

Circular

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New strata legislation commencing 30 November 2016

New strata legislation, administered by the Office of the Registrar General and NSW Fair Trading, will come into operation on **30 November 2016**. The *Strata Schemes Development Act 2015* ('the Development Act') and *Strata Schemes Management Act 2015* ('the Management Act'), together with their respective Regulations, introduce more than 90 reforms to existing strata laws and create a modern framework for the creation, variation and management of strata schemes.

The Office of the Registrar General is responsible for the administration of the Development Act and the supporting *Strata Schemes Development Regulation 2016*, which together provide the legislative basis for the creation of and dealing with lots and common property in freehold and leasehold strata schemes, and introduces the new strata renewal process. The new legislation also provides for:

- subdivision and consolidation within strata schemes
- conversion of lots into common property
- staged development of strata schemes and strata development contracts
- requirement for the issue of strata certificates by local councils or accredited certifiers
- variation, termination and renewal of strata schemes.

The new laws will have significant implications for the preparation and lodgment of strata plans and dealings (including changes of by-laws). LPI has published a Circular on these issues which is available at (insert link)

For more information on the Management Act and its impact on the management and operation of strata schemes, please see the NSW Fair Trading [Major Changes to Strata Laws](#) publication.

Key reforms introduced by the *Strata Schemes Development Act 2015*

- Greater flexibility will be given to an owners corporation to lease additional common property. The Act will now allow an owners corporation to lease land within the parcel as well as non-contiguous land outside the parcel that has some relevance to the scheme.
- A qualified valuer must determine the unit entitlement when the strata scheme is established and for strata plans of subdivision. Important procedural detail is provided in the Regulation.

- Refinements have been introduced for part strata parcels which allow the Registrar General to waive the requirement for a Strata Management Statement where there is a registered Building Management Statement in force for the building and its site (provided that it complies with the legislative requirements for a Strata Management Statement).
- Any change of by-laws is to be lodged as a consolidation of by-laws and must include any relevant model by-laws. These will be recorded on the common property title.
- New strata renewal provisions are introduced by Part 10 of the Act and Part 6 of the Regulation, providing owners with an alternative mechanism to facilitate the collective sale or redevelopment of their strata scheme where not all (but at least 75%) of owners agree.

The new alternative procedure is designed to provide a fair and transparent process through several key stages, with a number of significant safeguards to ensure the interests of owners, particularly those who are in dissent, are protected.

The legislation requires that lot owners be compensated with at least the market value of their lot plus moving costs and other expenses associated with the relocation, according to principles established by the *Land Acquisition (Just Terms Compensation) Act 1991*. Before any plan takes effect, it must be considered and approved by the Land and Environment Court. The Court must be satisfied that compensation is adequate and that the terms of settlement are just and equitable in all of the circumstances.

NSW Fair Trading is establishing a free NSW Government advice service for all owners as well as a free advocacy program to assist vulnerable owners.

More information

Further detailed information on the Strata Renewal Process will be published by the [Office of Registrar General](#).