



## ***Strata Titles Amendment Act 2018 Fact Sheet***

### **SECTION 97**

#### **Insurance**

#### **97. Required insurance**

- (1) A strata company must ensure that the following insurance is in place for the strata titles scheme —
  - (a) all insurable assets of the scheme must be insured against fire, storm and tempest (excluding damage by sea, flood or erosion), lightning, explosion and earthquake —
    - (i) to replacement value; or
    - (ii) to replacement value up to, for an event of a specified kind, a maximum amount specified in the contract of insurance that is a reasonable limitation in the circumstances; and
  - (b) the strata company must be insured against damage to property, death, bodily injury or illness for which the strata company could become liable in damages to an amount of not less than \$10,000,000 or, if some other amount is determined under the regulations, that amount.

Note for this subsection:

1. The owner of a lot in a survey-strata scheme is responsible for insurance of the kind referred to in paragraph (a) for infrastructure on the lot.
  2. The owner of a lot is responsible for insurance of the kind referred to in paragraph (b) for damages for which the owner could become liable.
- (2) However, if a strata company has taken all reasonably practicable steps available to it to obtain the required insurance but no insurer is willing to enter into a contract of insurance on reasonable terms that meets the requirements, the strata company must obtain whatever insurance it can obtain on reasonable terms that most closely meets the requirements.
  - (3) The Tribunal may, on application by a strata company, exempt it from compliance with this section subject to conditions specified in the exemption.
  - (4) A strata company may enter into a contract of insurance relating to the insurable assets of its strata titles scheme and execute documents relating to the contract in its own name, as if it were the owner of the assets.
  - (5) Subject to subsection (6), if a strata company receives money from an insurer in the event of damage to or destruction of an insurable asset of the strata titles scheme, that money must be applied by the strata company in rebuilding, replacing, repairing or restoring the insurable asset so far as that may lawfully be done.

- (6) Subsection (5) does not apply if —
- (a) the strata titles scheme is a survey-strata scheme; and
  - (b) the strata company passes a resolution without dissent —
    - (i) determining that a specified part or all of the money is not to be used for the purposes of rebuilding, replacing, repairing or restoring the insurable asset of the strata titles scheme; and
    - (ii) specifying how that money is to be distributed amongst members of the strata company or used; and
  - (c) the insurable asset of the strata titles scheme or, if the insurable asset has been destroyed or removed, the area affected by the damage or destruction, is left in a safe condition.
- (7) Nothing in this section derogates from —
- (a) any other requirement imposed on a strata company to obtain insurance (for example, for workers' compensation or by resolution of the strata company); or
  - (b) the power of the strata company to obtain other insurance in its capacity as a body corporate.

Note for this section:

Schedule 2A contains special provisions for a single tier strata scheme for the required insurance.

[Section 97 inserted by No. 30 of 2018 s. 83.]

#### **98. Notice to member of strata company**

- (1) If it is reasonably necessary in order for a strata company to obtain the required insurance on reasonable terms, the strata company may give written notice to a member of the strata company requiring the member to do 1 or more of the following —
- (a) to take specified action within a specified period;
  - (b) to refrain from taking specified action;
  - (c) to pay a specified amount to the strata company within a specified period, being an amount equal to that part of the premium payable by the strata company for the required insurance attributable solely to the risk associated with something within the member's control.
- (2) A member of a strata company given such a notice may negotiate with the strata company to take some step other than that specified in the notice to enable the required insurance to be obtained by the strata company on reasonable terms.
- (3) The strata company must negotiate with the member with a view to achieving a fair and reasonable outcome.

#### **99. Member may obtain required insurance**

- (1) If a strata company fails to comply with section 97, a member of the strata company may effect and maintain, in the name of the strata company, such insurance as the strata company ought to effect and maintain under that section.

- (2) Costs incurred by a member of a strata company under subsection (1) may be recovered, on application to the Tribunal, as a debt owed to the member by the strata company.
- (3) A member of a strata company may accept, at the option of the member, a credit against contributions or other amounts owed by the member to the strata company in full or partial satisfaction of the amount owed under subsection (2).