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*Act No. 14 of 1985*

AN ACT TO FACILITATE THE SUBDIVISION OF LAND INTO UNITS TO BE OWNED BY INDIVIDUAL PROPRIETORS, AND COMMON PROPERTY TO BE OWNED BY ALL THE UNIT PROPRIETORS AS TENANTS IN COMMON, AND FOR THE ISSUE OF CERTIFICATES OF TITLE WITH RESPECT TO THOSE UNITS, AND TO PROVIDE FOR THE USE AND MANAGEMENT OF THE UNITS AND COMMON PROPERTY

[1 January 1986\*]

ENACTED by the Parliament of Fiji—

## PART I—PRELIMINARY

*Short title, etc.*

1. This Act may be cited as the Unit Titles Act.

*Interpretation*

2.—(1) In this Act, unless the context otherwise requires—

“accessory unit” means a unit that—

(a) is designed for use with a principal unit, whether as a garden, garage, car-parking space, storage space, swimming pool, laundry, stairway or passage or for any other like purpose; and

(b) is shown on a unit plan as an accessory unit;

“body corporate”, in relation to the units and common property shown on a unit plan and to the proprietor or proprietors of those units, means the body corporate that comprises that proprietor, or those proprietors, in accordance with section 13;

“committee”, in relation to a body corporate, means—

(a) the committee constituted under the rules of the body corporate; or

(b) in the case of a body corporate that does not have a committee—the proprietor or proprietors who comprise the body corporate;

“common property” means common property within the meaning of subparagraph 3(2)(a)(ii);

“complete unit plan”, in relation to a subdivision of land into units in stages, means a plan specifying all the units and the whole of the common property comprising the development in relation to a building or buildings already erected on the land;

“Court” means the Supreme Court;

“future development unit”, in relation to a subdivision of land into units in stages, means a unit that—

(a) is proposed to be developed or subdivided into one or more units, with or without common property, at a later stage of the development; and

(b) is shown on a stage unit plan as a future development unit;

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\* See Legal Notice 101 of 1985.

"local authority" means the local authority for the purposes of the Public Health Act as prescribed in section 10 of that Act; (Cap. 111.)

"principal unit" means a unit that—

(a) is designed for use, whether or not in conjunction with an accessory unit, as a place of residence or business, or otherwise; and

(b) is shown on a unit plan as a principal unit;

"proposed unit development plan", in relation to a subdivision of land into units in stages, means a plan specifying all the units and the whole of the common property proposed to comprise the development when it is completed;

"proprietor", in relation to a unit, means the person or persons for the time being registered as proprietor of the unit estate in the unit, in sections 34, 40, 41 and 42, and in subsections 46(12) and (13), unless the context otherwise requires, includes a person in actual occupation of a unit under a binding agreement for sale and purchase;

"redevelopment" means—

(a) the subdivision by sale, transfer, or partition into 2 or more new units, whether or not any new unit is on the same level as any other new unit, of—

(i) a unit or units shown on a deposited unit plan; or

(ii) a unit or units shown on a deposited unit plan and the whole or part of a stratum or strata formerly forming part of the common property shown on a deposited unit plan;

(b) the enlargement of a unit shown on a deposited unit plan by the inclusion in it of a stratum which immediately touches upon that unit and was formerly part of the common property or part of another unit shown on the plan; or

(c) the erection of one or more new units on the common property shown on a deposited plan;

"rules", in relation to a body corporate, means the rules applicable to that body corporate prescribed by or under section 46;

"stage unit plan", in relation to a subdivision of land into units in stages, means a plan specifying each unit and each part of any common property that has so far been completed to the extent necessary for the purposes of paragraph 5(1)(e) at the date of the deposit of the plan, the balance being specified as one or more future development units;

"supplementary record sheet", in relation to a unit plan and body corporate, means the supplementary record sheet set up and filed by the Registrar under section 21 in relation to that unit plan and body corporate;

"unanimous resolution", in relation to a body corporate, means—

(a) a resolution that is passed unanimously at a general meeting of the body corporate at which every proprietor votes either in person or by proxy;

(b) a resolution that—

(i) is passed unanimously at a general meeting of the body corporate by every proprietor who votes either in person or by proxy; and

- (ii) is agreed to within 28 days after the date of the meeting by every other proprietor who was entitled to be present and to vote at the meeting, or by his successor in title if he has ceased to be a proprietor after the meeting; or
  - (c) while there is only one proprietor—a decision of that proprietor;
- “unit”, in relation to land, means a part of the land consisting of a space situated below, on or above the surface of the land, or partly in one such situation and partly in another or others, all the dimensions of which are limited, being a space that is designed for separate ownership;
- “unit estate” means a unit estate within the meaning of subsection 4(2);
- “unit entitlement”, in relation to a unit, means the unit entitlement assigned to that unit under subsection 7(1) or under paragraph 53(3)(d);
- “unit plan” means a plan that has been, or is intended to be, deposited under subsection 4(1).
- (2) Subject to subsection (3), this Act shall be read as one with the Land Transfer Act.
- (3) The Land Transfer Act shall be read and construed subject to this Act but, where that Act is inconsistent with this Act, this Act prevails. (Cap. 131.)
- (4) This Act does not apply to or in respect of—
- (a) Crown land; or
  - (b) native land as defined in the Native Land Trust Act. (Cap. 134.)

## PART II—UNIT ESTATES

### *Subdivision of land into units*

- 3.—(1) The registered proprietor of—
- (a) the freehold estate; or
  - (b) a leasehold estate,
- in land that is subject to the Land Transfer Act may subdivide that land in accordance with this Act.
- (2) Land subdivided in accordance with this Act—
- (a) shall be divided into—
    - (i) 2 or more principal units; and
    - (ii) common property, being so much of the land as is not comprised in any unit; and
  - (b) may additionally be divided into one or more accessory units.
- (3) The Subdivision of Land Act shall not apply—
- (a) to a subdivision under this section; or
  - (b) to the sale of a unit. (Cap. 140.)

### *Subdivision effected when plan deposited*

- 4.—(1) The subdivision of land so as to provide for units shall be effected by—
- (a) the deposit under the Land Transfer Act of a plan that—
    - (i) specifies the units in their relation to the building on the land; and
    - (ii) complies with the survey provisions of the Surveyors Act; and

## (b) the surrender to the Registrar—

- (i) in the case of freehold land, of the duplicate copy of any certificate of title to that land; and
- (ii) in the case of leasehold land, of the duplicate copy of any lease of that land.

(2) The deposit of a unit plan shall have the effect of creating in each unit a unit estate in freehold or in leasehold, as the case may be, which shall comprise—

## (a) the—

- (i) fee simple estate; or
- (ii) leasehold estate,

as the case may be, in the unit determinable in accordance with section 54, 56 or 57;

## (b) the undivided share in—

- (i) the fee simple estate; or
- (ii) the leasehold estate,

as the case may be, in the common property to which the proprietor of the unit is entitled by virtue of section 10; and

## (c) the undivided share in—

- (i) the fee simple estate; or
- (ii) the leasehold estate,

as the case may be, in all the units to which the proprietor of the unit is contingently entitled by virtue of sections 54 and 56.

## (3) On the creation of a unit estate in a unit—

## (a) that estate may devolve or be transferred, leased, mortgaged or settled; and

## (b) a transfer, lease, mortgage or settlement of that estate shall have the same effect as if the estate were—

- (i) an estate in fee simple in land; or
- (ii) an interest in land under a lease, as the case may be,

but—

## (c) the fee simple estate, or the interest as lessee, as the case may be, in the land the subject of the development, shall not be capable of devolving or being dealt with in any way; and

## (d) except as provided in section 10, none of the component parts of the unit estate in that unit shall be capable of devolving or being dealt with independently of the other component parts thereof.

(4) Notwithstanding subsection (3), a proprietor of a unit shall not grant an easement over the unit except with the consent of the proprietor, and any mortgagee of each unit comprising the development.

(5) Notwithstanding section 76 of the Land Transfer Act, a separate certificate of title shall not be issued in respect of—

## (a) the estate referred to in paragraph 27(b); or

## (b) a component part referred to in paragraph (2)(c),

but nothing in this subsection shall restrict the operation of section 8 of this Act.

(6) When a unit is transferred, leased, mortgaged, settled or otherwise dealt with, it shall be described in the instrument evidencing the transaction as "Unit No. .... on Unit Plan No. .... and being that unit described in Certificate of Title Volume.....folio ....."

*Restrictions on deposit of plan*

5.—(1) Subject to subsection (2), a unit plan shall not be accepted by the Registrar for deposit—

- (a) while the land to which it relates is held in more than one certificate of title issued under the Land Transfer Act;
- (b) unless the land to which it relates is the whole of the land in a certificate of title issued under the Land Transfer Act;
- (c) until it has been approved by the Surveyor-General;
- (d) unless—
  - (i) if the land is held under a lease—the lessor;
  - (ii) the registered proprietor of any mortgage or charge affecting the land or part of it; and
  - (iii) any caveator whose caveat against the land was lodged with the Registrar before the application to deposit the plan,have given written consent, either personally or by an agent duly authorised in writing, to its being deposited;
- (e) unless a certificate has been given by the principal officer of the local authority in whose district the land is situated to the effect that every building shown on the plan has been erected, and all other development work has been carried out, to the extent necessary to enable the boundaries of each unit and the common property shown on the plan to be physically measured.

(2) Paragraphs (1)(a) and (b) shall not prevent a plan being accepted for deposit where one certificate of title can properly be issued for the land to which the plan relates.

(3) The approval of the Surveyor-General referred to in paragraph (1)(c), when endorsed on a unit plan, shall have effect to—

- (a) approve, for the purposes of the survey provisions of the Surveyors Act, survey definitions incorporated in the plan;
- (b) approve, for the purposes of this Act and the Land Transfer Act, the definitions of all the units and common property shown on the plan; and
- (c) render the plan the property of the Crown.

(4) An application to deposit a unit plan shall be made by the registered proprietor of the land to which the plan relates.

*Responsibilities, etc., of local authority*

6.—(1) The principal officer of the local authority shall not refuse to give a certificate in respect of a unit plan under paragraph 5(1)(e) except on one or more of the following grounds, namely—

- (a) that—
  - (i) a building shown on the plan has not been erected; or
  - (ii) other development work has not been carried out, to the extent necessary to enable the boundaries of each unit and the common property shown on the plan to be physically measured;
- (b) that—
  - (i) a building has been erected; or
  - (ii) other development work requiring a permit from the local authority has been carried out on the land, without a necessary permit from the local authority having been obtained;

- (c) that a building on the land has been erected—
  - (i) in a place in relation to a boundary; or
  - (ii) to a height,
 that contravenes the local authority's by-laws or the requirements of the Town Planning Act;
- (d) that a building or another part of the development contravenes the local authority's by-laws or the Town Planning Act in a manner other than that referred to in paragraph (c) to an extent that requires the making of alterations that may affect the situation or a boundary of—
  - (i) a unit; or
  - (ii) a part of the common property,
 shown on the plan.

(2) Where—

- (a) the principal officer of the local authority has given a certificate in respect of a unit plan under paragraph 5(1)(e); and
- (b) that plan has been deposited under this Act,

the local authority, notwithstanding any written law or rule of law to the contrary, shall have no power to require an alteration to a building or another part of the development that may affect the location or a boundary of—

- (c) a unit; or
- (d) a part of the common property,

shown on the plan, but may otherwise pursue remedies it may have, including the prosecution of a person, in respect of non-compliance with its by-laws or the Town Planning Act.

(3) The local authority, the principal officer of the local authority, each member of the local authority and each employee or agent of the local authority, shall not be under any civil or criminal liability in respect of the giving in good faith of a certificate under paragraph 5(1)(e).

*Unit entitlement*

7.—(1) Before a unit plan is accepted for deposit there shall be assigned to—

- (a) each principal unit; and
- (b) each accessory unit,

shown on the plan a unit entitlement, to be fixed by a prescribed person on the basis of the relative value of the unit in relation to each of the other units shown on the plan.

(2) Subject to paragraphs 20(5)(d) 53(3)(d), after a unit plan has been deposited a change shall not be made in the unit entitlement of a unit shown on the plan.

(3) A unit entitlement assigned to a unit in accordance with subsection (1) shall be used for determining the following matters, namely—

- (a) the proprietor's share in the common property in accordance with section 10;
- (b) the extent of the proprietor's liability for damages and costs under subsection 15(7);
- (c) the extent of the proprietor's—
  - (i) obligation under paragraph 16(2)(c) in respect of contributions levied by the body corporate; and
  - (ii) rights under subsection 16(3) on a distribution of surplus money or personal property;



- (d) the extent of the proprietor's obligation for payment of rent and other money under section 34;
- (e) the extent of the proprietor's share of the value of any buildings, fixtures, and other improvements under subsection 38(2);
- (f) the share in the land which is to vest in the proprietor under paragraph 54(6)(a) on the cancellation of the unit plan;
- (g) subject to subsection 57(5), the proportion in which money received or held by the body corporate for distribution among the proprietors is to be distributed among them in accordance with subsection 54(8); and
- (h) the proprietor's voting rights on a poll held pursuant to rule 34 as set out in Schedule 1;

*Existing easements or restrictions affecting land*

- 8.—(1) The deposit of a unit plan shall have no effect on—
- (a) an easement or restriction as to user to which the land to which the plan relates is subject; or
  - (b) an easement or restrictions as to user which is appurtenant to that land.
- (2) Notwithstanding any written law to the contrary, the Registrar shall—
- (a) require an easement or restriction referred to in subsection (1) to be recorded by diagram, words or otherwise on the unit plan; and
  - (b) not note the easement or restriction on a certificate of title issued under section 10.

