

# Part 10 — Protection of buyers

*[Heading inserted by No. 30 of 2018 s. 83.]*

## 156. Information to be given before contract

- 1) Before a buyer signs a contract for the sale and purchase of a lot in a strata titles scheme, the seller of the lot must give the buyer the following —
  - a) the name and address of the seller;
  - b) the following information relating to the strata titles scheme —
    - (i) the scheme notice, scheme plan, scheme by-laws and schedule of unit entitlements for the strata titles scheme;
    - (ii) scheme by-laws that have been made by the strata company but not yet registered as a scheme document;
    - (iii) for a leasehold scheme, the strata lease for the lot;
    - (iv) the name and address for service of the strata company;
    - (v) either —
      - (I) the minutes of the most recent annual general meeting and of any subsequent extraordinary general meetings of the strata company; or
      - (II) a statement that the strata company does not keep minutes of its meetings; or
      - (III) a statement of why the seller has been unable to obtain the minutes;
    - (vi) either —
      - (I) the statement of accounts last prepared by the strata company; or
      - (II) a statement that the strata company does not prepare a statement of accounts; or
      - (III) a statement of why the seller has been unable to obtain a statement of accounts;
    - (vii) a copy of any notice received by the seller from the strata company in relation to any current termination proposal for the strata titles scheme;

- c) the following information relating to the lot — its exact location shown on the scheme plan for the strata titles scheme;
    - (ii) its definition, as contained in the scheme plan for the strata titles scheme;
    - (iii) the unit entitlement of the lot (and the sum of the unit entitlements of all of the lots in the scheme);
    - (iv) if contributions have been determined by the strata company within the previous 12 months, the amount and due date of the contributions payable by the lot owner;
    - (v) if contributions have not been so determined, a reasonable estimate of the amount of the contributions likely to be payable for the 12 months following the proposed settlement date;
    - (vi) details of any debt owed by the owner of the lot to the strata company, including how the debt arose, the date on which it arose and the amount outstanding;
    - (vii) if the lot is a special lot, details of the exclusive use by-laws that apply to the lot;
  - d) any other information required by the regulations.
- 2) If the lot has not yet been created, a reference in subsection (1) —
- a) to a scheme document is to be read as a reference to the latest version of the draft scheme document or amendment of a scheme document as relevant to the lot as proposed to be created; and
  - b) to a unit entitlement of the lot or amount is to be read as a reference to a reasonable estimate of that unit entitlement or amount; and
  - c) to any other matter (such as contributions payable) is to be read as a reference to a reasonable expectation about the matter as relevant to the lot as proposed to be created.
- 3) Subsection (4) applies if —
- a) the strata titles scheme has not been registered; or (
  - b) the first annual general meeting of the strata company has not been held; or
  - c) the scheme developer owns 50% or more of the lots in the strata titles scheme or lots with an aggregate unit entitlement of 50% or more of

the sum of the unit entitlements of all the lots in the scheme.

- 4) Before a buyer signs a contract for the sale and purchase of a lot in circumstances in which this subsection applies, if the scheme developer is the seller of the lot, the seller must also give the buyer —
  - a) a statement of the estimated income and expenditure of the strata company for the 12 months after the proposed settlement date; and
  - b) details of any disclosure that the scheme developer is required to make under section 79; and
  - c) details of any contract (or proposed contract) for the provision of services or amenities to the strata company or to members of the strata company entered into or arranged by the scheme developer or by the strata company, including —
    - (i) its terms and conditions; and
    - (ii) the consideration and the estimated costs to the members of the strata company; and
  - d) details of the terms and conditions of any lease, licence, right of exclusive use and enjoyment or special privilege (or proposed lease, licence, right of exclusive use and enjoyment or special privilege) over common property.
  
- 5) The seller must comply with this section either —
  - a) by giving the buyer a notice in the approved form; or
  - b) by including the information and statements in the contract to be signed by the buyer in the manner set out in the regulations.
  
- 6) In any court or tribunal proceedings arising out of or connected with a contract for the sale and purchase of a lot, the onus of proving that the required information and statements were given in accordance with this section lies on the seller.

*[Section 156 inserted by No. 30 of 2018 s. 83.]*

## 157. Information to be given after contract

- 1) If a notifiable variation occurs after a buyer signs a contract for the sale and purchase of a lot, the seller must, by notice in writing, inform the

buyer of particulars of the notifiable variation that a reasonable person would consider sufficient to enable the buyer to make an adequately informed assessment as to whether the buyer is materially prejudiced by the notifiable variation.

- 2) The regulations may provide that if the notice contains specified particulars of a notifiable variation of a specified type it will be conclusively presumed to contain the particulars required by subsection (1).
- 3) The seller must comply with subsection (1) —
  - a) if the seller becomes aware of the notifiable variation less than 15 working days before the settlement date for the contract — as soon as practicable; and
  - b) in any other case — not later than 10 working days after the seller becomes aware of the notifiable variation.
- 4) Subsection (1) does not apply if —
  - a) the seller has in the contract informed the buyer of any proposed action or matter that would be a notifiable variation; and
  - b) the action or matter when completed does not differ from that described in the contract; and
  - c) the seller gives the buyer written notice of completion of the action or matter within the time required by subsection (5), with particulars which a reasonable person would consider sufficient to enable the buyer to make an adequately informed assessment as to whether the action or matter as completed differs from that described in the contract.
- 5) For subsection (4)(c), the time required for notice of completion is —
  - a) if the seller becomes aware of the completion of the action or matter less than 15 working days before the settlement date for the contract — as soon as practicable; and
  - b) in any other case — not later than 10 working days after the seller becomes aware of completion of the action or matter.
- 6) In any court or tribunal proceedings arising out of or connected with a contract for the sale and purchase of a lot, the onus of proving that a

notice required by subsection (1) or a notice referred to in subsection (4)(c) was given in accordance with this section lies on the seller.

*[Section 157 inserted by No. 30 of 2018 s. 83.]*

#### 158. Delay in settlement for failure to give information

- 1) A buyer may, by written notice to the seller, postpone the settlement date for a contract for the sale and purchase of a lot if the seller has not complied with section 156 or 157.
- 2) The settlement date may be postponed by no more than 15 working days after the latest date on which the seller complies with the relevant requirements (even though that may be after the contract has been entered into).

*[Section 158 inserted by No. 30 of 2018 s. 83.]*

#### 159. Avoidance of contract for failure to give information

- 1) A buyer may avoid a contract for the sale and purchase of a lot at any time before the settlement date for the contract —
  - a) if the seller has not complied with section 156; and
  - b) if the seller were now to comply with that section, the buyer would receive information or a document that would disclose material prejudice to the buyer (proof of which lies on the buyer).
- 2) However, if the seller gives the buyer a notice substantially complying with section 156 before the buyer avoids the contract under this section, the buyer may avoid the contract under this section only if the buyer does so within 15 working days after the seller's notice is given to the buyer.

*[Section 159 inserted by No. 30 of 2018 s. 83.]*