



New South Wales

Strata Schemes (Leasehold Development) Amendment Act 1999 No 52

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New South Wales

Strata Schemes (Leasehold Development) Amendment Act 1999 No 52

Act No 52, 1999

An Act to amend the *Strata Schemes (Leasehold Development) Act 1986* to allow the strata leasehold development of privately owned land; to amend certain other Acts to make further provision for the rating and taxation of land that is the subject of a leasehold strata scheme; and for other purposes. [Assented to 16 November 1999]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Strata Schemes (Leasehold Development) Amendment Act 1999*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Strata Schemes (Leasehold Development) Act 1986 No 219

The *Strata Schemes (Leasehold Development) Act 1986* is amended as set out in Schedule 1.

4 Amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

Schedule 1 Amendment of Strata Schemes (Leasehold Development) Act 1986

(Section 3)

[1] Part 1, note

Insert after the heading to Part 1:

Note. The purpose of this Act is to allow land to be subdivided by means of a strata scheme in cases where the owner of the land does not wish, or is not able, to part with ownership of the land. Under a leasehold strata scheme, the owner of the land that is the subject of the scheme retains an estate in fee simple in the land. The purchaser of each lot that is created under the subdivision obtains a leasehold interest, rather than a freehold interest, in the lot. The scheme of subdivision provided for by this Act is an alternative to that provided for by the *Strata Schemes (Freehold Development) Act 1973*, but many of the provisions governing the two types of schemes are the same.

[2] Section 4 Definitions

Omit paragraph (d) of the definition of *lessee* from section 4 (1).

Insert instead:

- (d) while a proprietor is deemed by section 35 (1) to be the lessee of the lot, that proprietor,

[3] Section 4 (1), definition of “lessor”

Omit “the prescribed authority which is”.

Insert instead “the proprietor who is”.

[4] Section 4 (1), definition of “prescribed authority”

Omit the definition. Insert instead:

proprietor, in relation to a parcel, means the person for the time being recorded in the Register as entitled to an estate in fee simple in that parcel.

[5] Section 6 Subdivision

Omit “a prescribed authority” from the definition of *land* in section 6 (1).

Insert instead “any person”.

[6] Section 6 (3)

Omit “prescribed authority in which”.

Insert instead “person in whom”.

[7] Section 6 (6) and note

Insert after section 6 (5):

- (6) In this section, a reference to land held in fee simple by, or vested in, a person includes land held in fee simple by, or vested in, the Crown in right of New South Wales or a public authority (including any local council) constituted or established by an Act.

Note. Before the amendments made to this Act by the *Strata Schemes (Leasehold Development) Amendment Act 1999*, only land owned by the Crown or a public authority (including a local council) could be subdivided under this Act. As a result of the amendments, land held in fee simple by any person (including the Crown, a public authority or local council) may be subdivided under this Act.

[8] Section 7 Registration of strata plans

Omit “prescribed authority” from section 7 (1) (d) (i).

Insert instead “proprietor”.

[9] Section 7 (1) (d) (i)

Omit “the authority”.

Insert instead “the proprietor”.

[10] Section 7 (3)

Omit “prescribed authority as lessor”.

Insert instead “proprietor as lessor”.

[11] Section 7 (3)

Omit “that authority”

Insert instead “that proprietor”.

[12] Section 34 Restrictions on dealings by lessee

Omit section 34 (1).

[13] Section 35 Powers of lessor where no current lease

Omit section 35 (1). Insert instead:

- (1) If a proprietor is entitled to immediate possession of a lot because of the determination of a lease, the proprietor is, for the purposes of this Act (but subject to such exceptions as may be prescribed), to be deemed to be the lessee of the lot.

[14] Section 69 Appeal against local council refusing approval

Omit “prescribed authority” wherever occurring.
Insert instead “local council”.

[15] Section 69 (4)

Omit “the authority’s”. Insert instead “the local council’s”.

[16] Schedule 5 Transitional and savings provisions

Insert before Part 1:

Part 1A Regulations

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
Strata Schemes (Leasehold Development) Amendment Act 1999
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Land Tax Management Act 1956 No 26

[1] Section 3 Definitions

Insert “or 21D” after “section 21C” in paragraph (c) of the definition of *Owner* in section 3 (1).

[2] Section 10 Land exempted from tax

Omit section 10 (1CA).

[3] Section 21D

Insert after section 21C:

21D Liability of lessees of leasehold strata lots

- (1) The lessee of land that is a leasehold strata lot is taken to be the owner of the leasehold strata lot for land tax purposes. The lessor of the lot is not to be considered to be the owner of the lot (unless the lessor is the lessee for the purposes of the *Strata Schemes (Leasehold Development) Act 1986*).
- (2) Accordingly, the lessee is liable for any land tax payable in respect of the leasehold strata lot.
- (3) If there are joint lessees, they are deemed to be joint owners of the leasehold strata lot.
- (4) This section does not apply in respect of land to which section 21C applies (land owned by the Crown, a local council or a county council).
- (5) In this section:
leasehold strata lot means a lot within the meaning of the *Strata Schemes (Leasehold Development) Act 1986*.

lessee means a lessee within the meaning of the *Strata Schemes (Leasehold Development) Act 1986*.

lessor means a lessor within the meaning of the *Strata Schemes (Leasehold Development) Act 1986*.

[4] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1A (1):

Strata Schemes (Leasehold Development) Amendment Act 1999

[5] Schedule 2, Part 11

Insert after clause 24:

Part 11 Strata Schemes (Leasehold Development) Amendment Act 1999

25 Operation of amendments

Section 21D, as inserted by the *Strata Schemes (Leasehold Development) Amendment Act 1999*, does not impose any liability for land tax for a tax year that commenced before the commencement of that amendment and does not affect any liability for land tax for any such tax year.

2.2 Local Government Act 1993 No 30

[1] Section 555 What land is exempt from all rates?

Insert after section 555 (3):

- (4) Land that is a lot in a strata plan registered under the *Strata Schemes (Leasehold Development) Act 1986* is taken, for the purposes of subsection (1) (e), (f), (g) and (g1), to belong to or be vested in the lessee (within the meaning of that Act) of the lot and not the lessor (within the meaning of that Act), unless the lessor is the lessee for the purposes of that Act.

[2] Section 556 What land is exempt from all rates, other than water supply special rates and sewerage special rates?

Insert at the end of the section:

- (2) Land that consists of a lot in a strata plan registered under the *Strata Schemes (Leasehold Development) Act 1986* is taken, for the purposes of subsection (1) (h)–(o), to belong to or be vested in the lessee (within the meaning of that Act) of the lot and not the lessor (within the meaning of that Act), unless the lessor is the lessee for the purposes of that Act.

[3] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1 (1):

Strata Schemes (Leasehold Development) Amendment Act 1999

[4] Schedule 8, Part 15

Insert after clause 49:

Part 15 Provisions consequent on enactment of Strata Schemes (Leasehold Development) Amendment Act 1999

50 Changes to rating provisions

The amendments made to this Act by the *Strata Schemes (Leasehold Development) Amendment Act 1999* do not apply in respect of any year or part of a year occurring before the commencement of those amendments and do not affect any liability for rates in respect of such a year or part of a year.

[Minister's second reading speech made in—
Legislative Assembly on 14 September 1999
Legislative Council on 9 November 1999]

BY AUTHORITY