*Issue of certificate of title in respect of unit*

- 9.—(1) On the deposit of a unit plan, the Registrar shall—
- (a) issue a certificate of title in the name of the registered proprietor of the land to which the plan relates (and not that of the body corporate), for the unit estate in all of the units shown on the unit plan;
  - (b) cancel any existing certificate of title to the land; and
  - (c) where the unit plan relates to an estate as lessee under a registered lease of land and no separate certificate of title has been issued in respect of that estate, note an appropriate memorial on the lease.
- (2) Notwithstanding paragraph (1)(a), the Registrar may, at the request of the registered proprietor and subject to subsection (3), issue a separate certificate of title for a principal unit, which certificate of title may also include one or more accessory units.
- (3) The Registrar shall—
- (a) note on every certificate of title issued under this section, in such manner as to preserve their priority, the memorials of all unsatisfied mortgages, leases and other estates and interests, outstanding or otherwise, to which the land is subject at the time of issuing the certificate; and,
  - (b) in the case of a certificate issued to a minor or a person under any other legal disability, state the particulars of that disability so far as he has notice or knowledge of it.
- (4) A certificate of title issued under this section shall be deemed to be a certificate of title issued under the Land Transfer Act.
- (5) It shall not be necessary in a certificate of title issued under this section to mention the quantum of the undivided share in the common property to which the proprietor is entitled by virtue of subsection 10(1).

*Common property*

10.—(1) Any common property shall be held by the proprietors of all the units as tenants in common in shares proportional to the unit entitlement in respect of their respective units.

(2) Nothing in subsection (1) shall affect the interests among themselves of the proprietors of the unit estate in an individual unit.

(3) While the same person is proprietor of all the units, subsection (1) shall apply as if there were a different proprietor for each unit.

(4) The proprietors of all the units may—

(a) sell or lease part of the common property; or

(b) grant an easement over the common property or part of it.

*Independent dealings with accessory units restricted*

11.—(1) Subject to subsection (2), an accessory unit or an interest in it shall not be sold, leased, mortgaged, or otherwise disposed of or dealt with—

(a) except as part of a sale, lease, mortgage, disposition, or other dealing which includes a principal unit or a corresponding interest in a principal unit; or

(b) unless it is transferred to the proprietor of another principal unit.

(2) The proprietor of a principal unit which has included in its certificate of title an accessory unit may let the accessory unit on a weekly tenancy or on a tenancy determinable at the will of either of the parties by one month's written notice.

(3) A certificate of title relating to an accessory unit shall not be issued except as part of a certificate of title relating to a principal unit.

(4) Where a certificate of title of a principal unit, not being a certificate of title issued under paragraph 9(1)(a), includes an accessory unit, an interest in the principal unit shall not be sold, leased, mortgaged, or otherwise disposed of or dealt with except—

(a) as part of a sale, lease, mortgage, disposition, or dealing which includes the accessory unit or a corresponding interest in the accessory unit; or—

(b) where there is a concurrent sale of the accessory unit in accordance with paragraph (1)(b).

(5) Where an accessory unit is being transferred independently of a principal unit to a person who is the proprietor of another principal unit shown on the unit plan, the instrument of transfer in respect of the accessory unit shall contain a request to the Registrar for the accessory unit to be included in the certificate of title for that other principal unit, and, on registration of the instrument of transfer, the accessory unit shall become subject to any mortgages and charges affecting that principal unit.

(6) Where the certificate of title of a principal unit includes an accessory unit, that accessory unit shall not be transferred apart from the principal unit while it remains subject to a mortgage or charge.

(7) Notwithstanding anything to the contrary in the Land Transfer Act but subject to subsection (8), a purported sale, lease, mortgage, disposition, or dealing with a unit in contravention of subsection (1), (4) or (6) is void and of no effect.

(8) Nothing in subsection (7) shall affect the devolution of a unit on the death of its proprietor to his administrator.

*Incidental rights*

12.—(1) The common property and each unit on a unit plan shall, by virtue of this section, have as appurtenant to it all rights of support, shelter and protection, and rights for the passage or provision of water, sewerage, drainage, gas, electricity, oil, garbage, air, and other services of whatsoever nature, including telephone, radio and television services, over the land to which the unit plan relates and every part of that land as may from time to time be necessary for the reasonable use or enjoyment of the common property or unit.

(2) The common property and each unit on a unit plan shall, by virtue of this section, have as appurtenant to it—

(a) a right to the full, free, and uninterrupted access and use of light to or for windows, doors, or other apertures existing at the date of deposit of the unit plan and enjoyed at that date; and

(b) a right to maintain overhanging eaves existing at the date of deposit of the unit plan,

over the land to which the unit plan relates and every part of that land.

(3) The rights created by this section shall carry with them all ancillary rights necessary to make them effective as if they were easements.

*Proprietors to constitute body corporate*

13.—(1) On the deposit of a unit plan the registered proprietor of the land to which the plan relates shall become a body corporate.

(2) After the deposit of a unit plan the proprietor, or proprietors, for the time being of all the units comprised in the unit plan shall, by virtue of this Act, be the body corporate.

(3) A body corporate shall have the designation “Body Corporate Number .....” (being the registered number of the unit plan).

(4) A body corporate shall have a common seal.

*Actions by and against body corporate*

14.—(1) A body corporate may—

(a) sue and be sued in its corporate name; and

(b) do and suffer all other things that bodies corporate may do and suffer.

(2) Without restricting the generality of subsection (1), a body corporate may sue for and in respect of damage or injury caused to the common property, whether or not caused by a proprietor.

*Liability in tort*

15.—(1) This section applies to proceedings brought under the Occupiers’ Liability Act, in tort, or in respect of an alleged breach of a statutory duty, where it is required by law that the proceedings be brought against the owner or occupier of a particular parcel of land or premises. (Cap. 33.)

(2) This section shall apply notwithstanding any other written law to the contrary.

(3) For the purposes of proceedings to which this section applies—

(a) the common property and each unit shown on a unit plan are separate premises; and

(b) where the proceedings are brought in respect of the common property, the body corporate shall be deemed to be the owner and the occupier of the common property, and accordingly—

(i) a proprietor or a visitor of a proprietor, on the common property, shall be deemed to be a visitor to that property; and

(ii) any judgment which may be awarded to the plaintiff shall be entered against the body corporate.

(4) Notwithstanding paragraph (3)(b), where the cause of action arose through the negligence or unauthorised act or omission of one or more of the proprietors or former proprietors, the body corporate may join that proprietor or those proprietors as co-defendants, and judgment may be given against the body corporate and that proprietor, or those proprietors, jointly and severally.

(5) The amount of a judgment, including costs, given jointly and severally as provided in subsection (4), may be recovered in a court of competent jurisdiction as a debt due to the body corporate by the proprietor or proprietors against whom judgment is given.

(6) Subject to subsection (7), where the defendant in proceedings to which this section applies is a body corporate, the proprietors of the relevant units at the time when judgment is entered shall be deemed to have guaranteed to the plaintiff the payment by that body corporate of the full amount awarded by way of judgment.

(7) The liability of a proprietor referred to in subsection (6) is limited to an amount equal to such part of the nett sum payable by the body corporate in accordance with the judgment as is proportionate to the unit entitlement of his unit.

(8) For the purposes of subsection (7) "the nett sum payable by the body corporate in accordance with the judgment" means the total sum payable by the body corporate in accordance with the judgment less—

(a) any amount which the body corporate recovers under a policy of insurance; and

(b) any amount—

(i) paid by a proprietor against whom judgment is given pursuant to subsection (4); or

(ii) recovered from such a proprietor under subsection (5),  
as the case may be.

(9) Where an amount is recovered from a proprietor under subsection (5) after satisfaction of the judgment by the body corporate, it shall, subject to any right of set-off, be refunded to those proprietors who have made a payment under subsection (7), in proportion to the amount of their payments.

(10) Where a proprietor pays to the plaintiff a sum which he is liable to pay under subsection (6), he may recover that sum from the body corporate in a court of competent jurisdiction as a debt due to him from the body corporate.

(11) Subsection (10) shall not prevent a body corporate in an action referred to in that subsection from claiming a sum due to it from a proprietor under this Act by way of set-off.

(12) If a body corporate at a general meeting so resolves, a sum payable by it in accordance with this section may be paid out of any general fund established by it.

#### *Duties of body corporate*

16.—(1) A body corporate shall—

(a) subject to this Act, carry out the duties imposed on it by its rules;

(b) insure and keep insured all buildings and other improvements on the land, in respect of which it is the body corporate, to their replacement value, which shall include demolition costs and architect's fees,

against fire, flood, explosion, storm and tempest, hail, aircraft and devices dropped from aircraft, impact, riot, strikes and civil commotion, malicious damage and earthquakes;

(c) effect—

- (i) insurance for cover of not less than the prescribed amount, or, if not prescribed, not less than \$150,000, in respect of damage to property, death or bodily injury occurring on the common property; and
- (ii) any other insurance it is required by law to effect, including any insurance required to be effected under the Workmen's Compensation Act; (Cap. 94.)

(d) subject to sections 54, 55, 56 and 57, apply as soon as practicable insurance money received by it in respect of damage to a building or improvements in rebuilding and reinstating that building or those improvements so far as the rebuilding or reinstatement may lawfully be effected;

(e) pay the premiums in respect of policies of insurance effected by it;

(f) keep the common property in good repair;

(g) comply with notices or orders served on it by a competent local authority or public body requiring repairs to, or work to be performed in respect of, the land in respect of which it is the body corporate, or a building or improvement on that land;

(h) subject to this Act, control, manage, and administer the common property and do all things reasonably necessary for the enforcement of the rules;

(i) do all things reasonably necessary for the enforcement of any lease under which the land is held; and

(j) do all things reasonably necessary for the enforcement of any contract of insurance entered into by it under this section.

(2) A body corporate shall also—

(a) establish and maintain a fund for administrative expenses sufficient, in the opinion of the body corporate,

(i) for the control, management, and administration of the common property;

(ii) for the payment of insurance premiums, any rent, rates, and repairs; and

(iii) for the discharge of the other obligations of the body corporate;

(b) determine from time to time the amounts to be raised for the purposes referred to in paragraph (a); and

(c) raise the amounts determined under paragraph (b) by levying contribution on each proprietor in proportion to his unit entitlement.

(3) A body corporate may, pursuant to a resolution of the proprietors, distribute money or personal property in its possession and surplus to its current requirements, among the proprietors according to their unit entitlements.

(4) For the purposes of effecting a policy of insurance under subsection (1), a body corporate is deemed to have an insurable interest in all the buildings and other improvements on the land in respect of which it is the body corporate.

(5) A policy of insurance authorised by this section and effected by a body corporate in respect of a building or other improvement shall not be liable to be brought into contribution with another policy, unless that other policy is a policy authorised by this section in respect of the same building or improvement.

*Powers of body corporate*

17.—(1) Subject to this Act, a body corporate shall have all powers reasonably necessary to enable it to carry out the duties imposed on it by this Act and by its rules.

(2) A body corporate shall not have power to carry on a trading activity.

*Dealings affecting common property*

18. An instrument evidencing a transfer, lease or grant of an easement affecting—

(a) the common property; or

(b) land that is to become part of the common property,  
may be executed by a body corporate, if the transfer, lease, grant, or dealing has been approved by unanimous resolution of the body corporate.

*Registration of transfers of common property*

19.—(1) A memorandum of transfer of the whole or a part of the common property shall, in addition to any plan that the Registrar may require to be deposited under section 150 of the Land Transfer Act, be accompanied by a new unit plan, which shall—

(a) be in substitution for, and shall be deposited under the same number as, the existing unit plan; and

(b) show the effect of the transfer to the satisfaction of the Registrar.

(2) Where a unit is subject to an existing registered mortgage, charge, lease, or sublease, the Registrar shall not register a transfer of the whole or a part of the common property until there has been produced to him the written consent of every registered mortgagee, annuitant, lessee, and sublessee to the release of his interest in the land comprised in the transfer, and, on registration of the transfer, each such consent shall operate as a discharge of the mortgage or charge, or a surrender of the lease or sublease, as to the land comprised in the transfer, as the case may be.

(3) The Registrar shall register a transfer to which subsection (1) refers by—

(a) entering an appropriate memorial relating to the transfer on the new unit plan and on the supplementary record sheet; and

(b) issuing in the name of the transferee a certificate of title to the land transferred free from any incidental rights existing over the land by virtue of section 12.

(4) This section does not restrict the operation of section 21.

*Additions to common property*

20.—(1) Land which is transferred, free from any registered mortgage, charge, lease, or sublease to the registered proprietors of all the units shown on a unit plan, whether by name or general description, may be included in the subdivision to which the unit plan relates as part of the common property if the transfer contains, or has endorsed on it or annexed to it, a request by the body corporate that purports to be given in pursuance of a unanimous resolution of the

body corporate or a request by the transferees to the Registrar so to do, and—

- (a) where a unit estate in freehold exists in the units shown on the plan—the transfer is of an estate in fee simple in the land to which it relates; or
- (b) where a unit estate in leasehold exists in the units shown on the plan—the transfer is of an estate as lessee from the lessor of the land already included in the subdivision under a lease for the remaining period, on the same terms and conditions (other than the amount of rent), and containing the same provisions as the current lease of the land already included in the subdivision.

(2) A unit, together with the undivided share in common property of the proprietor of that unit, which is transferred free from any registered mortgage, charge, lease, or sublease to the proprietors of all the other units shown on a unit plan, whether by name or general description, may be included in the subdivision as part of the common property if the transfer contains or has endorsed on it or annexed to it a request by the body corporate that purports to be given in pursuance of a unanimous resolution of the body corporate or a request by a transferees to the Registrar so to do.

(3) A transfer to which subsection (1) or (2) relates shall, when presented for registration, be accompanied by a new unit plan, which shall—

- (a) be in substitution for, and shall be deposited under the same number as, the existing unit plan; and
- (b) show the effect of the transfer to the satisfaction of the Registrar; and
- (c) have endorsed on it an amended schedule of unit entitlements assigned in accordance with subsection 7(1).

