

LEGISLATIVE ASSEMBLY

Read 1°

(Brought in by)

A BILL

To amend the *Strata Titles Act 1967*, the *Home Finance Act 1962* and the *Town and Country Planning Act 1961*, and for other purposes.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

5 1. (1) This Act may be cited as the *Strata Titles (Amendment) Act 1969*. Short title.

(2) In this Act the *Strata Titles Act 1967* is called the Principal Act. Principal Act No. 7551.

10 (3) The provisions of this Act other than section 2 shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. Commencement.

(4) Section 2 shall be deemed to have come into operation on the 17th day of March, 1967.

15 2. For sub-section (2) of section 1 of the Principal Act there shall be substituted the following sub-section:— Amendment of No. 7551 s. 1.

“(2) The provisions of this Act other than Part IV. shall come into operation on the first day of July, 1967, and Part IV. shall come into operation on the first day of December, 1967.” Commencement.

[40]—158/1.4.1969.—820.

3. Section

Amendment of No. 7551 s. 3. Interpretations.

3. Section 3 of the Principal Act shall be amended as follows :—

(a) After the interpretation of "Member" there shall be inserted the following interpretation :—

" Notice of restriction."

" Notice of restriction " means a notice of restriction within the meaning of section 6.' ; and 5

(b) At the end of the interpretation of " Unit " there shall be inserted the following expressions :—

" Car park unit."

" Car park unit " means an accessory unit designed to be owned and used for the purpose of parking a motor vehicle or motor vehicles or partly for the purpose of parking a motor vehicle or motor vehicles and partly for some other purpose or purposes. 10

" Limited residential unit."

" Limited residential unit " means a unit (not being an accessory unit) which is designed to be owned and used for residential purposes or partly for residential purposes and partly for some other purpose or purposes and no part of which is designed to be owned and used for the purpose of parking a motor vehicle. 15 20

" Restricted unit."

" Restricted unit " means a limited residential unit which is specified as a restricted unit in a notice of restriction contained in a plan.' 25

Amendment of No. 7551 s. 6.

4. After sub-section (5) of section 6 of the Principal Act there shall be inserted the following sub-sections :—

Municipality may refuse to seal in certain circumstances.

" (5A) Where a plan of strata subdivision includes units which are limited residential units, the council may refuse to cause the plan to be sealed under sub-section (1) unless the plan contains a notice of restriction in the form or to the effect of the Fourth Schedule showing as restricted units those of the limited residential units which the council is of the opinion should be so shown, and showing which of the units shown on the plan are car park units. 30 35

(5B) Where a plan of re-development includes new units or enlarged units which are limited residential units, the council may refuse to cause the plan to be sealed under sub-section (1) unless the plan contains a notice of restriction in the form or to the effect of the Fourth Schedule showing as restricted units those of the limited residential units which the council is of the opinion should be so shown, and showing which (if any) of the new or enlarged units shown on the plan are car park units." 40

5. After section 7 of the Principal Act there shall be inserted the following sections :—

New ss. 7A, 7B and 7C inserted in No. 7551.

“7A. Where a plan contains a notice of restriction, the Registrar shall not—

Effect of notice of restriction on dealings with restricted units.

5 (a) register any transfer mortgage charge lease or sub-lease of a restricted unit, or enter in the Register Book a memorandum of any transmission of or of any vesting order or disposition dealing with a restricted unit, unless the subject-matter of the transfer mortgage charge lease sub-lease transmission vesting order or
10 disposition (as the case may be) includes a car park unit ; or

(b) issue a certificate of title to a restricted unit unless the certificate of title bears a statement that the registration
15 of dealings with the unit is restricted.

7B. (1) Where a unit is sold before the relevant plan has been sealed by the council, and the plan as sealed by the council contains a notice of restriction in which the unit is specified as a restricted unit, the sale shall be void on the sealing of the plan
20 unless the subject-matter of the sale includes a car park unit.

Where unit shown as a restricted unit on sealing of plan, previous sale without car park unit avoided.

