

[Act 2001 No 9]



New South Wales

Conveyancing Amendment (Building Management Statements) Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Conveyancing Act 1919*:

- (a) to enable a building management statement for a building containing various lots (not being strata lots) to be registered so as to provide for a building management committee and for other management matters similar to those provided for in strata management statements for buildings containing strata lots and non-strata lots, and
 - (b) to provide that certain easements for support and shelter to the various lots in a building covered by a building management statement are created on the registration of the statement, and
 - (c) to set out implied terms applying to certain easements created in relation to a lot in a building covered by a building management statement.
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Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Conveyancing Act 1919* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts a new Division 3B into Part 23 of the *Conveyancing Act 1919* containing proposed sections 196B to 196L.

Proposed section 196B provides that the Division applies only to land under the provisions of the *Real Property Act 1900*.

Proposed section 196C defines certain expressions used in the Division. A **stratum lot** is defined as a lot that is limited in height or depth (or both) by reference to specified datum but that is not a strata lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*. A **plan of subdivision of a building** is defined as a plan of subdivision for a building or part of a building that contains a stratum lot.

Proposed section 196D enables the Registrar-General to register a building management statement for a building and its site at the same time as registering a plan of subdivision of the building, or at a later time.

Proposed section 196E sets out the formal requirements for a building management statement, or an amendment of a building management statement, proposed to be registered under the Division. A registered building management statement, as in force from time to time, must also comply with requirements specified in proposed Schedule 8A (to be inserted by Schedule 1 [2] to the Bill). Proposed Schedule 8A requires a building management statement to include information and provide for certain matters, including, for example, the establishment of a building management committee, the obtaining of insurance for the building and the resolution of disputes. Schedule 8A also specifies other management matters that may be included in a building management statement.

Proposed section 196F requires particulars of a registered building management statement to be included in relevant folios of the Register kept under the *Real Property Act 1900*.

Explanatory Note

Proposed section 196G specifies the circumstances in which a registered building management statement may be amended.

Proposed section 196H requires a building management statement, or any amendment of such a statement, to be signed by holders of specified interests in the building concerned or its site. The Registrar-General may also require certain written consents before registering such a statement or amendment.

Proposed section 196I provides that a registered building management statement is binding on all persons who are, for the time being, owners, mortgagees in possession and lessees of the building.

Proposed section 196J provides that a registered building management statement for a building ceases to have effect if a strata management statement for the same building is registered under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

Proposed section 196K creates certain statutory easements for support and shelter when a building management statement for a building is registered and provides for certain ancillary rights and obligations reasonably necessary to make those easements effective.

Proposed section 196L provides that when certain other easements are created by instrument in respect of stratum lots on or after the registration of a building management statement relating to those lots, proposed Schedule 8B applies (to be inserted by Schedule 1 [2] to the Bill). The easements in question are for rights of vehicular or personal access to a lot or for specified services and must be identified on a plan lodged in the office of the Registrar-General. Schedule 8B sets out the terms of such easements. Certain aspects of those terms may be varied by agreement or by the Supreme Court on application by an interested party.

Schedule 1 [2] inserts proposed Schedule 8A (Building management statements) and Schedule 8B (Rights and obligations implied in certain easements) as outlined above.

Schedule 1 [3] enables savings and transitional regulations to be made.