(4) The registration of a transfer referred to in subsection (1) or (2) shall have the effect of including the transferred land or unit as part of the relevant common property, and the undivided share of the proprietor of each other unit in the land or units so included shall be held by him subject to the same terms, conditions, liabilities, and encumbrances as those on and subject to which he held the unit immediately before the registration of the transfer, and subject in all respects to any mortgage, charge, lease, or sublease then affecting his unit as if the transferred land had been expressly included.

(5) The Registrar shall register a transfer referred to in subsection (1) or (2) by—

- (a) entering a memorial of the transfer on the relevant certificate of title;
- (b) entering on the new unit plan and on the supplementary record sheet an appropriate memorial relating to the transfer;
- (c) entering on the new unit plan a memorial of any easement that is appurtenant to the land shown on that plan or to which that land is subject; and
- (d) where the transfer is of a unit shown on the existing plan, recording on the new unit plan that the unit entitlement of that unit has been cancelled and that the aggregate unit entitlement shown on the plan has been reduced by the amount of the unit entitlement of that unit.

(6) This section does not restrict the operation of section 21.

*Supplementary record sheets and new unit plans*

21.—(1) The Registrar shall, as soon as it becomes necessary for the purposes of this Act to do so, set up, in relation to a unit plan and body corporate, a supplementary record sheet, on which he shall note appropriate memorials relating

to—

- (a) instruments which are registered and affect, independently of the units, the common property or part of it; and
  - (b) other matters which, in accordance with this Act, have to be noted on a supplementary record sheet.
- (2) A supplementary record sheet shall be filed in the same manner as a certificate of title, and the number of the supplementary record sheet shall be entered on the unit plan or its recorded copy.
- (3) Where, under section 19, 20 or 53, a new unit plan is deposited under the same number as a previous unit plan—
- (a) the previous unit plan shall be filed under a different number;
  - (b) the plan so deposited shall be noted to show clearly that it is in substitution for the earlier plan which shall be identified by the number under which it is filed; and
  - (c) where a unit is described in a certificate of title or any other instrument by reference to a numbered unit plan, the reference shall be read as a reference to the plan for the time being deposited under that number.
- (4) The Registrar shall—
- (a) where he issues a copy of a previous unit plan—indicate on the copy the number under which that previous unit plan has been refiled; and
  - (b) where he issues a copy of a unit plan in respect of which a supplementary record sheet has been set up—indicate on that copy the reference number of that supplementary record sheet.

### PART III—STAGED DEVELOPMENT

#### *Subdivision of land into units in stages*

22.—(1) Notwithstanding Part II, a person who is entitled, by virtue of subsection 3(1), to subdivide land in accordance with this Act may, in accordance with this Part, effect that subdivision in 2 or more stages.

(2) Notwithstanding subsection 3(1), a stage of a subdivision referred to in subsection (1) may make provision for only one principal unit, and it shall be sufficient compliance with subsection 3(1) if the relevant stage unit plan specifies one principal unit and one or more future development units, with or without accessory units or common property.

#### *How subdivision in stages effected*

23. The subdivision of land so as to provide for units in 2 or more stages shall be effected by the successive deposit under the Land Transfer Act of—

- (a) a proposed unit development plan, which shall specify all the units, and the whole of the common property, proposed to comprise the development when it is completed;
- (b) one or more stage unit plans, which shall specify—
  - (i) each unit and each part of any common property that has so far been completed, to the extent necessary for the purposes of paragraph 5(1)(e), in relation to a building or buildings comprising part of the development and already erected on the land; and
  - (ii) the area or areas, each being designated on the plan as a future development unit, in which further development or subdivision and other work is still required to complete the development; and



- (c) a complete unit plan, which shall specify all the units and the whole of the common property comprising the development in relation to a building or buildings already erected on the land.

*Proposed development plans*

24.—(1) A proposed unit development plan shall comply with the survey provisions of the Surveyors Act. (Cap. 260.)

(2) The deposit of a proposed unit development plan in respect of land shall not affect an estate or interest in the land vested in—

- (a) the registered proprietor depositing the plan; or  
(b) any other person.

(3) A proposed unit development plan shall not be accepted by the Registrar for deposit unless—

- (a) it is accompanied by a stage unit plan relating to the same development;  
(b) it has been approved by the Surveyor-General;  
(c) a certificate has been given by the principal officer of the local authority in whose district the land is situated to the effect that the proposed development as shown on the plan complies in all respects, so far as such compliance can be ascertained from the plan, with that authority's by-laws and of the Town Planning Act.

(4) Subsection 5(3) shall apply in respect of the Surveyor-General's approval of a proposed unit development plan as if the plan were a unit plan, and subsection 6(3) shall apply in respect of the principal officer's certificate as if it were a certificate given in respect of a unit plan.

(5) Where a proposed unit development plan has been deposited, the proposed development shall not be altered unless a new proposed unit development plan incorporating the proposed changes has been deposited in accordance with the following provisions, namely—

(a) subject to paragraph (b), the consent of—

- (i) every proprietor of a unit, including a future development unit, shown on the latest stage unit plan deposited in respect of the development;  
(ii) every other person who has a registered interest in any such unit; and  
(iii) every caveator claiming an interest in any such unit,

shall be required to the deposit of a substituted proposed unit development plan;

(b) where the unanimous consent of the persons referred to in paragraph (a) is not forthcoming but a majority of those persons is in favour of the deposit of a substituted proposed unit development plan, that plan may be deposited with the consent of the Court;

(c) subsections (1) to (4), except paragraph (3)(a), shall apply in respect of a substituted proposed unit development plan;

(d) the substituted proposed unit development plan shall be deposited under the same number as the original proposed unit development plan.

(6) For the purposes of paragraph (5)(b)—

- (a) an application for the consent of the Court to the deposit of a substituted proposed unit development plan may be made by one or more of the persons who are in favour of the deposit of the plan;

- (b) notice of the application to the Court shall be given to—
  - (i) each of the persons referred to in paragraph (5) (a) who is not a party to the application; and
  - (ii) any other person having a registered interest in the land affected by the application; and
- (c) a person having or claiming to have an estate or interest in the land or in a part of the land affected by the application shall have the right to be heard in proceedings before the Court in respect of the application.

*Deposit of unit plans under this Part*

25.—(1) A stage unit plan and a complete unit plan shall not be accepted for deposit in pursuance of this Part unless the certificate given under paragraph 5(1)(e) includes a statement by the principal officer of the local authority in whose district the land is situated that the plan is consistent with the relevant proposed unit development plan.

(2) A successive stage unit plan, other than the first, and the complete unit plan relating to a development shall be deposited in substitution for, and under the same number as, the stage unit plan previously deposited in respect of that development.

(3) For the purposes of paragraphs 6(1)(c) and (d) it shall be sufficient if a building and any other part of the whole development shown on a stage unit plan complied with the local authority's by-laws and the Town Planning Act as those by-laws and that Act applied at the time when the proposed unit development plan was deposited, notwithstanding that, because of subsequent changes to those by-laws or that Act, that building or any other part of the development no longer complies with the by-laws or the Act.

*Unit entitlement*

26.—(1) For the purpose of eventually determining the matters specified in subsection 7(3), before a proposed unit development plan is deposited there shall be assigned to every principal unit and every accessory unit shown on the plan a unit entitlement, to be fixed by a prescribed person on the basis of the relative prospective value of the unit in relation to each of the other proposed units on the proposed unit development plan.

(2) On each stage unit plan, and on the complete unit plan, the unit entitlement to be assigned to each principal unit and each accessory unit for the purposes of section 7 shall be that shown on the proposed unit development plan in respect of that unit.

(3) A unit entitlement shall not be assigned to a future development unit.

*Future development units*

27.—(1) The deposit of a stage unit plan shall have the effect of creating in each future development unit a unit estate in freehold or leasehold, as the case may be, which shall comprise—

(a) the—

- (i) fee simple estate; or
- (ii) leasehold estate,

as the case may be, in the unit, which shall determine either—

- (iii) on the deposit of a unit plan that specifies as other than a future development unit that part of the land that formerly comprised the future development unit;
- or

- (iv) on the cancellation of a stage unit plan, in accordance with sections 54 to 56, on which the unit is shown as a future development unit; and
- (b) the undivided share—
  - (i) in the fee simple estate or
  - (ii) in the leasehold estate,as the case may be, in all the units to which the proprietor of the unit is contingently entitled by virtue of subparagraph 28(6)(c)(i).
- (2) Subsections 4(3) to (6), with necessary modifications, apply to and in respect of a unit estate in a future development unit as if the unit were a principal unit.
- (3) On the deposit of a stage unit plan, the Registrar may, at the request of the registered proprietor, issue a separate certificate of title for a future development unit.
- (4) Subsections 9(4) and (5) apply to a certificate of title issued under this section.

*Application of other Parts*

- 28.—(1) Notwithstanding section 13, but subject to this section, the registered proprietor of a unit estate in a future development unit shall not, by virtue only of the fact that he is the registered proprietor of that estate, be a member of the relevant body corporate constituted by that section.
- (2) Notwithstanding section 16—
    - (a) the body corporate shall have no duties in respect of a future development unit comprising part of the development; and
    - (b) the registered proprietor of the unit estate in a future development unit shall not be required to contribute to any fund established by the body corporate in pursuance of section 16.
  - (3) Notwithstanding subsection (2) or a Part other than this Part, the body corporate may enter into an agreement with the registered proprietor of a future development unit for the undertaking of work or the expenditure of money for the mutual benefit of the body corporate and that registered proprietor.
  - (4) Notwithstanding section 19, 20 or 53—
    - (a) a part of the common property may not be dealt with;
    - (b) land may not be added to the common property; and
    - (c) a unit or part of the common property may not be redeveloped, without the consent of the registered proprietors of the future development units included in the development.
  - (5) In the case of a development to which Part IV applies, a registered proprietor of a future development unit is deemed to be a member of the body corporate for the purposes of that Part, and that Part shall apply as if—
    - (a) the unit were a principal unit; and
    - (b) the unit entitlement of the unit were equivalent to the aggregate unit entitlement of all the units into which it is proposed eventually to subdivide that future development unit, as shown on the proposed development plan.
  - (6) For the purposes of subsections 54(1), 55(1) and 56(1), a registered proprietor of a unit estate in a future development unit comprising part of a development is deemed to be the registered proprietor of a principal unit

comprising part of the development, but, in respect of the cancellation of a stage unit plan the following provisions apply, namely—

- (a) before the plan is cancelled, the whole development, (excluding every future development unit,) and each future development unit, shall be separately valued by a prescribed person at the expense of the body corporate or, as the case may be, the registered proprietor of the future development unit;
  - (b) if a dispute arises in respect of a valuation made for the purpose of paragraph (a), the matter shall be determined by arbitration under the Arbitration Act, and that Act shall apply accordingly;
  - (c) on cancellation of the plan, the fee simple estate, or, as the case may be, the leasehold estate in the whole of the land that was comprised in the development, including every future development unit, shall vest—
    - (i) as to one undivided share in each person who was the proprietor of a future development unit immediately before the cancellation of the plan; and
    - (ii) as to one undivided share in the persons who were the proprietors of the units, other than future development units, immediately before the cancellation of the plan,
 such shares to be in the proportion that the value of the future development unit, as determined in accordance with paragraph (a), bears to the value of the balance of the development, as also so determined;
  - (d) as between themselves, the persons who are entitled to one undivided share in the land by virtue of subparagraph (c) (ii) shall be so entitled in the same shares as, by virtue of section 10, they were interested in the common property immediately before the cancellation of the plan.
- (7) Subject to the additions, exclusions and modifications set out in this Part, the other Parts of this Act apply, in respect of—
- (a) a subdivision of land into units under this Part, in the same manner as they apply to a subdivision of land into units under Parts II and IV; and
  - (b) a stage unit plan and a complete unit plan deposited or to be deposited under this Part, in the same manner as they apply to a unit plan deposited or to be deposited under Parts II and IV.

#### PART IV—SPECIAL PROVISIONS RELATING TO LEASEHOLD LAND

##### *Application of Part*

29.—(1) Where a deposited unit plan relates to a leasehold estate in land, this Part shall apply notwithstanding anything contained or implied in the lease of that land, a written law or rule of law to the contrary.

(2) Parts II, III and V, in so far as they relate to leasehold estates in land, shall be read subject to this Part.

(3) In this Part, unless the context otherwise requires, "lease" means a lease of land the subject of a unit plan.

*Preservation of lessor's interest*

30. Neither the deposit of a unit plan nor a dealing with a unit shown on a unit plan shall be, or shall be deemed to be, a severance of the lessor's reversionary estate in the land and subject to this Part, the lessor may deal with the reversionary estate in the leased land in all respects as if the unit plan had not been deposited.

*Powers of body corporate in respect of lease*

31.—(1) Subject to this Part, on the deposit of a unit plan and until its cancellation, the body corporate shall—

(a) become and be entitled to sue and be sued as if it were the lessee under the lease and had all rights, powers and privileges belonging or appertaining to the lessee; and

(b) become and be subject to and liable for the same requirements and liabilities as those to which it would have been subject and liable if originally named in the lease as lessee of the land.

(2) A body corporate shall not, by virtue of subsection (1), be entitled to call for the issue of a certificate of title in respect of its estate as lessee.

(3) A cause of action in respect of a breach by the lessor of a covenant, agreement, or stipulation expressed or implied in the lease and on the part of the lessor to be performed or observed shall not lie at the suit of a proprietor of a unit or the registered proprietor of an estate or interest in a unit.

(4) Subject to subsection 35(2), a cause of action in respect of a breach by the proprietor of a unit or the registered proprietor of an estate or interest in a unit of a covenant, agreement, or stipulation expressed or implied in the lease and on the lessee's part to be performed or observed shall not lie at the suit of the lessor.

*Dealing with unit estate in leasehold*

32.—(1) The lessor's consent shall not be required to a dealing with a unit estate in leasehold.

