

# Strata Titles (Amendment) Act 2003

REPUBLIC OF VANUATU

## STRATA TITLES AMENDMENT ACT NO. 21 OF 2003

Arrangement of Sections

1. Amendments.
2. Commencement. (not yet commenced)

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REPUBLIC OF VANUATU

## STRATA TITLES AMENDMENT ACT NO. 21 OF 2003

Assent: 1<sup>st</sup> December, 2003

Commencement: (not yet commenced)

An Act to amend the Strata Titles Act No 29 of 2000

Be it enacted by the President and Parliament as follows-

### **1 Amendments**

The Strata Titles Act No 29 of 2000 is amended as set out in the Schedule.

### **2 Commencement**

This Act commences on the date on which it is published in the Gazette.

## SCHEDULE

### AMENDMENTS OF THE STRATA TITLES ACT NO. 29 OF 2000

#### **1 Section 1 (definition of approved lease)**

Repeal the definition, substitute

"**approved lease** means a lease registered or capable of registration in the Land Leases Register that:

(a) is for a term which, or which together with any option to extend the term exercisable by either the lessor or the lessee, has an unexpired period of at least 75 years at the date the strata plan is to be registered over the land subject to that lease; and  
(b) contains a provision that the lease is to vest in the body corporate as the lessee immediately upon registration of a strata plan and that the lessee is to cease to be a party to the lease."

## **2 Section 1 (definition of building)**

Repeal the definition, substitute

"**building** means a building which has been, or is proposed to be, subdivided into lots and common property by a strata plan or a strata plan of resubdivision."

## **3 Section 1 (definition of common property)**

Repeal the definition, substitute

"**common property** means so much of the land for the time being comprised in a strata plan as is not comprised in any lot shown in such plan, and includes utility infrastructure located within that land, other than excluded utility infrastructure."

## **4 Section 1 (definition of unanimous resolution)**

Repeal the definition, substitute

"**resolution without dissent** means a motion passed at a general meeting of the body corporate where no vote is cast against the motion."

## **5 Section 1 (definition of strata plan)**

Repeal paragraph (b) of the definition, substitute

"(b) shows the whole or any part of the land comprised in it as being divided into 2 or more lots and common property, and may divide the land comprised in it into strata; and"

## **6 Section 1**

Insert in their correct alphabetical position, the following definitions

"**boundary structure**, for a lot included in a strata plan, means a floor, wall or ceiling, other than a false ceiling, in which is located the boundary of the lot with another lot or common property.

**excluded utility infrastructure** means:

(a) utility infrastructure that is related exclusively to supplying utility services to a particular lot and is located within the boundaries of that lot (but not within a boundary structure for that lot); or

(b) utility infrastructure positioned within common property if its positioning is the subject of an agreement to which the lessee or the body corporate is a party and ownership of the utility infrastructure does not pass to the lessee or body corporate under the agreement.

**exclusive use** means exclusive use to the rights and enjoyment of, or other special rights about common property, which attaches to a lot or lots.

**lessee** means a person or entity who is the lessee named in the approved lease immediately prior to registration of the strata plan.

**special resolution** means a motion passed at a general meeting of the body corporate whereby:

(a) the votes counted for the motion are more than the votes cast against the motion, and

(b) the number of votes counted against the motion is not more than 25% of the number of lots included in the strata plan.

**utility infrastructure** means:

(a) cables, wires, pipes, sewers, drains, ducts, plant and equipment by which lots or common property are supplied with utility services; or

(b) a device for measuring the reticulation or supply of a utility service.

**utility service** means:

(a) water reticulation or supply; or

(b) gas reticulation or supply; or

(c) electricity supply; or

(d) air conditioning; or

(e) a telephone service; or

(f) a computer data or television service; or

(g) a sewer system; or

(h) drainage; or

(i) a system for the removal or disposal of garbage or waste; or

(j) another system or service designed to improve the amenity, or enhance the enjoyment, of lots or common property."

## **7 Subsection 2(1)**

Delete "into lots".

## **8 Paragraph 2(2)(a)**

After "Land Leases Act [CAP 163]", insert "except that section 36 of that Act does not apply in relation to a lot".

## **9 After subsection 3(5)**

Insert

"(5A) Despite subsection (5), a lease of the land comprised in a strata plan of resubdivision is not required to be an approved lease."

## **10 At the end of subsection 3(8)**

Add

", and such lots have exclusive use of any common property created on the plan of resubdivision".

### **11 After subsection 3(9)**

Insert

"(9A) The costs of insurance, repair and maintenance of any common property created in a plan of resubdivision are to be apportioned amongst the proprietors of the newly created lots in the same proportion as the unit entitlements apportioned under subsection (9).".

### **12 Paragraph 4(1)(a)**

Delete "the building", substitute "any building".

