

123A. Transitional provision as to dividing fences

- (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*¹.
- (2) During the period of 6 months after that commencement (“**the transition period**”) the ownership of land in a scheme is to be determined, for the purposes of the *Dividing Fences Act 1961*, in accordance with section 123 (2).
- (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 section 123 (2) continue to apply to the scheme after the expiry of that period.
- (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,section 123 (2) continues to apply to the scheme after the expiry of the transition period.
- (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 123 (3) applies to the scheme after the expiry of the transition period.
- (7) This section has effect subject to —
 - (a) any order under section 103Q; and
 - (b) any by-law of the kind referred to in section 123 (4).

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