(2) Where a sale is avoided by this section, all moneys (including the deposit) shall be recoverable by the purchaser from the solicitor or licensed estate agent or other person to whom they were paid :
25 Provided that the purchaser shall be liable to pay an occupation rent for the period, if any, during which he was in actual occupation of the unit or entitled to the receipt of the rents and profits thereof.

7C. Upon application in the prescribed form by the registered proprietor of a restricted unit and with the consent under seal
30 of the council, the Registrar may delete that unit from the notice of restriction.”

Deletion of unit from notice of restriction.

6. (1) After section 8 of the Principal Act there shall be inserted the following section :—

New section 8A inserted in No. 7551.

35 “8A. A certificate of title to a unit on a registered plan shall be in or to the effect of the appropriate form in the Fifth Schedule.”

Form of certificate of title.

(2) In sub-section (3) of section 1 of the Principal Act for the expression—

Consequential amendment of No. 7551 s. 1.

40 “Part I.—Plans of Strata Subdivision and of Redevelopment ss. 4-8.”—

there shall be substituted the expression—

“Part I.—Plans of Strata Subdivision and of Redevelopment ss. 4-8A.”

7. At the end of sub-section (7) of section 13 of the Principal Act there shall be inserted the following words “ and the council under the seal of the municipality has consented to the inclusion ”.

Amendment of
No. 7551 s. 23.
Certificate of
liability.

8. In section 23 of the Principal Act for the expression beginning at the beginning of paragraph (a) and ending at the end of paragraph (e) there shall be substituted the following expression :— 5

“(a) where any determination has been made pursuant to paragraph (c) of section 16 and has not been fully satisfied, the total amount of the determination and the determined time and manner of payment thereof ; 10

(b) the total amount unpaid of any unsatisfied determination ;

and in respect of the relevant unit—

(c) the amount which is or will become due and payable out of the amount unpaid of any unsatisfied 15 determination.”

Amendment of
No. 7551 s. 24.

9. Section 24 of the Principal Act shall be amended as follows :—

By-laws.

(a) In sub-section (5) for the words “ Any amendment of or addition to any by-law ” there shall be substituted 20 the words “ Any addition to or amendment of the by-laws or any of them ” ;

(b) In sub-section (5) for the expression “ (other than those conferred or imposed by this Act) ” there shall be substituted the expression “ but no exercise of the 25 powers conferred by this section whether before or after the commencement of section 9 of the *Strata Titles (Amendment) Act* 1969 shall operate to deprive the body corporate of any powers conferred on it by this Act (other than under the by-laws) or relieve it 30 from compliance with any requirement or duty imposed on it by this Act (other than under the by-laws) ” ;

(c) In sub-section (6) for the words “ no by-law or addition to or amendment or repeal of any by-law ” there shall be substituted the words “ no addition to or 35 amendment of the by-laws or any of them ” ; and

(d) For

(d) For sub-section (7) there shall be substituted the following sub-section :—

5 “ (7) No addition to or amendment or repeal
of the by-laws or any of them pursuant to
sub-section (3) shall have effect until the body
corporate has lodged a notification thereof in the
form prescribed by the regulations with the
Registrar and the Registrar has made reference
thereto on the registered plan, but any such
10 reference on the registered plan shall not make
valid any addition to or amendment or repeal of
the by-laws or any of them which would otherwise
be invalid.”

15 10. In paragraph (a) of section 37 of the Principal Act for the
expression “ (other than the applicant and the parties who have
consented as aforesaid) ” there shall be substituted the expression
“ (other than the applicant and any other such person who has
consented in writing to the application or who has since the
lodgment of the application ceased to appear from the Register
20 Book or from any instrument or application lodged with the
Registrar to have or to claim an interest in any part of the said
land) ”.

Amendment of
No. 7551 s. 37.

25 11. In sub-section (1) of section 38 of the Principal Act after
the expression “ section 37 ” there shall be inserted the following
words :—

“ who has an interest in any part of the land in the building
subdivision.”

Amendment of
No. 7551 s. 38.
Cancellation
of plan of
building
subdivision.

