



New South Wales

# Strata Schemes Management Amendment (Child Window Safety Devices) Bill 2013

## 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 *Strata Schemes Management Act 1996* to require owners corporations of strata schemes to ensure that complying window safety devices to facilitate child safety are installed on strata buildings and to provide for the enforcement of that obligation.

## 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 proclaimed.

## Schedule 1      **Amendment of Strata Schemes Management Act 1996 No 138**

**Schedule 1 [1]** requires an owners corporation of a strata scheme to ensure that complying window safety devices are installed for windows in each building of the scheme to which the requirement applies. An owners corporation will be guilty of an offence if it fails to comply. The regulations are to specify the strata schemes and windows subject to the requirement and the requirements for complying devices. The owners corporation is to carry out work related to the devices at its own cost. An owner may install a complying window safety device. Any such owner will be required to repair any damage caused to common property and ensure that the installation is done properly and in keeping with the appearance of the building concerned.

**Schedule 1 [2]** makes it clear that the power conferred on an owners corporation to enter any part of a strata parcel to carry out work extends to work relating to window safety devices.

**Schedule 1 [4]** enables an owner of a lot in a strata scheme or another interested person (such as a mortgagee or covenant chargee of a lot) to apply to a Strata Schemes Adjudicator for an order requiring the owners corporation of the scheme to carry out its window safety device functions. An owners corporation will also be able to apply to a Strata Schemes Adjudicator for an order requiring an owner to comply with the owner's obligations relating to window safety devices installed by the owner. **Schedule 1 [3]** makes a consequential amendment.

**Schedule 1 [5]** provides for an order relating to window safety device functions of an owners corporation to be treated as if it were a resolution of the owners corporation concerned to do what is needed to carry out a requirement of the order.

**Schedule 1 [6]** enables regulations to make provisions of a savings and transitional nature consequent on the enactment of any Act that amends the *Strata Schemes Management Act 1996*.

**Schedule 1 [7]** provides that an owners corporation is not required to comply with a requirement relating to the installation of window safety devices until on or after 13 March 2018.



New South Wales

# Strata Schemes Management Amendment (Child Window Safety Devices) Bill 2013

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New South Wales

# **Strata Schemes Management Amendment (Child Window Safety Devices) Bill 2013**

No. , 2013

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## **A Bill for**

An Act to amend the *Strata Schemes Management Act 1996* with respect to the installation of child window safety devices.

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**The Legislature of New South Wales enacts:**

1

**1 Name of Act**

2

This Act is the *Strata Schemes Management Amendment (Child Window Safety Devices) Act 2013*.

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**2 Commencement**

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

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<b>Schedule 1</b>	<b>Amendment of Strata Schemes Management Act 1996 No 138</b>	1
		2
<b>[1] Section 64A</b>		3
Insert after section 64:		4
<b>64A Window safety devices—child safety</b>		5
(1) An owners corporation of a strata scheme to which this section applies must ensure that there are complying window safety devices for all windows of each building in the strata scheme that are windows to which this section applies.		6
Maximum penalty: 5 penalty units.		7
(2) An owners corporation is to carry out work related to its functions under this section at its own expense and may, for the purposes of this section, carry out work on any part of the parcel.		8
(3) An owner of a lot in a strata scheme to which this section applies may install a complying window safety device on a window to which this section applies (other than a window on another owner’s lot).		9
(4) An owner of a lot who installs a window safety device under this section must:		10
(a) repair any damage caused to any part of the common property by the installation of the device, and		11
(b) ensure that the device is installed in a competent and proper manner and has an appearance, after it has been installed, in keeping with the appearance of the building.		12
(5) An owners corporation or an owner of a lot may carry out work authorised by this section despite any other provision of this Act, the regulations or any by-law of the scheme.		13
(6) The regulations may make provision for or with respect to the following:		14
(a) the strata schemes and windows to which this section applies,		15
(b) the devices or other things that are complying window safety devices for the purposes of this section,		16
(c) notification to the owners corporation by owners who install window safety devices.		17
(7) A regulation may apply this section to a window located on any part of a parcel.		18
<b>[2] Section 65 Can an owners corporation enter property in order to carry out work?</b>		19
Insert “(including work relating to window safety devices)” after “Act” in section 65 (1) (a).		20
<b>[3] Chapter 5, introductory note</b>		21
Insert in the table after the matter relating to section 140:		22
To require owners corporation to carry out window safety device function	Interested person (other than owners corporation)	140A
To require owner to comply with window safety device obligation	Owners corporation	140B

<b>[4] Sections 140A and 140B</b>	1
Insert after section 140:	2
<b>140A Order requiring owners corporation to install window safety devices</b>	3
(1) An Adjudicator may order an owners corporation to exercise a function under section 64A if the Adjudicator considers that the owners corporation has failed to do so.	4 5 6
(2) For the purposes of this section, an owners corporation is taken to have failed to exercise a function if application is made to it to exercise the function and it fails for 2 months after the making of the application to exercise the function.	7 8 9
(3) An application for an order under this section may be made by an interested person (other than an owners corporation).	10 11
<b>140B Order requiring owner to comply with window safety device duties</b>	12
(1) An Adjudicator may order an owner of a lot to comply with section 64A (4) if the Adjudicator considers that the owner has failed to do so.	13 14
(2) An application for an order under this section may be made by an owners corporation.	15 16
<b>[5] Section 207 Effect of certain orders</b>	17
Insert “140A,” after “140,” in section 207 (1) (b).	18
<b>[6] Schedule 4 Savings, transitional and other provisions</b>	19
Insert at the end of clause 1 (1):	20
any other Act that amends this Act	21
<b>[7] Schedule 4</b>	22
Insert at the end of the Schedule with appropriate Part and clause numbering:	23
<b>Part Provision consequent on enactment of Strata Schemes Management Amendment (Child Window Safety Devices) Act 2013</b>	24 25 26
<b>Phasing in of owners corporations’ obligations as to window safety devices</b>	27
(1) Despite any other provision of this Act, an owners corporation is not required to comply with section 64A until 13 March 2018.	28 29
(2) Accordingly, an order cannot be sought under section 140A in respect of a failure to exercise a function under section 64A until on or after 13 March 2018.	30 31 32