(2) For the purposes of this section, the deposit of a plan of redevelopment in accordance with section 53 affecting a unit shall not be deemed to be a dealing with the unit estate in leasehold in that unit.

*Restrictions on surrenders and releases*

33.—(1) After the deposit of a unit plan to which this Part applies, and until its cancellation, the following provisions apply, namely—

(a) a proprietor of a unit shall not be entitled to surrender or agree to surrender the unit estate in leasehold in that unit to the lessor, whether for valuable consideration or otherwise;

(b) the lessor shall not be entitled to release or agree to release a unit or the common property or a part of it from the lease, whether for valuable consideration or otherwise;

(c) where the proprietor of a unit purchases or acquires, whether by operation of law or otherwise, the lessor's reversionary estate in the land, that estate shall not merge with the unit estate in leasehold in that unit;

(d) where the lessor purchases or acquires the unit estate in leasehold in a unit, whether by operation of law or otherwise, that estate shall not merge with the lessor's reversionary estate.

(2) A purported surrender or release in contravention of paragraph (1)(a) or (b) is void and of no effect.

(3) This section does not prohibit—

- (a) all the proprietors of all the units from dealing with the common property as lessee of that property;
- (b) all the proprietors of all the units from surrendering or agreeing to surrender to the lessor the unit estates in leasehold in all the units; or
- (c) the lessor from releasing or agreeing to release all the units together with the whole of the common property from the lease.

*Implied guarantee by unit proprietors*

34.—(1) Subject to subsection (2), each proprietor of a unit to which this Part applies is deemed to have guaranteed to the lessor—

- (a) the payment by the body corporate of the rent reserved under the lease on the days and in the manner prescribed in the lease; and
- (b) the performance or observance by the body corporate of the covenants, agreements, and stipulations contained or implied in the lease and on the lessee's part to be performed or observed.

(2) The liability of each proprietor referred to in subsection (1) under the guarantee deemed by that subsection to have been given in respect of rent or other money payable under the lease to the lessor, including money which has become payable by virtue of a breach by the body corporate of a covenant, agreement, or stipulation contained or implied in the lease—

- (a) is limited to such proportion of the rent or other money so payable as the unit entitlement of that proprietor's unit bears to the aggregate unit entitlement of all the units shown on the plan; and
- (b) relates only to rent and other money due or accruing due while he is the proprietor of that unit.

(3) No neglect or forbearance of the lessor in endeavouring to obtain payment of the rent or other money payable under the lease or to enforce the performance or observance of the covenants, agreements, and stipulations contained or implied in the lease by the body corporate, and no time or other indulgence which may be given to the body corporate by the lessor shall release, exonerate, or affect the liability of a proprietor under subsection (1).

(4) Subject to subsection (5), where a proprietor pays to the lessor a sum which he is liable to pay under subsection (1), he may recover that sum from the body corporate in a court of competent jurisdiction as a debt due to him from the body corporate.

(5) Subsection (4) does not prevent a body corporate in an action referred to in that subsection from claiming any sum due to it from that proprietor under this Act by way of set-off.

*Exclusion of powers of forfeiture, re-entry and distress*

35.—(1) After the deposit of a unit plan to which this Part applies, and until its cancellation—

- (a) a right of forfeiture or re-entry, whether for non-payment of rent or otherwise, shall not be exercisable by the lessor; and
- (b) a right of distress, whether for non-payment of rent or otherwise, shall not be exercisable by the lessor otherwise than in accordance with subsection (2).

(2) Subject to subsection (3), where the proprietor of a unit becomes liable under subsection 34(1) to pay to the lessor a sum, whether in respect of rent or other money payable under the lease, the lessor may, subject to subsection (3),

enforce payment of the sum in the same manner as he would have been able to do if the sum had been rent in arrear from the date on which the liability of that proprietor to pay arose and that proprietor had been lessee under the lease.

(3) Subsection (2) does not entitle, empower or authorise a lessor to forfeit or determine a proprietor's interest under a lease.

*Lessor may apply for appointment of administrator or cancellation of unit plan*

36.—(1) When—

- (a) the rent reserved by a lease or part of it is in arrears for one month; or
- (b) the body corporate has failed to perform or observe a covenant, condition or stipulation contained or implied in a lease and on the part of the lessee to be performed or observed,

the lessor may—

- (c) apply to the Court for the appointment of an administrator, in which case section 49, with necessary modifications, applies; or
- (d) apply to the Court for the cancellation of the unit plan, in which case section 55, with necessary modifications, applies.

(2) Where—

- (a) on an application made by the lessor under paragraph (1) (d), the Court makes a declaration authorising the cancellation of the unit plan; and
- (b) all conditions and directions imposed or given by the Court have been complied with,

the lessor may, within 6 months after the date of the declaration, apply to the Registrar for cancellation of the plan, in which case section 54, with necessary modifications, applies.

(3) Notwithstanding subsection (1) an application shall not be made under paragraph (1) (c) or (d) by the lessor until—

- (a) the lessor serves on the body corporate and upon each registered proprietor a notice—
  - (i) specifying the particular breach complained of; and
  - (ii) if the breach is capable of remedy, requiring the body corporate to make compensation in money for the breach; and
- (b) the body corporate fails within a reasonable time after the service of the notice—
  - (i) to remedy the breach, if it is capable of remedy; and
  - (ii) to make reasonable compensation for the breach in money, to the satisfaction of the lessor.

(4) Where a lessor applies to the Court under paragraph (1) (d) for the cancellation of a unit plan, the body corporate may apply to the Court for relief, and the Court, having regard to the conduct of the parties and to all the circumstances of the case, may grant or refuse relief, as it thinks fit, and, if it grants relief, may grant it on terms as to costs, expenses, damages, compensation, penalty or otherwise, including the granting of an injunction to restrain a like breach in the future.

*Expiry of lease*

37.—(1) The term of a lease or a renewed or extended term shall be deemed not to have expired until—

- (a) the unit plan has been cancelled; or

(b) a certificate of expiry has been registered in accordance with subsection (3).

(2) On the cancellation of the unit plan, the term of the lease shall be deemed to expire, unless the lessor—

(a) has consented, in writing, to the cancellation of the plan; and

(b) agreed that the lease is to continue in force according to its tenor.

(3) At any time after the date on which the lease or any extended or renewed term is by the relevant instrument expressed to expire—

(a) the lessor; or

(b) persons who are together entitled to exercise more than one-third of the votes on an ordinary resolution of the proprietors,

on giving 14 days written notice to the body corporate, may lodge with the Registrar a certificate of expiry, and, on receiving the certificate, the Registrar shall, if he is satisfied that the term of the lease or an extended or renewed term has expired—

(c) cancel the unit plan;

(d) cancel the certificate of title to each of the units; and

(e) enter a memorial of the expiry of the term on the lease, and its counterpart and on the lessor's certificate of title.

(4) For the purposes of paragraph (3) (e), the counterpart of the lease and of the lessor's duplicate certificate of title shall be delivered to the Registrar when the certificate of expiry is lodged with him.

*Renewal or expiry of lease and purchase of reversionary interest*

38.—(1) Where, under the lease, a right of renewal of the lease or an option to purchase the reversionary estate in the land is given to the lessee, the following provisions apply, namely—

(a) in the case of a right of renewal or extension of the lease—the consent of persons who are together entitled to exercise not less than two-thirds of the votes on an ordinary resolution of the proprietors shall be sufficient to approve the terms of the renewal or extension of the lease;

(b) in the case of an option to purchase the reversionary estate in the land—the consent of the proprietors of all the units shall be required to the terms of the purchase.

(2) Where, on the expiry of a lease, the lessee is entitled under the lease to an amount equal to the value of buildings, fixtures, and other improvements on the land or to part of that value, then, notwithstanding section 31 but subject to subsection (3), the persons who were the proprietors of the units immediately before that expiry shall be entitled to receive that amount in shares proportionate to the unit entitlement of their respective units.

(3) If the Court considers that it is inequitable to apportion the amount referred to in subsection (2) among the persons and in the shares specified in that subsection, it may apportion that amount among them in shares proportionate to the relative values of the units.

*Merger*

39.—(1) Where the lessor has purchased or acquired, whether by operation of law or otherwise, the unit estates in leasehold in all the units shown on the unit



plan, those estates shall not merge with the lessor's reversionary estate in the land unless and until the lessor deposits with the Registrar a declaration that it is his intention that a merger should occur.

(2) Where all the proprietors of all the units shown on the unit plan have purchased or acquired, whether by operation of law or otherwise, the reversionary estate in the whole of the land, that estate shall not merge with the unit estates in leasehold in those units unless and until—

- (a) that reversionary estate is purchased or acquired by those proprietors in shares proportional to the unit entitlement of their respective units; and
- (b) the registered proprietors deposit with the Registrar a declaration that it is their intention that a merger should occur.

(3) The effect of a merger referred to in subsection (1) or (2) is—

- (a) where the lessor has purchased or acquired the unit estates in leasehold in all of the units shown on the plan—to vest the unit estate in freehold in each of the units in the lessor; or
- (b) where all the registered proprietors of the unit estates in leasehold in all the units shown on the plan have purchased or acquired the reversionary estate in the land—to vest the unit estate in freehold in each unit in the person who immediately before the merger was the proprietor of the unit.

(4) On the deposit of a declaration under subsection (1) or paragraph (2) (b), the Registrar, if he is satisfied that the unit estates in leasehold in all of the units shown on the plan have merged under this section with the reversionary estate in the land, shall—

- (a) note on the supplementary record sheet a memorial of the merger;
- (b) cancel the certificate of title in respect of the unit estate in leasehold in each of the units;
- (c) issue a certificate of title in respect of the unit estate in freehold in each unit to the person entitled to it in accordance with the subsection (3);
- (d) cancel the lease; and
- (e) cancel the lessor's certificate of title.

(5) For the purposes of subsection (4), the counterpart of the lease and of every duplicate of the certificates of title referred to in subsection (4) shall be delivered to the Registrar at the time of the deposit of the declaration under subsection (1) or paragraph (2) (b).

## PART V—MISCELLANEOUS

### *Recovery of contributions*

40. Contribution levied in accordance with paragraph 16(2) (c) is due and payable in accordance with the terms of the relevant determination, and so much of the amount as from time to time becomes payable may be recovered as a debt by the body corporate in an action in a court of competent jurisdiction from either—

- (a) the person who was the proprietor of the unit at the time when the amount became payable; or
- (b) subject to section 45, the proprietor of the unit at the time when the proceedings are instituted.

*Recovery of money expended for repairs and other work*

**41.** Where the body corporate does any repair, work or act which it is required or authorised by or under this Act or by or under any other Act to do (whether or not the repair, work or act is done pursuant to any notice or order served on it by a local authority or public body) but the repair, work or act is substantially for the benefit of one unit only or is substantially for the benefit of some of the units only, or benefits one or more of the units substantially more than it benefits the others or other or them, any expense incurred by it in doing the repair, work or act shall be recoverable by it as a debt in any Court of competent jurisdiction in accordance with the following provisions—

- (a) So far as the repair, work or act benefits any unit by a distinct and ascertainable amount, the proprietor at the time when the expense was incurred and (subject to the provisions of section 45 of this Act) the proprietor at the time when the action is instituted shall be jointly and severally liable for the debt; or
- (b) So far as the amount of the debt is not met in accordance with the provisions of paragraph (a) of this section, it shall be apportioned among the units that derive a substantial benefit from the repair, work or act rateably according to the unit entitlements of those units, and in the case of each such unit the proprietor at the time when the expense was incurred and (subject to section 45 of this Act) the proprietor at the time when the action is instituted shall be jointly and severally liable for the amount apportioned to that unit:

Provided that, if the Court considers that it would be inequitable to apportion the amount of the debt in proportion to the unit entitlements of the last-mentioned units, it may apportion that amount in relation to those units in such shares as it thinks fit, having regard to the relative benefits to those units.

*Recovery of money expended where person at fault*

**42.** Where—

- (a) a body corporate does any repair, work or act which it is required or authorised to do by or under this Act or any other written law, whether or not the repair, work or act is done in pursuance of a notice or order served on it by a local authority or public body; and
- (b) the repair, work or act was rendered necessary by reason of a wilful or negligent act or omission on the part of, or a breach of a rule by, a proprietor or his tenant, lessee, licensee or invitee,

expenses incurred by the body corporate in doing the repair, work or act shall be recoverable by it as a debt in a court of competent jurisdiction from that proprietor.

*Interest on money owing to body corporate*

**43.** Where, under section 40, 41 or 42, a registered proprietor owes money to a body corporate, interest shall accrue in respect of so much of the debt as remains unpaid at such rate as the body corporate shall from time to time determine, being not more than 10 percent a year.

*Limitation of liability of proprietors*

**44.** Subject to this Act, a proprietor shall not be liable to pay or to contribute to the funds of a body corporate an amount exceeding the due proportion recoverable from him under subsection 16(2) and section 40 of any amount required to discharge a liability, accrued or prospective, of the body corporate.

*Certificate of proprietor's liability*

45. A body corporate shall, on the application of a proprietor, a person authorised in writing by a proprietor or a purchaser or mortgagee of a unit, certify—

- (a) the amount of any contribution determined as the contribution of the proprietor and the period to which the determination relates;
- (b) the manner and time of payment of that contribution;
- (c) the extent to which that contribution has been paid by the proprietor;
- (d) any amounts then recoverable by the body corporate from the proprietor under subsection 15(5), paragraph 16(2) (c), and section 39;
- (e) whether or not the body corporate has performed or entered into a contract to perform or resolved to perform any repair, work or act in respect of which a liability has been or is likely to be incurred by the proprietor under section 41 or 42 and the general nature of the repair, work or act;
- (f) the rate at which interest is accruing, under section 43, in respect of any amount owing to the body corporate by the proprietor; and
- (g) whether or not it has received notice that proceedings are pending against the body corporate,

and, in favour of a person dealing with that proprietor, the certificate shall be conclusive evidence of matters certified in it.

