

Circular

No. 2016/11

October 2016

New strata laws commencing 30 November 2016

On 30 November 2016 the current strata laws will be repealed and replaced by new legislation that will provide a modern framework for the creation, variation and management of strata schemes.

Repealed	New
<i>Strata Schemes Management Act 1996</i>	<i>Strata Schemes Management Act 2015</i>
<i>Strata Schemes Management Regulation 2010</i>	<i>Strata Schemes Management Regulation 2016</i>
<i>Strata Schemes (Freehold Development) Act 1973</i>	<i>Strata Schemes Development Act 2015</i>
<i>Strata Schemes (Leasehold Development) Act 1986</i>	
<i>Strata Schemes (Freehold Development) Regulation 2012</i>	<i>Strata Schemes Development Regulation 2016</i>
<i>Strata Schemes (Leasehold Development) Regulation 2012</i>	

New Approved Forms, Plan Forms and Administration Sheets will be introduced and will be available over the coming weeks so that users can become familiar with the new formats. Existing forms and Administration Sheets **will not be accepted** if signed after the commencement of the legislation.

Registrar General's Directions are being updated to provide more detailed information about the new requirements relating to the preparation of strata plans and documents intended for lodgment and registration with LPI. There are also transitional procedures affecting the lodgment of strata plans to allow a smooth transition to the new scheme.

Key changes and transitional provisions

Unit entitlement

- The proposed schedule of unit entitlements can no longer be based on a developer's estimate. A Qualified Valuer must now determine the unit entitlement for strata plans and strata plans of subdivision. The proposed schedule of unit entitlement must be apportioned according to the legislation.
- This requirement applies to strata plans and strata plans of subdivision where the Strata Certificate by an Accredited Certifier or Local Council is signed on or after the Commencement Date.

Certificates on Administration Sheets

- A Surveyor's Certificate signed **on or after** the Commencement Date must be in the form provided on the **new** Administration Sheets.
- A Strata Certificate by an Accredited Certifier or Local Council signed **on or after** the Commencement Date must be in the form provided on the **new** Administration Sheets.
- If a Strata Certificate is signed on or after the Commencement Date, the Administration Sheets must also include a Valuer's Certificate for the proposed schedule of unit entitlement as noted above.
- Where a Surveyor's Certificate was signed **before** the Commencement Date and a Strata Certificate signed **on or after** the Commencement Date, the old form of Strata Certificate must be struck through and the **new form** of the Strata Certificate must be completed and provided on a subsequent page of the Administration Sheets. A note should be included on or near the old Strata Certificate indicating the page of the Administration Sheet where the new Strata Certificate can be found.

By-laws lodged with Strata Plans

- Model by-laws provided in the *Strata Schemes Management Regulation 2010* cannot be adopted by plans registered on or after the Commencement Date. Instead, Schedule 3 *Strata Schemes Management Regulation 2016* provides new 'Model by-laws for residential strata schemes' which may be adopted.
- The model by-laws include two matters which require a selection to be made. These are:
 - Model by law 5 in relation to keeping of animals
 - Model by law 9 in relation to smoke penetration
- Where model by-laws are not being adopted and specific by-laws will apply to the scheme, the Approved Form of Strata Plan By-laws must be lodged with the strata plan and must include the full text of the relevant by laws.
- If a plan is lodged prior to the Commencement Date but not registered until on or after the Commencement Date the lodging party will need to advise which by-laws will apply under the new legislation. Section 10(1)(b) *Strata Schemes Development Act 2015* deals with the adoption of applicable by-laws. Further information will be available closer to the Commencement Date.

Changes of By-Laws and Consolidation

- Any change of by-laws is to be lodged as a consolidation of by-laws and must include any relevant model by-laws. The recording of each new consolidation on the common property title will remove reference to all previous by-laws (and consolidations).
- The Registrar General may waive the requirement for a consolidated version of by-laws if it would be too onerous to lodge a consolidated version, but only to a maximum of 5 separate changes of by laws.

Strata Plan of Consolidation

- A strata plan of consolidation may include any common property wall, floor or ceiling which previously separated the consolidated lots as part of the new lot. On registration of the plan, the space occupied by the structure will vest in the owner of the consolidated lot. A certificate from the owners corporation in accordance with section 15 *Strata Schemes Development Act 2015* must be provided.

Part Strata Parcels

- The Registrar General can now waive the requirement for a Strata Management Statement where there is a registered Building Management Statement in force for the building and its site which satisfies the requirements of a Strata Management Statement under the legislation.