITLES (LEASEHOLD) AMENDMENT ACT 1987 No. 148

NEW SOUTH WALES



Act No. 148, 1987

An Act to amend the Strata Titles (Leasehold) Act 1986 with respect to the rights and privileges that may be conferred on individuals in relation to common property in a leasehold strata scheme and in other respects.
[Assented to 30 September 1987]

Strata Titles (Leasehold) Amendment 1987

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 (Leasehold) Amendment Act 1987".

Commencement

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

(2) The several provisions of Schedules 1 and 2 shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Section 3, in its application to a provision of Schedule 1 or 2, commences on the day on which the provision commences.

Amendment of Act No. 219, 1986

3. The Strata Titles (Leasehold) Act 1986 is amended in the manner set forth in Schedules 1 and 2.

Savings and transitional provisions

4. Schedule 3 has effect.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY

(1) Section 7 (**Registration of strata plans**)—

(a) Section 7 (1) (h)—

Omit "and".

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

(b) Section 7(1) (i), (j)—

At the end of section 7 (1) (i), insert:

; and

- (j) any requisition made by the Registrar-General with respect to the registration of any instrument referred to in section 87 (9) lodged in connection with registration of the plan is complied with.

(2) Section 27 (**Folio where there is common property**)—

(a) Section 27 (2) (d)—

Omit “parcel and”, insert instead “parcel,”.

(b) Section 27 (2) (d)—

After “parcel” where secondly occurring, insert “and any right of exclusive use and enjoyment, or any privilege, created by a by-law of the kind referred to in section 87 (7)”.

(3) Section 87 (**By-laws**)—

(a) Section 87 (2)—

Omit “in subsection (7) or”, insert instead “by subsection”.

(b) Section 87 (7), (7A)—

Omit section 87 (7), insert instead:

(7) Without limiting the generality of any other provision of this section, a by-law may, with the written consent of the lessor under the scheme and of the lessee or lessees of the lot or lots concerned, be made under subsection (2) for or with respect to conferring on the lessee of a lot specified in the by-law, or the lessees of several lots so specified—

- (a) a right of exclusive use and enjoyment of; or

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

(b) special privileges in respect of,

the whole or any specified part of the common property, upon conditions (including the payment of money, at specified times or as required by the body corporate, by the lessee or lessees of the lot or lots concerned) specified in the by-law.

(7A) A by-law referred to in subsection (7) shall either—

- (a) provide that the body corporate shall continue to be responsible for the proper maintenance, and keeping in a state of good and serviceable repair, of the common property or the relevant part of it; or
- (b) impose on the lessee or lessees of the lot or lots concerned the responsibility for that maintenance and upkeep,

and in the case of a by-law that confers rights or privileges on more than one lessee, any money payable by virtue of the by-law by the lessees concerned—

- (c) to the body corporate; or
- (d) to any person for or towards the maintenance or upkeep of any common property,

shall, except to the extent that the by-law otherwise provides, be payable by the lessees concerned proportionately according to the relative proportions of their respective unit entitlements.

(c) Section 87 (9)–(10A)—

Omit section 87 (9) and (10), insert instead—

(9) If a plan lodged under section 7 for registration as a strata plan is accompanied by an instrument, in a form approved under the Real Property Act 1900, containing the terms of a proposed by-law of the kind referred to in subsection (7)—

- (a) a by-law in those terms shall be deemed to have been made, and to take effect, on registration of the plan; and

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

(b) the by-law so made may be amended, added to or repealed in the same way as a by-law made by the body corporate under subsection (2).

(10) A by-law referred to in subsection (7), while it remains in force, continues to operate for the benefit of, and (subject to section 100 (5)) is binding upon, the lessee or lessees for the time being of the lot or lots specified in the by-law.

(10A) To the extent to which such a by-law makes a person directly responsible for the proper maintenance, and keeping in a state of good and serviceable repair, of any common property, it discharges the body corporate from its obligations under section 98 (1) (b).

(4) Section 148 (**Commissioner may make certain by-laws**)—

Omit the section.

(5) Section 156 (**Order revoking amendment of by-law or reviving repealed by-law**)—

Section 156 (3)—

After “lot”, insert “, or lessees of the lots,”.