*Rules*

46.—(1) Except as otherwise provided by this Act, the control, management, administration, use and enjoyment of the units and the common property shown on a unit plan, and the activities of the body corporate that comprises the proprietors of those units, shall, while there are more proprietors than one, be regulated by the rules for the time being applicable to that body corporate.

(2) Subject to any amendment to, repeal of, or addition to the rules, the rules applicable to a body corporate shall be those set out in Schedules 1 and 2.

(3) The rules in Schedule 1 and any additions to, or amendments of those rules, may be added to, amended or repealed in relation to a body corporate by unanimous resolution of the proprietors and not otherwise.

(4) The rules in Schedule 2 and any additions to, or amendments of those rules, may be added to, amended or repealed in relation to a body corporate by resolution of the body corporate at a general meeting.

(5) Subject to subsection (6), an addition to, or amendment of a rule shall relate to—

- (a) the control, management, administration, use or enjoyment of the units or the common property;
- (b) the regulation of the body corporate; or
- (c) the powers and duties of the body corporate, other than those conferred or imposed by this Act.

(6) Powers and duties may not be conferred or imposed by the rules on a body corporate—

- (a) unless those powers and duties are incidental to the performance of the duties or powers imposed on it by this Act; or
- (b) if they would enable the body corporate to—

- (i) acquire or hold an interest in land or a chattel real; or
- (ii) carry on a business for profit.

(7) A rule or an amendment to, repeal of, or addition to a rule shall not prohibit or restrict the devolution of a unit, or a transfer, lease, mortgage or other dealing with a unit, or destroy or modify a right implied or created by this Act.

(8) An amendment to, repeal of, or addition to a rule in pursuance of subsection (3) or (4) shall not have effect until the body corporate has lodged a notification of the amendment, repeal or addition with the Registrar, and the Registrar has recorded it on the supplementary record sheet.

(9) A body corporate shall keep a record of the rules applicable to it in from time to time.

(10) A body corporate shall, on the application of a proprietor, or a person authorised by a proprietor to apply, and on payment of any reasonable charge, supply to that proprietor or person a copy of its rules.

(11) A body corporate shall, on the application of a person who satisfies the body corporate that he has a proper interest in so applying, make its rules available for inspection.

(12) Rules applicable to a body corporate are binding on—

- (a) the body corporate;
- (b) all proprietors; and
- (c) any other person in actual occupation of a unit,

and enure for the benefit of the body corporate and every proprietor.

(13) A body corporate or a proprietor is entitled to apply to a court of competent jurisdiction for an order—

- (a) enforcing the performance, or restraining the breach, of a rule applicable to the body corporate; or
- (b) awarding damages for loss or damage arising out of the breach of a rule by—
  - (i) a person bound to comply with the rule; or
  - (ii) the body corporate.

#### *Insurance*

47.—(1) In this section, unless the context otherwise requires—

“insurer” means an insurer in respect of a principal insurance policy;

“mortgagee” means a mortgagee who, by virtue of subsection (3), has an insurable interest in the property covered by a principal insurance policy;

“principal insurance policy”, in relation to the units and common property shown on a unit plan, means the policy of insurance effected by the relevant body corporate in accordance with paragraph 16(1) (b).

(2) This section shall apply notwithstanding any written law, rule of law or agreement to the contrary.

(3) A proprietor and a person entitled as mortgagee by virtue of a registrable mortgage in respect of a unit each have an insurable interest in the property covered by the principal insurance policy.

(4) A body corporate shall give the insurer written notice of the name and address of each proprietor and each mortgagee.

(5) Subsection (4) does not prevent a proprietor or mortgagee from giving notice to the insurer.

(6) A principal insurance policy shall not lapse or be cancelled, but shall remain in full force and effect, until—

(a) the insurer has served on each proprietor and on each mortgagee of whom he has had notice in accordance with subsection (4) or (5), a notice to the effect that the policy shall lapse or be cancelled on the date specified in the notice, being a date not earlier than 30 days after the date on which the notice is served; and

(b) the date specified in the notice has arrived.

(7) Notwithstanding paragraph (6) (a), it shall be sufficient for the purposes of that paragraph if the insurer sends the required notice to a proprietor or mortgagee by registered post addressed to him at the last address of which notice has been given to the insurer under subsection (4) or (5).

(8) Where the insurer considers that default has been made under the principal insurance policy, whether in respect of the payment of premiums or otherwise, he shall specify in the notice referred to in paragraph (6) (a) the default complained of, and shall state that the lapsing or cancellation of the policy is conditional on the default not being remedied before the date specified in the notice.

(9) Unless all the proprietors by unanimous resolution otherwise resolve, money paid by the insurer pursuant to the principal insurance policy shall be applied in or towards reinstatement, and, where it is to be so applied, a mortgagee shall not be entitled to demand that part of that money be applied in or towards repayment of the mortgage debt.

(10) This section does not limit or affect the rights of a person in or to the proceeds of the principal insurance policy in pursuance of sections 54 to 57.

*Additional insurance*

48.—(1) Sections 16 and 47 do not limit—

(a) the right of a proprietor to effect a policy of insurance in respect of the destruction of or damage to his unit; or

(b) the right of a mortgagee of a unit to require the proprietor, as a condition of the loan, to effect a policy of insurance to indemnify the proprietor against liability to repay the whole or a part of the sum secured to the mortgagee if the unit is destroyed or damaged.

(2) Payments made by the insurer under a policy referred to in paragraph (1) (b) shall be made to mortgagees whose interests are noted on the policy in the order of their respective priorities.

(3) A policy referred to in paragraph (1) (b) shall not be liable to be brought into contribution with any other policy of insurance except another policy of insurance of the same nature effected in respect of the same mortgage debt.

(4) This section applies notwithstanding any rule of law to the contrary.

*Appointment of administrator*

49.—(1) A body corporate, a creditor of a body corporate or a person having a registered interest in a unit, may apply to the Court for the appointment of an administrator.

(2) The Court may, in its discretion on cause shown, appoint an administrator for—

(a) an indefinite period or

(b) a fixed period,  
on such terms and conditions as to remuneration or otherwise as it thinks fit.

(3) The remuneration and expenses of an administrator appointed under this section are an administrative expense within the meaning of this Act.

(4) An administrator appointed under this section has, to the exclusion of the body corporate and the committee, the powers, and is subject to the duties, of the body corporate and the committee or such of those powers and duties as the Court orders.

(5) An administrator appointed under this section may, in writing—

(a) delegate any of the powers vested in him (other than this power of delegation);

(b) revoke such a delegation.

(6) The Court may, in its discretion, on the application of—

(a) an administrator appointed under this section; or

(b) a person referred to in subsection (1),

remove or replace the administrator.

(7) On an application made under this section the Court may make such order for the payment of costs as it thinks fit.

(8) This section does not permit an administrator appointed under this section to do anything which requires a unanimous resolution of the proprietors or to prevent the passing of such a resolution, but, without restricting the generality of subsection (4), the administrator shall, subject to any order of the Court, be entitled, on his own initiative and to the exclusion of the body corporate, to do an act which under the rules may not be done except by special resolution.

(9) An administrator appointed under this section shall, on his appointment, lodge with the Registrar a sealed copy of the order of the Court making the appointment.

#### *Exercise of voting rights*

50.—(1) At a meeting of the body corporate or of the committee, a power of voting shall not be exercised by—

(a) a person who is less than 21 years of age but, except where a power of voting is conferred by paragraph (b), the power may be exercised on behalf of that person by a person appointed for that purpose by a Resident Magistrate;

(b) a person who is—

(i) a person of unsound mind within the meaning of the Mental Treatment Act, (Cap. 113.)

(ii) an incapable person within the meaning of the Public Trustee Act; or (Cap. 64.)

(iii) a person over the age of 21 years who is, by a rule of law, incompetent to deal with his property,

but the power may be exercised on behalf of that person by the person who is authorised by law to control or administer the unit or property to which the power of voting relates.

(2) A proprietor's voting rights are not affected by the fact that his interest in his unit is subject to a registered mortgage, but, on giving written notice to the body corporate, the mortgagee is entitled to exercise those rights—

(a) in accordance with any provision to that effect in the mortgage; or

(b) so long as he is in possession of the unit.

(3) Where a person by whom a power of voting is exercisable is—

- (a) dead,
- (b) out of Fiji; or
- (c) cannot be found,

and, for that or any other reason, it is impracticable to obtain the exercise by that person of his power of voting, or where it is not known by what person a power of voting is exercisable, the Court, on the application of the body corporate or of an interested party, may, by order—

- (d) declare that a person's power of voting shall be dispensed with either on a particular occasion or generally, in which case this Act or any rules as to voting shall have effect as if no power of voting were exercisable by that person on the particular occasion or generally, as the case may be; or
- (e) appoint a fit and proper person for the purpose of exercising such powers of voting as the Court determines, and the appointment shall take effect accordingly.

(4) On making an order under this section, the Court may make such provision as it thinks necessary or expedient to give effect to the order, and may make such order for the payment of costs as it thinks fit.

(5) The Court may from time to time cancel, vary, modify or discharge an order made by it under this section.

*Relief in cases where unanimous resolution required*

51. Where, in accordance with this Act or the rules of a body corporate, a unanimous resolution, or the consent, of all the proprietors is necessary before an act may be done and that resolution or consent is not obtained, but the resolution or act is supported by 80 per cent or more of those entitled to vote, a person included in the majority in favour of the resolution or act may apply to the Court to have the resolution as supported, or the consents as obtained, declared sufficient to authorise the particular act proposed, and, if the Court, in its absolute discretion, so orders, the resolution shall be deemed to have been passed unanimously or the consent of all the proprietors obtained, as the case may be.

*Relief for minority*

52. Where, in accordance with this Act or the rules of a body corporate, a resolution, other than a unanimous resolution, or the consent of a certain percentage of the voters is necessary before an act may be done, and that resolution is duly passed, or that consent is duly obtained, a person who voted against the resolution or did not consent may apply to the Court to have the resolution or decision declared to be of no effect on the grounds that, in the circumstances of the case, the effect of the act would be inequitable for the minority, and, if the Court, in its absolute discretion, so orders, the resolution shall be deemed not to have been passed or the consent shall be deemed not to have been obtained as the case may be.

*Redevelopment*

53.—(1) On a redevelopment, application shall be made to the Registrar for the deposit of a plan of redevelopment, being a new unit plan.

(2) A new unit plan shall be deposited under the same number as the existing unit plan, and section 21 applies accordingly.

(3) Subject to this section, a plan of redevelopment shall not be accepted by the Registrar for deposit unless it complies with all the requirements of this Act as to unit plans and, in addition—

- (a) defines the boundaries of the new units or the enlarged or reduced units;
- (b) shows all new units, and any enlarged or reduced units, marked with numbers or letters not already used on the unit plan;
- (c) bears a legend specifying which of the new units, enlarged units and reduced units are principal units and which are accessory units; and
- (d) in the case of a subdivision into 2 or more new units, enlarged units, or reduced units—has endorsed on it a schedule apportioning among the new units, enlarged units, and reduced units the unit entitlement of the former unit or units included in the redevelopment, which apportionment shall be determined by a prescribed person.

(4) Subject to subsection (5), where a redevelopment involves the inclusion in a unit of part of the common property or the erection of one or more units on the common property, the unit entitlements of all units that will be on the land to which the plan of redevelopment relates shall be reassessed by a prescribed person, who shall assign to every such unit a new unit entitlement to be fixed by him on the basis of the relative value of the unit in relation to each other such unit at the date on which the reassessment is made.

(5) A prescribed person may, in his discretion, make the reassessment referred to in subsection (4) as at the date on which the current unit entitlements were fixed if he considers that the redevelopment is of a relatively minor nature.

(6) A plan of redevelopment shall not be accepted by the Registrar for deposit unless—

- (a) the application to deposit the plan is made by the sole proprietor of the units, or by the proprietors of all the units in pursuance of their unanimous resolution; and
- (b) every person who is entitled as mortgagee by virtue of a registered mortgage in respect of a unit affected by the redevelopment, and every caveator who claims an estate or interest in a unit affected by the redevelopment, being a caveator whose caveat was lodged with the Registrar before the application to deposit the plan, has given his written consent to the redevelopment.

(7) On the deposit of a plan of redevelopment and the registration of any necessary transfers, the Registrar shall—

- (a) cancel the existing certificates of title to the units affected by the redevelopment; and
- (b) issue separate certificates of title in accordance with the plan of redevelopment for the units affected by the redevelopment.

(8) For the purposes of paragraph (7) (a) the duplicate certificates of title to the units affected by the redevelopment shall be delivered to the Registrar at the time of deposit of the plan of redevelopment.

(9) A body corporate shall, on the deposit of a plan of redevelopment, give written notice of the redevelopment to the Surveyor-General.

*Cancellation of plan on application of proprietors*

54.—(1) The Registrar may cancel a unit plan on the application of the proprietor or proprietors of all the units shown on the plan.



(2) An application under subsection (1) shall, subject to subsection (3), have lodged with it—

- (a) the duplicate certificate of title for every unit;
- (b) any duplicate of every registered mortgage, charge, lease or sublease relating to each unit and the common property; and
- (c) evidence sufficient to satisfy the Registrar in relation to the matters specified in subsection (4), and
- (d) where the interest in the land of the proprietor of each unit is a unit estate in leasehold—evidence that the lessor has been notified of the intention to make the application.

(3) The Registrar may dispense with production of a duplicate certificate of title referred to in paragraph (2) (a).

(4) Before cancelling the unit plan, the Registrar shall satisfy himself that—

- (a) all rates assessed in respect of the units and the common property have been paid;
- (b) any administrator appointed under section 49 has consented to the cancellation; and
- (c) no unit is subject to a caveat, mortgage, charge, lease or sublease registered against the title to the unit.

