

Child Safety – Window Barrier Laws Commence

The Strata Schemes Management Amendment (Child Window Safety Devices) Act 2013 (“Act”) and Strata Schemes Management Amendment (Child Window Safety Devices) Regulation 2013 (“Regulation”) came into force on 11 December 2013.

A new Section 74A:

- requires and empowers owners corporations to install window barriers, in windows to which the section applies, by 13 March 2018.
- empowers owners to install window barriers in their own lots, despite any by-law to the contrary, subject to obligations about quality, appearance and repair of damage and a requirement that the owners corporation be notified within seven days.

New Sections 140A and 140B provide for adjudicators orders in the event of non-compliance with these obligations.

A new Regulation 31 specifies the buildings and windows to which these provisions apply, as well specifying the type of window barrier to be installed. Broadly, these provisions:

- apply to windows in buildings which contain lots used for residential purposes, where the window is openable, can be accessed from a residence, has a lower level less than 1.7 m above the floor and the floor is more than 2 m above ground level.
- require installation of a barrier meeting specified technical requirements, including a child resistant release mechanism, if it can be removed or unlocked.

Interesting features of the new provisions include:

- Section 64A(2) provides that the owners corporation may, for the purposes of this section, carry out work on any part of the parcel and is presumably includes situations where the “centre line” rule applies for plans registered prior to 1 July 1974.
- Uncertainty as to what happens when an owner denies access.
- The limitation to residential lots.

Owners corporation should consider what action they need to take to comply with the new requirements, which should begin with an executive committee meeting to discuss the available options, with a view to putting a motion on the agenda for a general meeting for the purpose of authorising appropriate action.

Key takeaways

- The new laws require owners corporations to install window barriers by March 2018.
- Owners can install window barriers in their lots despite existing by-laws, with certain conditions.
- Specific technical requirements for window barriers include a child-resistant release mechanism.
- The regulations apply to residential buildings with openable windows less than 1.7 m above the floor.
- Owners corporations should convene meetings to discuss compliance actions.

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