

### 123C. Transitional provision as to internal fencing

- (1) This section applies to any —
  - (a) single tier strata scheme; or
  - (b) survey-strata scheme,

the plan for which is registered before the commencement of section 37 of the *Strata Titles Amendment Act 1996*<sup>1</sup>.

- (2) During the period of 6 months after that commencement ( “**the transition period**”) liability in relation to fencing between lots in a scheme is to be determined as if section 123B had not been enacted.

- (3) Before the expiry of the transition period a proprietor of a lot in a scheme may serve notice in writing —

- (a) on the strata company; or
- (b) in the case of a two-lot scheme, on the other proprietor,

that he requires that after the expiry of that period liability in relation to fencing between lots in the scheme is to be determined as if section 123B had not been enacted.

- (4) If before the expiry of the transition period —

- (a) a notice is given under subsection (3) by a proprietor of a lot in a scheme; and
- (b) a copy of the notice accompanied by the prescribed form is lodged with the Registrar of Titles for recording on the strata/survey-strata plan,

after the expiry of the transition period liability in relation to fencing between lots in the scheme is to be determined as if section 123B had not been enacted.

- (5) It is for the proprietor who has served a notice under subsection (3) to lodge a copy of the notice, accompanied by the prescribed form, with the Registrar of Titles for the purpose of subsection (4) (b).

- (6) If before the expiry of the transition period —

- (a) a notice is not given under subsection (3) by a proprietor of a lot in a scheme; and
- (b) a copy of the notice accompanied by the prescribed form is not lodged with the Registrar of Titles for recording on the strata/survey-strata plan,

section 123B applies to the scheme after the expiry of the transition period.

- (7) This section has effect subject to —

- (a) any order under section 103R; and
- (b) any by-law of the strata company.

[Section 123C inserted by No. 61 of 1996 s.37.]