(5) The cancellation of a unit plan is effected when the Registrar has entered a memorandum of cancellation on the unit plan or its recorded copy and on any supplementary record sheet.

(6) On the cancellation of the unit plan—

- (a) the estate in the land to which the persons who were the proprietors of the units immediately before the cancellation were entitled by virtue of section 10 remains vested in those persons in the same shares as if the unit plan had not been cancelled;
- (b) the fee simple estate, or, as the case may be, the leasehold estate, in that part of the land which immediately before the cancellation comprised units, vests in the persons referred to in paragraph (a) in the same shares as the estate referred to in that paragraph is held by those persons, and shall merge with that estate; and
- (c) easements over each unit comprising part of the development determine.

(7) Where 2 or more persons were the proprietors of a unit, whether as joint tenants or tenants in common, the share in the land which vests in them under subsection (6), as between themselves, vests in them—

- (a) as joint tenants, if the unit of which they were the proprietors immediately before the cancellation was then vested in them as joint tenants; or
- (b) as tenants in common in shares corresponding to the shares in which the unit of which they were the proprietors was vested in them immediately before the cancellation, if that unit was then vested in them as tenants in common,

and the Registrar shall issue a certificate of title for the land to the persons entitled to it in accordance with paragraphs (a) and (b).

(8) On the cancellation of a unit plan, the body corporate is, subject to subsection (9), deemed to be dissolved, and, unless otherwise determined beforehand by unanimous resolution of the persons who were the proprietors

immediately before the cancellation, all property and money, including insurance money received by the body corporate, shall, subject to any right of set-off, be distributed among those persons according to their unit entitlements immediately before the cancellation.

(9) On the cancellation of a unit plan the body corporate is deemed to remain in existence to the extent that any debt is owing by it and in respect of any action pending against it, and the liability of the persons who were the proprietors immediately before the cancellation continues accordingly.

(10) The Registrar shall, on cancelling a unit plan—

(a) give written notice that the plan has been cancelled and the body is dissolved to—

- (i) the local authority in whose district the land is situated; and
- (ii) the Surveyor-General; and

(b) cancel any relevant supplementary record sheet.

(11) For the purposes of the Land Transfer Act, a supplementary record sheet cancelled under paragraph (10) (b) is deemed to be a certificate of title issued under that Act in respect of the relevant land.

*Application to Court for order for cancellation of plan*

55.—(1) Where, in respect of a unit plan, an application in that behalf is made to the Court by—

- (a) the body corporate,
- (b) an administrator appointed under section 49, or
- (c) the proprietor or one of the proprietors of a unit,

and the Court is satisfied that, having regard to the rights and interests of any creditor of the body corporate and of every person who has an interest in a unit or in the land or part of it, it is just and equitable that the body corporate be dissolved and the plan cancelled, the Court may make a declaration to that effect.

(2) Notice of an application under subsection (1) shall be served on—

- (a) each person who has an interest as a proprietor of a unit;
- (b) the Registrar;
- (c) each mortgagee, caveator, insurer and other person having a registered estate or interest in a unit or land to which the plan relates; and
- (d) any insurer who has effected insurance on the buildings or other improvements comprised in a unit or on the land or part of it,

and the Registrar shall enter on the supplementary record sheet a notification that the application has been so made.

(3) A notification entered under subsection (2) shall be cancelled by the Registrar if—

- (a) the applicant so requests and advises that the application to the Court is not proceeding, or
- (b) the Registrar is satisfied that the Court has refused to make the declaration sought.

(4) On an application to the Court under subsection (1)—

- (a) a person having or claiming to have an estate or interest in a unit or in the land or part of it;
- (b) an insurer who has effected insurance on the buildings or other improvements comprised in a unit or on the land or part of it,

shall have the right to appear and be heard.

(5) Where the Court makes a declaration under subsection (1), the Court may by order impose such conditions and give such directions as it thinks fit for the purpose of giving effect to the declaration.

(6) Directions given under subsection (5) may include directions—

- (a) for the payment of money by or to the body corporate, and the distribution of the assets of the body corporate; and
- (b) that any consent required by subsection 54(4), as applied by subsection 56(4), be dispensed with.

(7) The Court may, at any time before the unit plan is cancelled under section 56, vary or modify the terms of a declaration or order made by it under this section.

(8) On an application under this section the Court may make such order for payment of costs as it thinks fit.

*Cancellation of plan following decision of Court*

56.—(1) Where—

- (a) the Court has made a declaration authorising the cancellation of a unit plan; and
- (b) all conditions and directions imposed or given by the Court have been complied with,

an applicant for the declaration or his successor in title may, within 6 months after the date of the declaration, apply to the Registrar for cancellation of the plan, and the Registrar shall cancel the plan accordingly.

(2) An application under subsection (1) shall be accompanied by—

- (a) the duplicate certificate of title for each unit;
- (b) any duplicate instrument of every registered mortgage, charge, lease, or sublease relating to each unit, the common property or part of it; and
- (c) a copy of every declaration or order made by the Court under section 55 in relation to the body corporate or unit plan,

unless the Court otherwise directs or the Registrar dispenses with the production of a duplicate certificate of title or duplicate instrument.

(3) Where the Court makes a declaration under subsection 55(1) and—

- (a) a person having custody or control of a duplicate certificate of title or duplicate instrument required for the purposes of an application for cancellation of a unit plan refuses or neglects to produce it for those purposes;
- (b) production of a duplicate certificate of title or duplicate instrument cannot be obtained because the person last known to have custody or control of it is dead, is out of Fiji or cannot be found; or
- (c) for any other reason it is impracticable to obtain production of a duplicate certificate of title or duplicate instrument,

the Court, on the application of an interested person, may—

- (d) in an appropriate case, order, on such terms and conditions as it thinks fit, production of it to the Registrar by the person so refusing or neglecting; or
- (e) in its discretion, order the Registrar to dispense with production.

(4) The following provisions of section 54 apply when an application is made to the Registrar under this section, namely—

- (a) subsection (4), except to the extent that the Court otherwise directs, either on that application or on a subsequent application;

- (b) subsections (6) and (7), unless the Court otherwise directs; and
- (c) subsections (5), (8) and (9).

*Scheme following destruction or damage*

57.—(1) Where a building or other improvement comprised in a unit or on land to which a unit plan relates is damaged or destroyed, but the unit plan is not cancelled, the Court may, on the application of the body corporate, an administrator, the proprietor or one of the proprietors of a unit or a registered mortgagee of a unit, by order, settle a scheme which includes provision—

- (a) for the reinstatement in whole or in part of that building or other improvement; or
- (b) for the transfer of units to the proprietors of the other units so as to form part of the common property.

(2) Where an order is made under paragraph (1) (b), section 20 shall, so far as it is applicable, but subject to any order of the Court to the contrary, apply in respect of the transfer.

(3) Notice of an application under subsection (1) shall be served on the Registrar, who shall on receipt of the notice enter on the supplementary record sheet a notification that the application has been made.

(4) On an application to the Court under subsection (1)—

- (a) a person having or claiming to have an estate or interest in a unit or in the land or in part of it;
  - (b) any insurer who has effected insurance on the buildings or other improvements comprised in a unit or in the land or part of it,
- shall have the right to appear and be heard.

(5) In the exercise of its powers under subsection (1), the Court may make such orders as it considers expedient or necessary for giving effect to the scheme, including orders—

- (a) directing the application of any insurance money;
- (b) directing payment of money by or to the body corporate or by or to a person;
- (c) directing the deposit of an appropriate new unit plan; or
- (d) imposing such terms and conditions as it thinks fit.

(6) The Court may from time to time cancel, vary, modify or discharge an order made by it under this section.

(7) On an application under this section the Court may make such order for payment of costs as it thinks fit.

*Joinder of actions*

58. Where an application under section 55 or 57 is pending and an application under the other of those sections is made in respect of the same unit plan, the Court may hear and determine the 2 applications together.

*Service of documents*

59.—(1) The body corporate shall either—

- (a) at or near the alignment of the front of the main building on the land, cause a letter-box, with the designation of the body corporate clearly shown on it, to be continually available in an accessible place; or
- (b) display in a prominent place, in the vestibule to that building, a notice specifying its address for service.

(2) It shall be sufficient compliance with a written law which relates to the manner of service of a document which has to be served by a person on the body corporate or the committee, if the person authorised to serve the document—

- (a) places it in the letter-box referred to in paragraph (1) (a); or
- (b) sends it by pre-paid registered letter addressed to the body corporate or the committee, as the case may be, at the address for service specified in a notice displayed in accordance with paragraph (1) (b).

(3) If the address for the service of documents on the body corporate is altered, the body corporate shall at the time of that alteration—

- (a) alter the notice displayed in accordance with paragraph (1) (b); and
- (b) send written notice of the alteration to the Registrar, who shall enter a notification of the change of address on the supplementary record sheet.

(4) In this section, "document" includes a summons, notice, order and other legal process.

(5) A notice or order requiring repairs to, or work to be performed in respect of, the land or a building or other improvement on the land which a person is required or authorised by a written law to serve shall, notwithstanding anything in that written law to the contrary, be served on the body corporate in the manner provided by this Act, and on that service the notice or order shall be deemed to have been duly served and the body corporate shall be deemed to be the person bound to comply with the notice or order.

*Default by body corporate*

60.—(1) Any person may apply to the Court for an order compelling a body corporate to carry out a requirement or perform a duty imposed on it by or under this Act.

(2) Following an application under subsection (1) the Court may make such order as it thinks proper.

(3) If a body corporate defaults in complying with a requirement or duty imposed on it by or under this Act—

- (a) the body corporate;
- (b) the secretary to the body corporate if he is knowingly a party to the default; and
- (c) each member of the committee who is knowingly a party to the default, is guilty of an offence and is liable on conviction to a fine not exceeding \$400.

*Powers of entry*

61. Where a person has a right under a written law to enter on a part of the land to which a unit plan relates, that person shall be entitled to enter on any other part of that land to the extent necessary or expedient to enable him to exercise his powers under this Act.

*Unit estate as trustee investment*

62.—(1) For the purposes of paragraph 12(1) (b) of the Trustee Act—

- (a) a mortgage of a unit estate in freehold; or
- (b) a mortgage of a unit estate in leasehold, being a unit estate that is derived from the subdivision of an estate in leasehold of a kind referred to in that paragraph,

shall, subject to subsection (2), be deemed to be a mortgage of a kind referred to in that paragraph.

(Cap. 65.)

(2) Subsection (1) does not apply in relation to a mortgage unless, as a condition of the loan, the proprietor of the unit estate is required to effect and maintain a policy of insurance to indemnify the proprietor against liability to repay the whole of the sum secured to the mortgagee if the unit is destroyed or damaged.

*Register of proprietors*

63.—(1) A body corporate shall cause a register to be kept of the proprietors of the units comprised in the relevant unit plan.

(2) Notwithstanding anything to the contrary in this Act, where the proprietor of a unit comprised in a unit plan (in this section referred to as the transferor) transfers that unit to another person (in this section referred to as the transferee), until the body corporate is given written notice of the transfer—

- (a) subject to subsection (3), the transferor shall remain liable to the body corporate for all contributions levied by the body corporate under paragraph 16(2) (c) in respect of that unit; and
- (b) subject to subsection (4), the transferee shall not be entitled to exercise the voting rights in respect of the unit, which shall remain exercisable by the transferor.

(3) Nothing in paragraph (2) (a) restricts the right of the transferor to recover from the transferee amounts that he has paid in respect of contributions referred to in that paragraph.

(4) At a general meeting of the body corporate, a transferee may, with the consent of the other proprietors present at the meeting, exercise the voting rights referred to in paragraph (2) (b).

*Rates*

64. For the purpose of Parts X and XI of the Local Government Act (which relate to rates) a body corporate shall be deemed to be the owner and occupier of the land in respect of which it is the body corporate.

*Regulations*

65. The Minister may make regulations not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,

and in particular providing for—

- (c) fees and charges for anything authorised by this Act;
- (d) forms for the purposes of this Act.

SCHEDULE I

(Subsections 46(2) and (3))

RULES THAT MAY BE AMENDED BY UNANIMOUS  
RESOLUTION OF BODY CORPORATE

*Duties of proprietor*

1. A proprietor shall—

- (a) permit the body corporate, its agents and servants, at all reasonable hours to enter his unit for all or any of the following purposes, namely—
  - (i) to view the condition of the unit;

- (ii) to maintain, repair or renew pipes, conduits, wires, cables or ducts for the time being in, on or passing through the unit and capable of being used in connection with the enjoyment of another unit or the common property;
  - (iii) to maintain, repair or renew the common property; and
  - (iv) to ensure that the rules are being observed;
- (b) comply with all written laws which relate to his use, occupation or enjoyment of his unit;
- (c) carry out as soon as practicable all work that may be ordered by a competent person in respect of his unit;
- (d) pay punctually all rates, taxes, charges and other outgoings from time to time payable in respect of his unit including sums properly levied by the body corporate;
- (e) keep his unit in good order, repair and condition sufficient to ensure that no damage or harm ensues to the common property or another unit; and
- (f) not make additions or structural alterations, to the unit without the consent of the body corporate.

*Powers and duties of body corporate*

2. The body corporate shall—

- (a) repair and maintain the chattels, fixtures and fittings, including stairs, lifts, elevators, and fire escapes, used, or intended, adapted or designed for use, in connection with the common property or for the enjoyment of the common property;
- (b) repair and maintain the pipes, wires, cables, ducts and other apparatus and equipment reasonably necessary for the enjoyment of an incidental right which may from time to time exist by virtue of section 12 of the Unit Titles Act; and
- (c) on request, produce to—
  - (i) a proprietor;
  - (ii) a registered mortgagee of a unit; or
  - (iii) a person authorised in writing by a proprietor or registered mortgagee of a unit,policies of insurance effected by the body corporate under the provisions of section 16 of the Unit Titles Act, 1985 and the receipt for the last premiums paid in respect of those insurances.