### **13 Paragraph 4(1)(d)**

Repeal the paragraph, substitute:

"(d) define the boundaries or dimensions of a lot; and".

### **14 Paragraph 4(1)(e)**

Delete "floor".

### **15 Subsection 11(1)**

Delete "unanimous resolution may direct the body corporate", substitute "resolution without dissent may direct the body corporate to grant exclusive use of,".

### **16 At the end of section 11**

Add

"(9) A grant by the body corporate of exclusive use of the common property, or any part of it, to a proprietor of a lot must be made by amendment to the by-laws.

(10) However, a grant of exclusive use must not be made unless the proprietor of the lot concerned gives the proprietor's prior consent in writing to the grant of the exclusive use.

(11) Unless otherwise stipulated in the by-laws, the proprietor of the lot to whom a grant of exclusive use is made is responsible for all costs relating to the insurance, maintenance and repair of the area of exclusive use.".

### **17 Subsection 12(1)**

Delete "the building", substitute "a building".

### **18 Subsection 12(3)**

After "parcel", insert ", or the proprietors of lots in a strata plan of resubdivision are entitled to the resubdivided lot,".

### **19 Subsection 12(4)**

Delete "unanimous resolution", substitute "resolution without dissent".

### **20 Subsection 13(1)**

Delete "unanimous resolution", substitute "resolution without dissent".

### **21 Subsection 14(1)**

Delete "building", substitute "strata plan".

### **22 Subsection 14(2)**

Repeal the subsection, substitute

"(2) The by-laws are to provide for the control, management, administration, use and enjoyment of the lots and the common property and must include the by-laws set out in the regulations. The by-laws are not to be added to, amended or repealed except by special resolution."

### **23 Subsection 14(5)**

Repeal the subsection, substitute

"(5) The body corporate must lodge with the Director of Land Records written notification of an addition or amendment, or repeal of any by-law, within 3 months after the passing of the relevant resolution. Any such addition, amendment or repeal of any by-law is of no effect unless such notification is lodged within that time and the Director has made reference to it on the registered strata plan."

### **24 After subsection 15(4)**

Insert

"(4A) The body corporate has the powers granted to it under this Act, the regulations and the by-laws."

### **25 Paragraph 16(1)(a)**

Delete ", unless the proprietors by unanimous resolution otherwise resolve".

### **26 Paragraph 16(1)(c)**

Delete "as defined in clause 35 of Schedule 1".

**27 Paragraph 16(2)(a)**

Delete "administrative".

**28 Subsection 16(4)**

Delete "on the application of a proprietor or any person authorised in writing by the proprietor certify", substitute ", within 7 days after receiving a written request from the proprietor or any person authorised in writing by the proprietor or mortgagee of a lot accompanied by the fee prescribed by the regulations, issue a certificate stating:".

**29 After paragraph 16(4)(c)**

Insert

"(ca) any other information prescribed by the regulations; and".

**30 Section 19(heading)**

Delete "**Building deemed destroyed**", substitute "**Strata plan terminated**".

**31 Subsection 19(1)**

Delete "the building is taken to be destroyed", substitute "a strata plan is taken to be terminated".

**32 Paragraph 19(1)(a)**

Delete "unanimous resolution", substitute "resolution without dissent".

**33 Paragraph 19(1)(b)**

Delete "the building is deemed to have been destroyed", substitute "the strata plan is deemed to have been terminated".

**34 Subsection 20(4)**

After "body corporate", insert "or lessee, if the body corporate has not had its inaugural meeting,".

**35 After subsection 20(4)**

Insert

"(4A) The proprietor of a lot must within 28 days after the registration of a strata plan of resubdivision affecting that lot, or any amendment of it, furnish to the valuing authority and to

any rating authority authorised to levy rates or taxes in relation to the parcel or any part of it, two copies of the registered strata plan of resubdivision or any amendment (including all endorsements) certified as prescribed by the regulations."

**36 Paragraph 21(2)(a)**

Delete "unanimous resolution", substitute "resolution without dissent".

**37 Paragraph 22(1)(a)**

Delete "unanimous resolution", substitute "resolution without dissent".

**38 At the end of subsection 22(2)**

Add "and, if the mortgagee has taken steps to enforce the mortgage, the mortgagee has given notice in writing to the body corporate of those steps".

**39 Section 25 (heading)**

Delete "Postal delivery service", substitute "Address for service".

**40 Subsections 25(1) and (2)**

Repeal subsections, substitute

"(1) A document may be served on the body corporate or the council of the body corporate by post enclosed in a prepaid letter addressed to the body corporate or the council, as the case may be, at the address shown on the strata plan."

**41 Section 26**

Repeal the section.

**42 Schedules 1 and 2**

Repeal the Schedules.

**43 No modification of English text**

Amending item 43 of the French text of the Bill is not needed for the English text of the Strata Title Act No. 29 of 2000.

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