



Strata Titles Amendment Act 2018

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43. Exclusive use by-laws

- (1) Exclusive use by-laws of a strata titles scheme are scheme by-laws that confer exclusive use and enjoyment of, or special privileges over, the common property in the strata titles scheme or specified common property in the strata titles scheme (the special common property) on the occupiers, for the time being, of a specified lot or lots in the strata titles scheme (the special lots).
- (2) Exclusive use by-laws may include the following —
 - (a) terms and conditions on which the occupiers of special lots may use the special common property;
 - (b) particulars relating to access to the special common property and the provision and keeping of any key necessary;
 - (c) particulars of the hours during which the special common property may be used;
 - (d) provisions relating to the condition, maintenance, repair, renewal or replacement of the special common property;
 - (e) provisions relating to insurance of the special common property to be maintained by the owners of special lots;
 - (f) matters relating to the determination of amounts payable to the strata company by the owners of special lots and the imposition and collection of the amounts.
- (3) Subject to the terms of exclusive use by-laws, the obligations that would, apart from this subsection, fall on the strata company under section 91(1)(c) in relation to the special common property fall instead on the owners of the special lots.
- (4) An amount payable by a person to a strata company under exclusive use by-laws must be paid (together with interest on any outstanding amount) and may be recovered by the strata company, as if the amount payable were an unpaid contribution levied on the person as a member of the strata company.

- (5) Exclusive use by-laws can only be made, amended or repealed if the owner of each lot that is or is proposed to be a special lot has given written consent to the by-laws.

44. Making of scheme by-laws

- (1) Subject to this Act, a strata company may, by resolution of the strata company, make governance by-laws or conduct by-laws for the strata titles scheme (including by-laws that amend or repeal the by-laws it is taken to have made on registration of the scheme)
- (2) The resolution to make by-laws must be —
 - (a) for governance by-laws — a resolution without dissent; and
 - (b) for conduct by-laws — a special resolution.
- (3) The power to make by-laws includes power to amend or repeal by-laws in the same manner and on the same conditions as they are made.
- (4) If by-laws purport to be made in exercise of a particular power or powers, they are also taken to be made in exercise of all powers under which they can be made.
- (5) Scheme by-laws must be in the approved form.

45. Application of scheme by-laws

- (1) Scheme by-laws may apply to the following —
 - (a) the strata company for the strata titles scheme;
 - (b) a member, for the time being, of the strata company for the strata titles scheme;
 - (c) an occupier or lessee, for the time being, of a lot, or the common property, in the strata titles scheme;
 - (d) in the case of leasehold by-laws — the owner of the leasehold scheme;
 - (e) in the case of exclusive use by-laws — the owners and occupiers, for the time being, of special lots.
- (2) Each person to whom scheme by-laws apply must comply with the by-laws as if the by-laws were a deed (signed and sealed by each person to whom they apply) containing mutual covenants to observe and perform the matters set out in the by-laws.
- (3) A lease of a lot or common property in a strata titles scheme is taken to contain an agreement by the lessee that the lessee will comply with the scheme by-laws.
- (4) The owner, occupier or lessee of a lot or common property in a strata titles scheme must take all steps that are reasonable in the circumstances to ensure that every person who they permit to use or who they invite on to the lot or common property complies with by-laws that apply to the owner, occupier or lessee.
- (5) Scheme by-laws are not by-laws or subsidiary legislation within the meaning of the Interpretation Act 1984.
- (6) An interest created under scheme by-laws does not have effect as an interest registered under the Transfer of Land Act 1893.
- (7) Nothing in subsection (6) derogates from the operation of leasehold by-laws.

REGULATION 56 Application for registration of scheme by-laws

- (1) This regulation specifies additional requirements that apply to an application for registration of an amendment of a strata titles scheme that is made under section 56 to give effect to the making, amendment or repeal of any scheme by-laws.

- (2) The application must-
 - (a) in the case of a new scheme by-law, specify whether the by-law is a governance by-law or a conduct by-law; and
 - (b) in any case, include a consolidated set of all the current scheme by-laws for the strata titles scheme.

46. Invalidity of scheme by-laws

Scheme by-laws are invalid as follows —

- (a) to the extent that there is no power to make the by-laws;
- (b) to the extent that they are inconsistent with this Act or any other written law;
- (c) to the extent that they are inconsistent with a restricted use condition;
- (d) for a leasehold scheme — to the extent that they are inconsistent with the covenants or conditions of a strata lease over a lot in the scheme;
- (e) to the extent that they purport to deny or limit the right of a member of the strata company to vote on a proposed resolution of the strata company (except as set out in this Act);
- (f) to the extent that they prohibit or restrict the devolution of a lot or a transfer, lease, mortgage or other dealing with a lot;
- (g) to the extent that they purport to discharge or modify an easement or restrictive covenant;
- (h) to the extent that they prohibit or restrict the keeping on a lot of an animal that is used as an assistance animal by a person with a disability who is an owner or occupier of a lot;
- (i) to the extent that they prohibit or restrict the use on the parcel of an assistance animal by a person with a disability;
- (j) to the extent that, having regard to the interests of all of the owners of lots in the strata titles scheme in the use and enjoyment of their lots and the common property —
 - (i) they are unfairly prejudicial to, or unfairly discriminatory against, 1 or more of the owners of lots; or
 - (ii) they are oppressive or unreasonable.