3. The body corporate may—

- (a) borrow money necessary to enable it to perform its duties or exercise its powers;
- (b) invest money, whether that money is in a fund established under section 16 of the Unit Titles Act or elsewhere, in a mode of investment authorised by law for the investment of trust funds;
- (c) establish a current account at a bank, and nominate, for the purposes of this paragraph, 3 persons, including the secretary, of whom any 2 may operate the account;
- (d) enter into an agreement with a proprietor or an occupier of a unit for the provision of amenities or services by it to the unit or to the proprietor or occupier; and

- (e) grant to a proprietor, or to anyone claiming through him, a special privilege, not being a lease, in respect of the enjoyment of part of the common property, subject to the special privilege being determinable by special resolution.

*Committee of body corporate*

4. Subject to rule 5, where there are more than 3 proprietors, the powers and duties of the body corporate shall be exercised and performed by a committee, subject to any restriction imposed, or direction given, at a general meeting of the body corporate.

5. Notwithstanding rule 4, proposed expenditure in excess of \$100, not being expenditure which the body corporate is legally obliged or has previously been authorised to incur, shall be referred to a general meeting, and, if the share of the proprietor or proprietors of a principal unit in the expenditure exceeds \$30, that expenditure shall not be incurred unless it is approved by at least a three-fourths majority of votes.

6. Until the first annual general meeting of the body corporate, the proprietors of all the units constitute the committee.

7. After the first annual general meeting of the body corporate the committee shall consist of such number of proprietors, not being fewer than 3, as is fixed from time to time by the body corporate at an annual general meeting.

8. Subject to rule 9, the members of the committee shall be elected at each annual general meeting, to hold office until the next annual general meeting.

9. Unless the committee consists of all the proprietors, the body corporate may, by resolution at an extraordinary general meeting, remove a member of the committee before the expiration of his term of office and appoint another proprietor in his place to hold office until the next annual general meeting.

10. A casual vacancy on the committee may be filled by the remaining members of the committee.

11. The quorum necessary for the transaction of the business of the committee may be fixed by the committee, and, unless so fixed, shall be 2 if there are not more than 6 members, and 3 otherwise.

12. If the number of committee members is reduced below the number which would constitute a quorum, the remaining members may act for the purpose of—

- (a) increasing the number of members to that number; or
  - (b) summoning a general meeting of the body corporate,
- but may not act for any other purpose.

13.—(1) At meetings of the committee all matters shall be determined by a simple majority of votes.

(2) In the case of an equality of votes, the chairman of the meeting shall have a casting vote as well as a deliberative vote.

14. Subject to any restriction imposed or direction given at a general meeting and to rule 15, the committee may—



- (a) meet for the conduct of business and adjourn, and otherwise regulate its meetings, as it thinks fit;
- (b) employ for and on behalf of the body corporate agents and servants as it thinks fit in connection with—
  - (i) the control, management and administration of the common property; and
  - (ii) the exercise and performance of the powers and duties of the body corporate;
- (c) elect one of its members to act as convener of the committee;
- (d) delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation; and
- (e) whenever it thinks fit, convene an extraordinary general meeting of the body corporate.

15. The committee shall meet when a member of the committee gives to the other members not less than 7 days written notice of a meeting proposed by him, specifying the reason for calling the meeting.

16. The committee shall—

- (a) keep minutes of its proceedings;
- (b) cause minutes to be kept of general meetings of the body corporate, and include in those minutes, in particular, a record of all unanimous resolutions;
- (c) cause proper books of account to be kept in respect of all sums of money received and expended by it, and the matters in respect of which income and expenditure is received or incurred;
- (d) prepare proper accounts relating to the money of the body corporate, its income and expenditure, and arrange—
  - (i) for the accounts of the body corporate for each year to be audited by an independent auditor;
  - (ii) for a copy of the audited annual accounts to be sent to each proprietor before each annual general meeting of the body corporate; and
  - (iii) for the audited annual accounts to be presented at each annual general meeting of the body corporate;
- (e) on application by a proprietor or a mortgagee of a unit, or a person authorised in writing by either of them, make the books of account and all minutes available for inspection, at all reasonable time; and
- (f) on receipt of a written requisition made by proprietors entitled to 25 per cent of the total unit entitlement of the units, convene an extraordinary general meeting of the body corporate.

17. Except as provided in rule 12, an act or proceeding of the committee or of a member acting on behalf of the committee shall not be invalidated in consequence of—

- (a) there being a vacancy in the number of members of the committee at the time of that act or proceeding; or
- (b) the subsequent discovery that there was some defect in the election or appointment of a person so acting, or that he was incapable of being or had ceased to be a member of the committee.

*General meetings of body corporate*

18.—(1) A general meeting of a body corporate, to be called the annual general meeting, shall, in addition to any other meeting, be held at least once in every calendar year and not more than 15 months after the holding of the preceding annual general meeting.

(2) The first annual general meeting of the body corporate shall be held within 3 months after the date of—

(a) the deposit of the unit plan; or

(b) the first sale of a unit,

whichever is the later.

19. A general meeting of a body corporate, other than an annual general meeting, shall be called an extraordinary general meeting.

20. Subject to rule 21, at least 7 days notice of a general meeting of the body corporate specifying the place, the date and the hour of the meeting, and the proposed agenda, shall be given to all persons entitled to exercise a vote in accordance with section 50 of the Unit Titles Act and rule 29.

21. An accidental omission to give notice under rule 20 to a person entitled to receive it shall not invalidate proceedings at a general meeting.

22. Subject to rule 23, notice required to be given under rule 16 shall be sufficiently given if—

(a) delivered personally to the person concerned; or

(b) left, or sent by letter posted to the person concerned, at the last address of that person notified to the body corporate, or, if no such address has been so notified, at that person's last known place of residence.

23. If a proprietor gives the body corporate written notice that he requires notices sent to him by post to be sent by registered post, a notice sent to him by post shall not be sufficiently given unless it is sent by registered post.

24. At a general meeting of the body corporate, the persons entitled, on an ordinary resolution, to exercise the voting power in respect of not less than one-third of the units shall constitute a quorum.

25. Except as otherwise provided in these rules, business shall not be transacted at a general meeting of the body corporate unless a quorum is present.

26. If, within half an hour from the time appointed for the start of a general meeting of the body corporate a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time, and, if, at the adjourned meeting, a quorum is not present within half an hour from the time appointed for the start of the meeting, the number of persons then present and entitled to vote constitute a quorum.

27.—(1) At a general meeting of the body corporate, the chairman of the committee shall be the convener if he is present.

(2) If there is no convener or if the convener is not present or is unwilling to act, a chairman shall be elected at the commencement of the meeting.

28.—(1) Except as otherwise provided by the Unit Titles Act or these rules, all matters at a general meeting of the body corporate shall be determined by a simple majority of votes.

(2) In the case of an equality of votes, the chairman of the meeting shall have a casting vote as well as a deliberative vote.

29. Subject to section 50 of the the Unit Titles Act at a general meeting of the body corporate—

(a) where a unanimous resolution is required, each person who is a proprietor shall be entitled to exercise one vote; and

(b) in all other cases, one vote shall be exercised in respect of each principal unit, and no separate vote may be exercised in respect of an accessory unit.

30. At a general meeting of the body corporate, a person present and entitled to vote on a matter under consideration may demand a poll in respect of that matter, and a poll shall be taken in such manner as the chairman thinks fit.

31. The result of a poll shall be deemed to be a resolution of the meeting at which it was demanded.

32. Where a poll is not demanded, a declaration by the chairman that a resolution has been carried shall be conclusive evidence of that fact without proof of the number or proportion of votes recorded for or against the resolution.

33.—(1) A vote to be cast at a general meeting of the body corporate may be exercised personally or by proxy.

(2) Where 2 or more persons are jointly entitled to exercise one vote and wish to do so by proxy, that proxy shall be jointly appointed in writing.

(3) If one of 2 or more persons who are jointly entitled to vote at a general meeting is present at a general meeting and those persons have not appointed a proxy, the person present may exercise the vote.

34. Where a poll is demanded or a special resolution is before the meeting, each vote shall correspond in value with the unit entitlement of the principal unit and any accessory unit in respect of which it is exercised, but in other cases, each vote shall be of equal value.

35. Except where a unanimous resolution is required, a power of voting in respect of a unit shall not be exercised unless all amounts accrued due and payable under the Unit Titles Act to the body corporate in respect of the unit in respect of which the vote is exercisable have been paid.

36. If there is no committee, the responsibility for the matters set out in rule 16, except paragraph (a), and the powers given to the committee by rule 14, except paragraph (a), shall be those of the body corporate, and, in that case unless the context otherwise requires, a reference in these rules to the committee is a reference to the body corporate.

37.—(1) A secretary, who may be, but need not be a proprietor, shall be appointed by the body corporate at its first annual general meeting on terms and conditions approved by it, and a secretary so appointed may be removed by the body corporate, either at a subsequent annual general meeting or at an extraordinary general meeting called for that purpose.

(2) At a general meeting at which the removal of the Secretary is to be discussed the secretary shall have the right to attend and be heard.

38. The secretary shall—

- (a) keep proper books of account in which shall be kept full, true and complete accounts of the affairs and transactions of the body corporate; and
- (b) carry out such other functions as may be delegated to him by the body corporate.

39. The secretary shall, each year, prepare a balance sheet showing the financial dealings of the body corporate during the year, and shall, within 6 months after each annual general meeting, send a copy of the latest balance sheet to each proprietor.

*Miscellaneous*

40.—(1) The common seal of the body corporate shall not be used except with the authority of the committee of the body corporate.

(2) Whenever the seal of the body corporate is affixed to an instrument, that instrument shall be attested by at least 2 members of the committee or, where an administrator has been appointed or there is only one proprietor, by the administrator or that proprietor.

41. For the purposes of these rules, a special resolution is a resolution proposed at a general meeting of the body corporate of which at least 14 days notice specifying the intention to propose the resolution as a special resolution has been given.

42. Subject to rule 43, where a resolution is proposed as a special resolution, the vote of the meeting shall be taken in the same way as if it had been proposed as an ordinary resolution and a poll had been demanded.

43. A special resolution shall be deemed not to be carried unless—

- (a) persons entitled to exercise not less than three-fourths of the value; and
  - (b) not less than three-fourths of the number of votes exercisable in respect of all the units,
- vote in favour of it.

SCHEDULE 2

(Subsection 46(2) and (4))

RULES THAT MAY BE AMENDED BY RESOLUTION  
OF BODY CORPORATE

A proprietor or occupier of a unit shall not—

- (a) use his unit, or permit it to be used, for a purpose that is illegal or may be injurious to the reputation of the building;
- (b) make undue noise in or about a unit or the common property;

- 
- (c) keep an animal on his unit or the common property without the consent of the committee of the body corporate, or, if there is no committee, of the body corporate;
  - (d) use the common property in a way which interferes with the reasonable use and enjoyment of that property by other proprietors, their families and visitors; or
  - (e) use his unit, or permit it to be used, in a manner or for purposes which cause a nuisance or disturbance to an occupier of a unit whether or not a proprietor or the family of such an occupier.

*Controlled by Ministry of Justice*

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CHAPTER 274UNIT TITLES

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SECTION 65—UNIT TITLES REGULATIONS

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TABLE OF PROVISIONS

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## REGULATION

1. Short title
  2. Commencement
  3. Prescribed person
  4. Form 1—Application to deposit unit plan
  5. Form 2—Certificate of Title—unit estate—general
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  7. Forms 4, 5 and 6—Cancellation of unit plan
  8. Form 7—Certificate of body corporate
  9. Form 8—Certificate of expiry of lease
  10. Form 9—Change of rules
  11. Form 10—Certificate of principal officer—future development plan
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  13. Fees
- Schedule—Forms

*Regulations\* 20 December, 1985*

*Short title*

1. These Regulations may be cited as the Unit Titles Regulations.

*Commencement*

2. These Regulations shall come into force on 1 January 1986.

*Prescribed person*

3. The prescribed person, for the purposes of section 7(1), and section 53 of the Act, who may fix the unit entitlement of a unit under the Act is any one of those Fellows or Members of the Institute of Valuation and Estate Management of Fiji who are named in Schedule 3.

*Form 1—Application to deposit unit plan*

4. An application to deposit a unit plan shall be in Form 1 of Schedule 1.

*Form 2—Certificate of Title—unit estate—general*

5. The certificate of title for a unit estate shall be in Form 2 of Schedule 1.

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\*See Legal Notice No. 102 of 1985.

*Form 3—Certificate of Title—future development unit*

6. The certificate of title for a unit estate in a future development unit shall be in Form 3 of Schedule 1.

*Forms 4, 5 and 6—Cancellation of unit plan*

7. An application to the Registrar for the cancellation of a unit plan shall—
- (a) if made by the lessor pursuant to section 36(2), be in Form 4 of Schedule 1;
  - (b) if made by consent of the proprietors, be in Form 5 of Schedule 1; and
  - (c) if made pursuant to section 56, be in Form 6 of Schedule 1.

*Form 7—Certificate of body corporate*

8. The Certificate of the body corporate pursuant to section 45 of the Act shall be in Form 6 of Schedule 1.

*Form 8—Certificate of expiry of lease*

9. A Certificate of expiry of a lease, deposited pursuant to section 37(3) of the Act, shall—

- (a) if lodged by the lessor, be in Form 8(A) of Schedule 1; and
- (b) if lodged by the persons referred to in section 37(3) (b) of the Act, be in Form 8(B) of Schedule 1.

*Form 9—Change of rules*

10. The notification by a body corporate of an amendment to, repeal of, or addition to a rule applicable to the body corporate shall be in Form 9 of Schedule 1.