(6) Section 156A—

After section 156, insert:

Orders with respect to by-laws conferring exclusive rights or privileges over common property

156A. (1) If a Board finds—

(a) on application made by a lessee, that the body corporate has unreasonably refused to make a by-law of the kind referred to in section 87 (7);

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE STRATA TITLES (LEASEHOLD) ACT 1986
CONCERNING INDIVIDUAL RIGHTS AND PRIVILEGES IN
RELATION TO COMMON PROPERTY—*continued*

- (b) on application made by a lessee or a body corporate, that the lessor under the leasehold strata scheme or the lessee of a lot has unreasonably refused to consent to the terms of a proposed by-law of that kind, or to the proposed amendment or repeal of such a by-law; or
- (c) on application made by any interested person, that the conditions of such a by-law relating to the maintenance or upkeep of any common property are unjust,

the Board may, subject to subsection (3), determine the application by an order prescribing the making, amendment or repeal, in terms of the order, of any such by-law or may, if it thinks fit, dismiss the application.

(2) In considering whether to make an order under this section, the Board shall have regard to—

- (a) the interests of all lessees in the use and enjoyment of their lots and common property; and
- (b) the rights and reasonable expectations of any lessee deriving or anticipating a benefit under a by-law of the kind referred to in section 87 (7).

(3) The Board shall not determine an application referred to in subsection (1) (a) by an order prescribing the making of a by-law in terms to which the applicant or the lessor under the leasehold strata scheme is not prepared to consent.

(4) An order under this section, when recorded under section 179, has effect, subject to any order of a superior court, as if its terms were a by-law.

(7) Section 179 (**Recording in Register of effect of certain orders**)—

Section 179 (1) (a)—

Omit “148, 155, 156, 157”, insert instead “155, 156, 156A, 157”.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2

(Sec. 3)

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986

(1) Section 5 (**Interpretation**)—

(a) Section 5 (1), definition of “Board”—

Omit the definition, insert instead:

“Board” means a Strata Titles Board constituted in accordance with section 98A of the Strata Titles Act 1973;

(b) Section 5 (1), definition of “lessee”—

(i) From paragraph (a), omit “, (c)”.

(ii) Omit paragraphs (b) and (c), insert instead:

(b) a person whose name has been entered on the strata roll as a lessee pursuant to section 99; or

(c) Section 5 (6)—

Omit the subsection.

(2) Section 86 (**Meetings of body corporate**)—

(a) Section 86 (2) (c)—

Omit “where there are more than 3 lessees,”.

(b) Section 86 (3)—

Omit the subsection, insert instead:

(3) For the purposes of this section, the first annual general meeting of the body corporate is—

(a) a meeting convened and held in accordance with subsection (1); or

(b) in default of compliance by the original lessee or lessor with that subsection—

(i) a meeting convened and held pursuant to an order under subsection (6); or

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (ii) if no application is made by any person under subsection (6)—the first meeting, however convened and whenever held, of the body corporate having an agenda consisting of the items mentioned in subsection (2).

(c) Section 86 (6)—

Omit “and the meeting convened by that person shall for the purposes of subsection (3) be deemed to be the meeting convened under subsection (1)”.

(d) Section 86 (10)—

Omit the subsection.

(e) Section 86 (11)—

After “order” where secondly occurring, insert “or otherwise”.

(3) Section 94 (**Power of entry**)—

Section 94 (3)—

After section 94 (2), insert:

(3) The body corporate shall be liable for any damage to a lot or any of its contents caused by or arising out of—

- (a) the carrying out of any work referred to in this section; or
- (b) the exercise of a power of entry conferred by this section (except to the extent that the damage arose by reason of obstruction or hindrance in contravention of subsection (2)).

(4) Section 99 (**Strata roll**)—

(a) Section 99 (2)—

Omit “, the subject of the leasehold strata scheme concerned”, insert instead “and the leasehold strata scheme in general”.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(b) Section 99 (3)–(6)—

Omit section 99 (3) and (4), insert instead:

(3) There shall be recorded in the pages concerning a particular lot—

- (a) the lessee's name and address for service of notices; and
- (b) information provided under section 113 or obtained from the Register in connection with the lot.

(4) There shall be recorded in the pages concerning the common property and the strata scheme in general—

- (a) the leasehold strata plan number and the address of the leasehold strata scheme building;
- (b) the names of the original lessee and any managing agent of the body corporate and their respective addresses for service of notices;
- (c) the total unit entitlement of the scheme and the unit entitlement of each lot;
- (d) particulars of insurance effected by the body corporate, including—
 - (i) the name of the insurance company;
 - (ii) the number of the insurance policy;
 - (iii) the nature of the risk insured;
 - (iv) the amount of the insurance;
 - (v) the due date for payment of the premium; and
 - (vi) the date on which the premium was last paid; and
- (e) the by-laws for the time being in force in respect of the leasehold strata scheme.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(5) The body corporate may make or amend the entries in the roll on the basis of information—

(a) contained in the Register; or

(b) provided under section 113, to the extent that information so provided is not inconsistent with information contained in the Register.