12. After section 45 of the Principal Act there shall be inserted
the following section :—

30 “ 45A. Where the Registrar is directed or authorized by or
under this Act to make any amendment to, or notification
reference or memorandum on, any registered plan, he may add
further sheets to the registered plan and make the amendment
notification reference or memorandum thereon, and such further
35 sheets shall thereafter for all purposes be deemed to be part of
the registered plan.”

New s. 45A
inserted in
No. 7551.

Registrar may
incorporate
additional
sheets in
registered plan.

13. (1) For paragraph (a) of by-law 24 of the First Schedule
to the Principal Act there shall be substituted the following
paragraph :—

40 “ (a) Where a unanimous resolution is required, each
member shall be entitled to exercise one vote for
each unit in respect of which he is a member of the
body corporate ; ”.

Amendment of
No. 7551.
First Schedule.
By-laws.

(2) Where

Transitory provision.

(2) Where immediately before the commencement of this section, the by-laws of a body corporate included by-law 24 of the First Schedule to the Principal Act without amendment or addition, the by-laws shall after the commencement of this section be deemed to include by-law 24 of the said Schedule as amended by this section, in substitution for the said by-law as it appeared before the commencement of this section.

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New Fourth and Fifth Schedules inserted in No. 7551. S. 6.

14. After the Third Schedule to the Principal Act there shall be inserted the following Schedules :—

“ FOURTH SCHEDULE.

NOTICE OF RESTRICTION.

The units specified in Column 1 hereunder are restricted units.

The units specified in Column 2 hereunder are car park units.

Column 1.

Column 2.

Registration of dealings with the units specified in Column 1 is restricted.

FIFTH SCHEDULE

FORM 1.

Register Book.
Vol. Fol.

VICTORIA.

Certificate of Title under the *Transfer of Land Act 1958*.

A.B. (Name, address and occupation) is now the proprietor of an estate in fee simple (or other estate) subject to the encumbrances notified hereunder in ALL THAT land in the parish of _____ county of _____ being Unit delineated on Registered Plan No. _____ and an undivided share in the common property for the time being described on the said plan.

Dated the _____ day of _____ 19 .

(Seal of Office)

[Assistant] Registrar of Titles.

Encumbrances Referred To.

FORM 2.

Register Book.
Vol. Fol.

VICTORIA

Certificate of Title under the *Transfer of Land Act 1958*.

A.B. (Name, address and occupation) is now the proprietor of an estate in fee simple (or other estate) subject to the encumbrances notified hereunder in ALL THAT land in the parish of _____ county of _____ being Unit delineated on Registered Plan No. _____ (and thereon shown as an accessory unit) and an undivided share in the common property for the time being described on the said plan.

Dated the _____ day of _____ 19 .

(Seal of Office)

[Assistant] Registrar of Titles.

Encumbrances Referred To.

15. (1) Section

15. (1) Section 3 of the *Home Finance Act* 1962 shall be amended as follows :— Amendment of No. 6933 s. 3.

5 (a) In sub-section (1) for the interpretation of “ Dwelling-house ” there shall be inserted the following interpretation :—

10 “ Dwelling-house ” means an existing dwelling-house or residential flat or a dwelling-house or residential flat which is to be erected or is in the course of erection, and includes any land on or in which the dwelling-house or residential flat is situated or is to be erected or is in the course of erection.’ ; “ Dwelling-house.”

15 (b) After sub-section (2) there shall be inserted the following sub-section :—

20 “ (3) In determining for the purposes of this Act whether a mortgage of a dwelling-house is a first or second mortgage, any charge to a service company within the meaning of the *Transfer of Land Act* 1958 taking priority over the mortgage shall be disregarded.”

(2) This section shall be deemed to have come into operation on the 1st day of February, 1961.

25 16. In paragraph (a) of sub-section (1E) of section 17 of the *Town and Country Planning Act* 1961 for the expression “ sections 569B and 570 respectively of the *Local Government Act* 1958 ” there shall be substituted the expression “ the provisions of the *Local Government Act* 1958 or the *Strata Titles Act* 1967 ”. Amendment of No. 6849 s. 17.