*Form 10—Certificate of principal officer—unit plan*

11. The Certificate of the principal officer of a Local Authority given pursuant to section 5(1)(e) of the Act, shall be in Form 10 of Schedule 1.

*Form 11—Certificate of principal officer—future development plan*

12. The Certificate of the principal officer of a Local Authority, given pursuant to section 24(3)(c) of the Act, shall be in Form 11 of Schedule 1.

*Fees*

13. The fees set out in Schedule 2 shall be charged by the Registrar for those dealings under the Act which are specified in Schedule 2.

**SCHEDULE 1****FORM 1**

(Section 5(4) Unit Titles Act)

**APPLICATION TO DEPOSIT UNIT PLAN AND REQUEST  
FOR NEW TITLES**

(1) The applicant specified in the Schedule hereby certifies that the applicant is the registered proprietor of the land described in the Schedule.

(2) The Applicant hereby applies to deposit the Unit Plan attached hereto and specified in the Schedule as a Unit Plan under the provisions of the Unit Titles Act.

(3) The applicant hereby requests the Registrar of Titles to issue new Certificates of Title in the name of the Applicant as specified in the Schedule.

(4) The approval of the Surveyor-General under section 5(1)(c) is endorsed on or attached to the plan.

(5) The necessary consents required under section 5(1)(d) are endorsed upon or attached to the plan.

(6) The Certificate under section 5(1)(e) of the principal officer of the Local Authority is endorsed on or attached to the plan.

(7) The Certificate of the prescribed person, pursuant to section 7(1) is endorsed on or attached to the plan.

(8) The address of the Body Corporate is as shown on the plan.

(9) The Certificate of Title or lease to the land described in the Schedule is delivered herewith for cancellation or surrender.

#### SCHEDULE

Applicant:

Land:

#### SUBJECT TO

Unit Plan: No.

New Titles: Principal Unit

DATED at                      day of                      19

Signature of Proprietor



## FORM 2

Reference to previous Title

No .....

.....

.....

[ Fiji Coat of Arms ]  
Fiji

## CERTIFICATE OF TITLE FOR UNIT ESTATE

.....

.....

.....

Pursuant to..... No. .... now proprietor  
of a unit estate in Freehold/Leasehold subject to the provisions and reservations  
contained in the Unit Titles Act and subject to such leases, mortgages and  
encumbrances as are notified by memorial underwritten or endorsed hereon, on  
the relative unit plan and on the Supplementary Record Sheet (be the same a little  
more or less) and situate in

..... of ..... in the island  
of ..... and being .....

Principal Unit ..... on Unit Plan No. ....  
together with

IN WITNESS WHEREOF I have hereunder signed my name and affixed my seal,

SUVA..... Registrar of Titles

**FORM 3**  
**(Section 27(3))**

**Unit Titles Act**

Reference to previous Title

No. ....

[ Fiji Coat of Arms ]  
Fiji

**CERTIFICATE OF TITLE FOR UNIT ESTATE IN A FUTURE  
DEVELOPMENT UNIT**

Pursuant to..... No. .... now proprietor  
of a unit estate in a future development unit subject to the provisions and  
reservations contained in the Unit Titles Act and subject to such leases,  
mortgages and encumbrances as are notified by memorial underwritten or  
endorsed hereon, on the relative unit plan and on the Supplementary Record Sheet  
(be the same a little more or less) and situate in

..... of..... in the  
Island of ..... and being  
Future Development Unit..... on Stage Unit Plan No. ....

IN WITNESS WHEREOF I have hereunder signed my name and affixed my seal,

SUVA..... Registrar of Titles

**FORM 4**

**APPLICATION BY LESSOR TO CANCEL A UNIT PLAN PURSUANT TO  
A COURT ORDER**

**(Section 36(2))**

The applicant ..... of ..... hereby applies to  
have Unit Plan Number ..... cancelled on the following grounds:

1. That the applicant is the lessor under Deposited Lease No. ....
2. That on the ..... day of ..... 19 ..... the applicant

applied to the Supreme Court of Fiji at ..... for an order that the said Unit Plan Number ..... be cancelled.

3. That on the ..... day of ..... 19 ..... the said Court duly ordered and declared that the said Unit Plan be cancelled, as is evidenced by the copy of the order of the said Court hereunto annexed and marked "A".

Dated at ..... this ..... day of ..... 19 .....

Signed by the above-named ..... as applicant in the presence of:

.....  
 ..... (Occupation)  
 ..... (Address)

Signed: .....

#### FORM 5

#### APPLICATION TO CANCEL A UNIT PLAN—BY CONSENT OF THE PROPRIETORS (Section 54)

We, the applicants named hereunder, being the proprietors of all the units shown in Unit Plan Number ..... hereby apply to have the said Unit Plan cancelled.

In witness whereof I have hereunto subscribed my name this day 19

Attestation Clause

*Note (1) Certificate as to Debts and as to Notice (Section 54(4)(a))*

We, the undersigned, being the members of the Committee and the Secretary of the said Body Corporate Number ..... hereby certify:

1. That to the best of our knowledge and belief all rates assessed before the date hereof in respect of any of the units or the common property have been paid, at the date of this certificate.

*Note (2)* 2. That notice of the intention to make the attached application was duly served on [Here state name, address, and occupation]; being the lessor under Memorandum of Lease Number

....., on the ..... 19.....

Dated at ..... this ..... day of ..... 19 .....  
 Signed by ..... in the presence of:

.....  
 ..... (Occupation)  
 ..... (Address)  
 Signed: .....

**Note (3)****Consent of Administrator**

I [*Here state name, address and occupation*] being the duly appointed administrator of Body corporate Number ..... by virtue of an order of the Supreme Court made on the ..... day of ..... 19 ..... hereby consent to the attached application.

Dated at ..... this ..... day of ..... 19 .....  
 Signed by ..... in the presence of:

.....  
 ..... (Occupation)  
 ..... (Address)  
 Signed: .....

**NOTES—**

1. Where there is no Committee the Certificate should be given by all the proprietors of the units.
2. Omit where not applicable.
3. Omit if no administrator has been appointed, or if his consent has been dispensed with by the Court, or if he is one of the applicants to the Court.

**FORM 6**

**APPLICATION TO CANCEL A UNIT PLAN PURSUANT TO  
 A COURT ORDER**  
*(Section 56)*

The applicant ..... of ..... hereby applies to have Unit Plan Number ..... cancelled on the following grounds:

1. That on the ..... day of ..... 19 ..... the applicant applied to the Supreme Court of Fiji at ..... for an order that the said Unit Plan Number ..... be cancelled.
2. That on the ..... day of ..... 19 ..... the said Court duly ordered and declared that the said Unit Plan be cancelled, as is evidenced by the copy of the order of the said Court hereunto annexed and marked "A".

3. Unless their production is dispensed with, the following documents are attached hereto—

- (a) duplicate certificate of title for each unit; and
- (b) duplicate instrument of every registered mortgage, charge, lease or sublease.

Dated at ..... this ..... day of ..... 19 .....

Signed by the above-named ..... as applicant in the presence of:

.....  
 ..... (Occupation)  
 ..... (Address)

#### FORM 7

#### CERTIFICATE BY BODY CORPORATE—SECTION 45

The Body Corporate of .....  
 Unit Plan Number ..... of .....  
 hereby Certifies as follows regarding Unit No. ....  
 on Unit Plan No. ....

- Contributions* (1) (a) Date to which contributions are paid .....
- (b) Amount of contributions ..... per .....
- (c) Arrears of contributions .....
- (d) Next contributions payable on ..... Amount .....
- (e) Details of amounts recoverable by the Body Corporate under—  
     section 15(5) .....
- section 16(2)(c) .....
- section 39 .....
- (f) Details of interest accruing on debt .....

*Body  
Corporate*

- (2) (a) Details of work etc. to be performed by Body Corporate involving an amount recoverable from the proprietor of the Unit .....
- .....
- .....

(b) Details of any proceedings current or pending against the Body Corporate

(c) The Rules of the Body Corporate are those set out in Schedule 2 and 3 of the Act with the amendments attached (if any).

Dated this ..... day of .....

Signed by the Body Corporate Number ..... by

.....  
Secretary/duly authorised agent

**FORM 8(A)**  
**(Section 37(3)(a))**

**CERTIFICATE OF EXPIRY OF LEASE**

I, the lessor under and by virtue of Memorandum of Lease Number ..... of all that parcel of land described hereunder in respect of which Unit Plan Number ..... has been deposited HEREBY CERTIFY that the term of the lease created by Memorandum of Lease Number ..... (and extended/renewed by Memorandum of Variation Number ..... ) has expired.

Full description of the land—

Dated at ..... this ..... day of ..... 19 .....

Signed by

in the presence of:

Witness .....

Address .....

Occupation ..... (Lessor(s)) .....

**FORM 8(B)**  
**(Section 37(3)(b))**

**CERTIFICATE OF EXPIRY OF LEASE**

We, the persons hereunder named who are together entitled to exercise more than one-third of the votes on an ordinary resolution in respect of the units shown on

Unit Plan Number..... hereby certify that the term of the lease created with respect to the land hereafter described by Memorandum of Lease Number ..... (and extended or renewed by Memorandum of Variation Number ..... ) has expired.

Full description of the land—

Dated at ..... this ..... day of ..... 19 .....

Signed by

in the presence of:

Witness .....

Address .....

Occupation ..... (Lessor(s)) .....

FORM 9  
(Section 46(8))

NOTICE OF CHANGE OF RULES

To: The Registrar of Titles,

NOTICE IS HEREBY GIVEN that the rules of Body Corporate Number ..... were on the ..... day of ..... 19 ..... duly amended in the manner set out in the First (and Second) Schedule(s) hereto:

AND IT IS HEREBY CERTIFIED that—

- (1) each of the amendments set out in the First Schedule hereto has been duly authorised and approved by a unanimous resolution of all the proprietors who together constitute the said Body Corporate; and
- (2) that each of the amendments set out in the Second Schedule hereto has been duly authorised and approved by resolution of the said Body Corporate at a general meeting.

Dated at ..... this ..... day of ..... 19 .....

The Common Seal of Body Corporate Number ..... was hereunto affixed in the presence of—

Witness: .....

Witness: .....

**First Schedule**

*[Here set out in successively numbered clauses each amendment to the rules listed in Schedule 1 to the Unit Titles Act]*

**Second Schedule**

*[Here set in successively numbered clauses each amendment to the rules listed in Schedule 2 to the Unit Titles Act]*

**FORM 10**  
**'Section 5(1)(e))**

**PRINCIPAL OFFICER'S CERTIFICATE FOR UNIT PLAN**

*To be added  
to any stage  
Unit Plan*

PURSUANT to subsection 5(1)(e) of the Unit Titles Act,  
 I ..... the principal  
 officer of the ..... local authority,  
 hereby certify that every building shown on this unit  
 plan has been erected, and all other development work  
 has been carried out, to the extent necessary to  
 enable all the boundaries of every unit and the common  
 property shown on the plan to be physically measured.  
 I further certify that the said plan is consistent with  
 proposed unit development plan number .....

.....  
 Principal Officer

**FORM 11**  
**(Section 24(3)(c))**

**PRINCIPAL OFFICER'S CERTIFICATE FOR PROPOSED  
 DEVELOPMENT PLAN**

PURSUANT to section 24(3)(c) of the Unit Titles Act, I .....  
 the Principal Officer of the ..... local authority,  
 hereby certify that the development as shown on the proposed unit  
 development plan number ..... complies in all respects,  
 so far as such compliance can be ascertained from the plan, with the relevant  
 requirements of the local authority's By-Laws and of the Town Planning Act  
 (Cap. 139)

.....  
 Principal Officer



**SCHEDULE 2**

Fees to be charged by Registrar of Titles  
for dealings under the Unit Titles Act

1. For the lodgement of each Unit Plan.	\$10
plus for each lot thereon	\$ 2
2. For the lodgement of each Stage Unit Plan	\$10
plus for each lot thereon	\$ 2
3. For the lodgement of each Proposed Unit Development Plan	\$10
plus for each lot thereon	\$ 2
4. For the lodgement of each notification of change of rules by the body corporate	\$ 5
5. For the lodgement of an application to cancel a Plan	\$10
plus for each lot affected	\$ 2

**SCHEDULE 3*****Prescribed Persons******Fellows***

P. G. Raju  
Salamat Dean  
Joseph Sukhendra Singh  
D. H. Kydd  
Peter R. Dow  
P. K. Bhindi

***Members***

Vijay Arbindra Nath  
Awindra Prasad  
Sahroom Ali  
Sheikh Ushman  
Mitieli Bulanauca  
Nemia Tuicolo Drauna  
Joseph Naidu  
Ratu Luke Yavaca  
Vinod Lal Bala  
Ronald Wylie Macdonald  
Ashok Kumar  
Babu Lal  
Yunus Mohammed  
Abdul Hassan  
Josefa Dulakiverata  
Solomone Bulewa Matau  
Tevita Rabuli

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M. Rabuka  
Jone Gucake Savou  
Kalivati Ratucicivi  
Christopher John Fagan  
Silio Koroi Toronibau  
Beranavere Sautu  
Apolosi Racule Vinau  
Timoci Waqaisavou  
William Francis Carlile  
Maika Qarikau  
Steven James Wilson  
Gary J. Hearps  
Ian William Langridge  
Valentine Rogers  
Naiqama Lalabalavu  
Craig Peter Strawhan  
Peter John Crawford  
Seremaia Deve Turogo  
Garbha Nand  
David Rost Blackwell  
Inia T. Rasovo  
Viliame Kadi  
Kolonio Vueti  
John Anthony Lewis  
Senitieli Natale  
Rajendra Kumar  
Isimeli Cokanasiga  
Aeneas Edward O'Sullivan  
Emosi Vitilevu Toga  
David Wilson Greenwood  
Peni Navu Vaniqa  
Christopher Edward Torr  
Vidya Narayan

*Controlled by Ministry of Justice*