(6) Information provided under section 113 may be presumed to be consistent with information contained in the Register until the contrary is evident.

(5) Section 100 (**Supply of certificates and information by body corporate**)—

(a) Section 100 (1)—

Omit “one or more of the following things as is or are”, insert instead “of the following as may be”.

(b) Section 100 (1) (a)—

Omit the paragraph, insert instead:

(a) give, in the prescribed form, a certificate that states, as at the date of the certificate, the name and address of each member of the council and of any managing agent appointed under this Act for the leasehold strata scheme and specifies in respect of the lot in relation to which the application is made—

(i) the amount of any regular periodic contributions determined by the body corporate under section 98 (1) (k), (1) (l) and (5) and the periods in respect of which those contributions are payable;

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (ii) whether there is any amount unpaid of any contributions determined under section 98 (1) (k) and (l), including any periodic contributions referred to in section 98 (5), and, if so, the amount unpaid and, in the case of a contribution levied under section 98 (1) (l), the date on which any such contribution was levied;
 - (iii) whether there is any amount unpaid of any contribution levied under section 98 (1) (r) and, if so, the amount unpaid and the date on which it was levied;
 - (iv) whether there is any amount unpaid by a lessee under a by-law referred to in section 87 (7);
 - (v) whether there is any amount unpaid of any contribution levied under section 188 (2) and, if so, the amount unpaid and the date on which it was levied;
 - (vi) whether there is any amount recoverable from the lessee of that lot under section 90 (3) or (4) and, if so, the amount recoverable;
 - (vii) any amount and rate of interest payable under section 89 (6) in respect of any unpaid contribution referred to in this paragraph; and
 - (viii) such other information as is required to complete the certificate in the form prescribed;
- (c) Section 100 (1) (c)—
Omit the paragraph.
- (d) Section 100 (3)—
Omit “Information referred to in subsection (1) (a), and a certificate referred to in subsection (1) (c),”, insert instead “A certificate referred to in subsection (1) (a)”.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (e) Section 100 (5)—
Omit “(1) (c)”, insert instead “(1) (a)”.
- (6) Section 101 (**Constitution of councils**)—
(a) Section 101 (2), (3)—
Omit the subsections, insert instead:
(2) The council shall consist of such number of members, being not more than 9, as the body corporate may determine.
- (b) Section 101 (4)—
Omit “subsection (3)”, insert instead “subsection (2)”.
- (c) Section 101 (4)—
Omit “or, if the number of lessees increases to more than 3, at an extraordinary general meeting convened for the purpose”.
- (7) Section 104 (**Meetings of councils**)—
Section 104 (3)—
Omit “one-half”, insert instead “one-third”.
- (8) Section 106 (**Statutory restrictions on powers of councils**)—
Omit the section.
- (9) Sections 113, 113A—
Omit section 113, insert instead:
Notices to be given by lessees and others
113. (1) A person who, by virtue of the person’s interest in the leasehold of a lot, has (subject to this section and Schedule 4) the right to cast a vote (whether on the person’s own behalf or by a nominee) at meetings of the body corporate may notify the body corporate in writing of that interest.
(2) Such a notice shall specify—
(a) the person’s full name and address for service of notices;

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (b) the lot concerned and the exact nature of the person's interest in its leasehold;
- (c) the date on which the person acquired the interest; and
- (d) if the voting entitlement conferred by the interest is one which, according to Schedule 4, is to be exercised by a nominee—the nominee's full name and address for service of notices,

and shall, if the interest is a mortgage, include confirmation by the mortgagor or be verified by statutory declaration of the mortgagee.

(3) If the interest is that of—

- (a) the executor or administrator of the estate of a deceased person; or
- (b) the liquidator or receiver in bankruptcy of any person,

or some other interest arising—

- (c) by operation of law or the order of any court; or
- (d) in any manner otherwise than by transfer of the interest from some other person or the discharge of a mortgage,

the notice shall specify the manner in which the interest arose and shall be verified by statutory declaration.

(4) The secretary of the body corporate, if of the opinion that a person entitled or obliged to give notice under this section has not done so, may by a requisition in writing served on the person require the person—

- (a) to state, within 14 days, whether or not the person is a person entitled or required to give notice under this section; and
- (b) if the person is such a person, to give that notice.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(5) A person is not entitled to cast a vote at a meeting of the body corporate—

(a) if the person has not complied with a requisition served on the person under subsection (4); or

(b) in the case of a vote to be tendered through a nominee— if the nominee's full name and address for service of notices have not been notified under this section.

