New Strata Laws For 2025 - New Laws in Force and Others Pending

The new strata laws for 2025 introduce significant reforms aimed at enhancing accountability and transparency in strata management across NSW.

The monster truck of strata sector law reforms continues to roll-on, with numerous reforms coming into force this year.

Developments this year include:

- The balance of the Strata Managing Agents Legislation Amendment Act 2024 commenced on 3 February 2025, joining the portion of the act which had already commenced on 8 November 2024.

  The amendments which commenced on 3 February 2025:

  - Restrictions on managing agents' ability to include in an agency agreement provision for an "uplift fee" with respect to forgone insurance commissions for insurance was arranged by the client.
  - Stricter disclosure and approval requirements with respect to managing agents' receipt of commissions and training expenses.
  - Stricter disclosure obligations on managing agents with respect to connections with the original owner (developer), suppliers to the owners corporation or suppliers to other schemes for whom the agent acts as managing agent.
  - Stricter requirements in relation to information to be provided when providing insurance quotations to an owners corporation.

- The Strata Schemes Legislation Amendment Act 2025 has been passed with one portion of it having commenced on 3 March 2025, and another portion due to commence on 1 July 2025. The balance of the act will commence on a date or dates to be proclaimed and this is expected to take place in late 2025.

The amendments which commenced on 3 March 2025 include amendments to the strata schemes management and community schemes management legislation concerning the following:

- Removal of office bearers by general meeting resolution.
- General meeting approval of legal costs.
- Voting by company nominees.

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The amendments which are to commence on 1 July 2025 include amendments to the strata schemes management and community schemes management legislation concerning the following:

- Developer accountability, increasing the penalties on developers for not holding the first AGM on time or failing to provide certain documents within the prescribed period.
- Common property repair and maintenance, including changes to the owners corporation's statutory duty to repair and maintain common property.
- Changes to common property, including a requirement for special resolutions to specify whether a lot owner or Owners Corporation will be responsible for ongoing maintenance.
- Common property rights by-laws, clarifying the consent requirements for amendment or repeal of the by-law.
- Strata Manager accountability, including a requirement for reporting every six months (previously 12 months) to the owners corporation on the functions they exercise and including application of Commonwealth unfair contract terms legislation.
- Building manager accountability, including application of Commonwealth unfair contract terms legislation.
- Capital works funding, including a requirement for the Owners Corporation to consider the initial maintenance schedule when preparing the first 10-year capital works fund plan.
- Embedded networks, with contracts for the supply of electricity entered into on or after 1 July being limited to a three-year term.
- Accessibility infrastructure, including measures to facilitate implementation of accessibility infrastructure.
- Sustainable infrastructure, including measures facilitating implementation and ongoing assessment of sustainable infrastructure.
- Uncollected goods, allowing abandoned goods to be dealt with under the Uncollected Goods Act 1995 in certain circumstances.
- Strata committee accountability, including enhanced duties.
- Chairperson accountability, including enhance duties.

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- Legal costs, including a requirement that approval of legal services by an Owners Corporation or strata committee be either for unlimited costs or costs capped to a maximum amount; and including a provision to permit an Owners Corporation or strata committee to obtain specified nonurgent legal services without approval of a general meeting resolution.

- Inspection of books and records, effectively requiring electronic access to documents to be through a 'secure' method; and applying an increase to fees for inspection under the regulations.

- Assistance animals, limiting the evidence about an assistance animal which can be required under a by-law to any form contained in the expanded list of evidence under the legislation.

- Minor renovations, requiring strata committees to provide written reasoning in the case of refusal in certain circumstances, absent which the minor renovation will be 'approved'.

The amendments which are to commence later this year span a wide range of issues relating to strata and community schemes, including:

- Developer accountability, including information for first AGM such as initial maintenance schedule and levy estimates.

- Building manager accountability, including enhanced duties.

- Levy recovery, including measures assisting owners in financial hardship.

- Strata committee accountability, including training requirements.

- New South Wales Fair Trading investigative and enforcement powers.

- Amendments to the Strata Schemes Management Regulation 2016 [increasing the prescribed percentage of the contract price for building work payable by developers of strata schemes as a building bond from 2% to 3%] are expected to commence in late 2025.

This adds to numerous other reforms last year or shortly before, including:

- Amendments from 9 November 2023 under the Competition and Consumer Act 2010 extending the "unfair contract terms" regime to most if not all agency agreements, as well as many other agreements which owners corporations may enter into with agents, suppliers and other parties.

- Amendments from 11 December 2023 under the Strata Legislation Amendment Act 2023, including:

  - Imposition of an obligation on agents to give notice of imminent expiry of the agent's term of appointment.

  - Increase of the period prior to the first AGM by which the developer must provide specified documents.

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- Amendments providing additional flexibility with respect to the strata renewal process.
- Amendments relating to nomination, appointment and removal of a strata committee members.
- Increase of notice periods for AGMs.
- Amendments relating to financial management, including use of the capital works fund or administrative fund for the purposes of the other fund, notice periods for special levies relating to urgent works and quotation requirements for substantial works.
- Amendments relating to by-laws, including validity, consolidation and restrictions on by-laws concerning the keeping of animals.
- Amendments relating to keeping of records in electronic form.
- Amendments relating to the number of votes which can be cast by company nominees and holders of powers of attorney.

- Amendments from 20 August 2024 under the Building and Construction Industry Security of Payment Act 1999 regarding entitlement of contractors to progress payments in circumstances where the contract does not comply with Section 4 of the Home Building Act 1989 or involves residential building work done in contravention of Section 92 of the Home Building Act 1989.

These reforms potentially impact on the day-to-day activities of virtually everyone involved in the strata sector. For example:

- Strata managing agents have significant new obligations, including disclosure obligations and restrictions on agency agreement provisions and need to review those agreements and their procedures generally.
- Building managers are even more significantly impacted, with significant new obligations and restrictions on management agreement provisions and also need to review their agreements and procedures generally.
- Strata committee members have had their duties and obligations significantly expanded, resembling more and more those imposed on company directors. Further, they now need to complete specified training or have their office vacate.
- Owners corporations, community associations and their committees have a number of operational issues to deal with, the amendments impacting on matters such as accessibility infrastructure, sustainability infrastructure, budgeting, levy determination, levy recovery, insurance, by-laws, AGMs, approval of renovations and common property repair. This will also impact on their agents and other advisers.
- Developers have increased accountability, particularly in relation to the documents and information to be provided to new schemes prior to the first annual general meeting.

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This article is intended to provide an overview of the vast amount of change which strata managing agents and other participants in the strata sector need to address. If you are a Compliance Pack member and want to read more on the subject, please LOGIN HERE to read our Strata Reforms Guide (please login for link to work).

Further, we have considerable experience with implementation of these reforms and would be pleased to provide you with whatever assistance you may require, with a view to reducing your time and financial cost associated with such a difficult transition.

Key takeaways

- The Strata Managing Agents Legislation Amendment Act 2024 introduces stricter disclosure requirements for managing agents.
- The Strata Schemes Legislation Amendment Act 2025 includes significant changes to developer accountability and common property maintenance.
- New laws will enhance strata manager and building manager accountability with more frequent reporting requirements.
- Accessibility and sustainable infrastructure measures are now mandated under the new laws.
- The amendments also clarify responsibilities regarding common property rights and maintenance.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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