

1993—No. 129

RESIDENTIAL TENANCIES ACT 1987—REGULATION

(Relating to exemption of certain strata leases from Act)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Residential Tenancies Act 1987, has been pleased to make the Regulation set forth hereunder.

ROBERT WEBSTER, MLC
Minister for Planning and Minister for Housing.

The Residential Tenancies Regulation 1989 is amended by inserting after clause 30 (3) the following subclause:

(3A) A residential tenancy agreement that is entered into in connection with a leasehold strata scheme under the Strata Titles (Leasehold) Act 1986 is exempted from the operation of the Residential Tenancies Act 1987, unless the agreement is one in which the landlord and the tenant are, respectively, the lessee and the sub-lessee or occupier as referred to in the Strata Titles (Leasehold) Act 1986.

EXPLANATORY NOTE

Under leasehold strata schemes, the owners in a strata building lease their properties from the developer or the prescribed authority which developed the leasehold strata scheme and are referred to as lessees. Because the lease between developer and owner permits the owner all an owner's rights (including possession of the property), a question has arisen as to whether such a lease falls within the definition of a residential tenancy agreement under the Residential Tenancies Act 1987 and is subject to that Act

The amendment exempts such a lease from the Act while maintaining the Act's application to true residential tenancy agreements in relation to leasehold strata properties, being agreements between lessees and sub-lessees or between lessees and occupiers.

This regulation is made under section 133 (3) (d) of the Residential Tenancies Act 1987.