(6) A person who has given notice under this section may by further notice advise any change of nominee or of the person's or any nominee's address for service.

Notice of subleases

113A. (1) Notice of any sublease, or the assignment of any sublease, shall be given by the lessee to the body corporate within 14 days after the commencement of the sublease or the execution of the assignment.

(2) The notice shall specify—

(a) the name of the sublessee or assignee;

(b) the date of commencement or assignment of the sublease, as the case requires; and

(c) the name of any agent acting for the lessee in respect of the sublease.

(10) Section 125 (**Charges for services**)—

Omit "or drainage", insert instead " , drainage or effluent".

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(11) Section 129 (**Commissioner may inspect certain records**)—

(a) Section 129 (1)—

Omit “Where application is made for an order under this Part in relation to a leasehold strata scheme”, insert instead “If the Commissioner informs the body corporate that the Commissioner wishes to obtain information from the body corporate for assistance in the exercise of any of the Commissioner’s functions under this Act”.

(b) Section 129 (3)—

After section 129 (2), insert:

(3) No charge is payable by the Commissioner for or in connection with the performance by the body corporate of any such duty.

(12) Section 132 (**Reference of application to Board**)—

(a) Section 132 (2) (a) (iii)—

Omit “and”.

(b) Section 132 (2) (a) (v)—

After section 132 (2) (a) (iv), insert:

(v) any person who, by the order sought, would be required to do, or to refrain from doing, a specified act; and

(13) Section 135 (**Interim orders**)—

(a) Section 135 (2)—

After “this Division” where firstly occurring, insert “or Division 3”.

(b) Section 135 (2) (a)—

After “this Division”, insert “or under Division 3, as the case may be,”.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(14) Section 146 (**Orders relating to keeping of animals**)—

Section 146 (2), (3)—

At the end of section 146, insert:

(2) If, pursuant to an application by the occupier of a lot in a leasehold strata scheme in respect of which clause (2) of by-law 28 in Schedule 3 (or a provision to the like effect in any by-laws) is for the time being in force, the Commissioner is satisfied—

- (a) that the application is made with the consent of the lessee of the applicant's lot (if the applicant is not the lessee); and
- (b) that the body corporate has unreasonably withheld its consent to the keeping by the applicant of an animal upon the lot or the common property,

the Commissioner may by order declare that the applicant may keep the animal in such manner as may be specified in the order.

(3) An order under subsection (2) is binding on the body corporate and is a good defence to any action against the applicant for breach of any by-law by virtue of the keeping of the animal in a manner authorised by the order.

(15) Section 151 (**Copy of order to be served**)—

(a) Section 151 (1A)—

After section 151 (1), insert:

(1A) On receipt of a copy of the order, the body corporate shall, unless the order otherwise provides, cause it to be prominently displayed, within 72 hours of its receipt and for 14 days thereafter, on the notice board maintained under the by-laws.

(b) Section 151 (2)—

Omit "subsection (1)", insert instead "this section".

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

- (16) Section 161 (**Order where voting rights denied or due notice of item of business not given**)—

Section 161 (2)—

Omit “14”, insert instead “28”.

- (17) Section 162 (**Order with respect to insurance**)—

- (a) Section 162 (1)—

Omit “an application by the lessor under the scheme, the lessee or an enrolled mortgagee of a lease of a lot or by an authority having the benefit of a positive covenant”, insert instead:

an application by—

- (a) the lessor under the scheme;
- (b) the lessee or an enrolled mortgagee of a lease of a lot;
- (c) an authority having the benefit of a positive covenant for an order under this subsection; or
- (d) any person having an interest in the leasehold of a lot.

- (b) Section 162 (2)—

Omit “an application by the lessor under the scheme, a lessee or an enrolled mortgagee of a lease of a lot”, insert instead:

an application by—

- (a) the lessor under the scheme;
- (b) the lessee or an enrolled mortgagee of a lease of a lot; or
- (c) any person having an interest in the leasehold of a lot.

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(18) Section 165 (**Appeal against order of Commissioner**)—

Section 165 (1)—

Omit “prescribed fee, not later than 21 days after the order takes effect.”, insert instead:

prescribed fee—

- (e) not later than 21 days after the order takes effect; or
- (f) by leave of the Board (given on sufficient cause being shown why the application was not lodged within the time limited by paragraph (e))—within 90 days after the order takes effect.

(19) Section 173 (**Copy of order to be served**)—

Section 173 (3)—

After section 173 (2), insert:

(3) On receipt of a copy of the order, the body corporate shall, unless the order otherwise provides, cause it to be displayed, within 72 hours of its receipt and for 14 days thereafter, on the notice board maintained under the by-laws.

(20) Schedule 3 (**By-laws**)—

(a) Clause 11 (f), (g)—

Omit the paragraphs, insert instead:

- (f) the convening of meetings of the council and (apart from its first annual general meeting) of the body corporate; and
- (g) attendance to matters of an administrative or secretarial nature in connection with the exercise or performance, by the body corporate or the council, of its respective functions.

*Strata Titles (Leasehold) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(b) Clause 28 (2)—

At the end of clause 28, insert:

(2) The body corporate shall not unreasonably withhold its approval of the keeping of an animal upon a lot or the common property.

(21) Schedule 4 (**Meetings, and voting at meetings, of body corporate**)—

(a) Part 1, clause 3 (3), (3A)—

Omit clause 3 (3), insert instead:

(3) Co-mortgagees are entitled to cast a vote by a person duly appointed as a proxy by all of them jointly.

(3A) A co-lessee is entitled to cast a vote at a meeting—

(a) in the absence of the other co-lessees;

(b) with the consent of the other co-lessees given by them at the meeting; or

(c) if (in default of any consent under paragraph (b)) that co-lessee is the co-lessee first named on the strata roll,

or by a proxy duly appointed by all the co-lessees jointly.

(b) Part 1, clause 3 (7)—

Omit “(13) and (14)”, insert instead “(5)”.

(c) Part 2, clause 5 (3), (3A)—

Omit clause 5 (3), insert instead:

(3) Co-mortgagees are entitled to cast a vote by a person duly appointed as a proxy by all of them jointly.

(3A) A co-lessee is entitled to cast a vote at a meeting—

(a) in the absence of the other co-lessees;

(b) with the consent of the other co-lessees given by them at the meeting; or

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE STRATA TITLES
(LEASEHOLD) ACT 1986—*continued*

(c) if (in default of any consent under paragraph (b)) that co-lessee is the co-lessee first named on the strata roll,

or by a proxy duly appointed by all the co-lessees jointly.

(d) Part 2, clause 5 (7)—

Omit “(13) and (14)”, insert instead “(5)”.

SCHEDULE 3

(Sec. 4)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Interpretation

1. In this Schedule, “the Principal Act” means the Strata Titles (Leasehold) Act 1986.

Lessees

2. No amendment made by this Act affects the status, as a lessee within the meaning of the Principal Act, of any person who was such a lessee immediately before the amendment took effect.

First annual general meetings of bodies corporate

3. A meeting held before the commencement of Schedule 2 (2) (b) which would (if section 86 of the Principal Act, as amended by this Act, had then been in force) have been the first annual general meeting of a body corporate, shall be deemed to have been its first annual general meeting.

By-laws concerning individual rights and privileges over common property

4. A by-law made in accordance with section 87 of the Principal Act, as in force immediately before the commencement of Schedule 1 (3), continues in force as if made under that section as amended by this Act.

Liability for damage to lots

5. Section 94 of the Principal Act, as amended by this Act, does not apply in respect of any damage caused by or arising out of work that was carried out before the commencement of schedule 2 (3).

Strata Titles (Leasehold) Amendment 1987

SCHEDULE 3—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued***Strata rolls**

6. To the extent to which, before the commencement of Schedule 2 (4), a strata roll was kept and maintained in a manner that accords with section 99 of the Principal Act, as amended by this Act, the strata roll shall be deemed to have been validly kept and maintained.

Certificates of body corporate

7. A certificate given, before the commencement of schedule 2 (5), under section 100 (1) (c) of the Principal Act shall be deemed, for the purposes of section 100 (5) of the Principal Act, as amended by this Act, to be a certificate given under section 100 (1) (a) of that Act, as so amended.

Requirement to serve certain notices

8. Section 132 (2) of the Principal Act, as amended by this Act, does not apply in respect of an application lodged before the commencement of Schedule 2 (12).

By-laws made by order of Commissioner

9. A by-law in force, immediately before the commencement of Schedule 1 (4), by virtue of an order made under section 148 of the Principal Act shall, subject to the Principal Act, as amended by this Act, continue in force and shall be deemed to be a by-law in force by virtue of an order made under section 156A of the Principal Act, as so amended.

