

Strata Property Act

[Sbc 1998] Chapter 43

Part 1 — Definitions and Interpretation

Definitions and interpretation

1 (1) In this Act:

"approving officer" means an appropriate approving officer appointed under the *Land Title Act*;

"assessed value" means the value assessed under the *Assessment Act*;

"bare land strata plan" means

(a) a strata plan on which the boundaries of the strata lots are defined on a horizontal plane by reference to survey markers and not by reference to the floors, walls or ceilings of a building, or

(b) any other strata plan defined by regulation to be a bare land strata plan;

"bylaw" means a bylaw of a strata corporation;

"common asset" means

(a) personal property held by or on behalf of a strata corporation, and

(b) land held in the name of or on behalf of a strata corporation, that is

(i) not shown on the strata plan, or

(ii) shown as a strata lot on the strata plan;

"common expenses" means expenses

(a) relating to the common property and common assets of the strata corporation, or

(b) required to meet any other purpose or obligation of the strata corporation;

"common property" means

(a) that part of the land and buildings shown on a strata plan that is not part of a strata lot, and

(b) pipes, wires, cables, chutes, ducts and other facilities for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating and cooling systems, or other similar services, if they are located

- (i) within a floor, wall or ceiling that forms a boundary
 - (A) between a strata lot and another strata lot,
 - (B) between a strata lot and the common property, or
 - (C) between a strata lot or common property and another parcel of land,
or
- (ii) wholly or partially within a strata lot, if they are capable of being and intended to be used in connection with the enjoyment of another strata lot or the common property;

"contingency reserve fund" means a fund for common expenses that usually occur less often than once a year or that do not usually occur, as set out in section 92 (b);

"convey" and **"conveyance"**, when referring to the conveyance of a strata lot to a purchaser, means any of the following in respect of which an application to the land title office has been made to register:

- (a) a transfer of a freehold estate in the strata lot;
- (b) an agreement for sale of the strata lot;
- (c) an assignment of a purchaser's interest in an agreement for sale of the strata lot;
- (d) an assignment of a strata lot lease in a leasehold strata plan;

"eligible voters" means persons who may vote under sections 53 to 58;

"judgment" means a judgment of a court, and includes costs awarded in respect of the judgment;

"landlord" means an owner who rents a strata lot to a tenant and a tenant who rents a strata lot to a subtenant, but does not include a leasehold landlord in a leasehold strata plan as defined in section 199;

"limited common property" means common property designated for the exclusive use of the owners of one or more strata lots;

"majority vote" means a vote in favour of a resolution by more than 1/2 of the votes cast by eligible voters who are present in person or by proxy at the time the vote is taken and who have not abstained from voting;

"occupant" means a person, other than an owner or tenant, who occupies a strata lot;

"operating fund" means a fund for common expenses that usually occur either once a year or more often than once a year, as set out in section 92 (a);

"owner" means a person, including an owner developer, who is

(a) a person shown in the register of a land title office as the owner of a freehold estate in a strata lot, whether entitled to it in the person's own right or in a representative capacity, or

(b) if the strata lot is in a leasehold strata plan, as defined in section 199, a leasehold tenant as defined in that section,

unless there is

(c) a registered agreement for sale, in which case it means the registered holder of the last registered agreement for sale, or

(d) a registered life estate, in which case it means the tenant for life;

"owner developer" means

(a) a person

(i) who, on the date that application is made to the registrar for deposit of the strata plan, is registered in the land title office as

(A) the owner of the freehold estate in the land shown on the strata plan, or

(B) in the case of a leasehold strata plan as defined in section 199, the lessee of the ground lease of the land, or

(ii) who acquires all the strata lots in a strata plan from the person referred to in subparagraph (i), and

(b) a person who acquires all of the interest of a person who is an owner developer under paragraph (a) in more than 50% of the strata lots in a strata plan;

"phased strata plan" means a strata plan that is deposited in successive phases under Part 13;

"purchaser" means a person, other than an owner developer, who enters into an agreement to purchase a strata lot or to acquire a strata lot lease in a leasehold strata plan as defined in section 199, but to whom the strata lot or strata lot lease has not yet been conveyed or assigned;

"registrar" means a registrar of titles as defined in the *Land Title Act*, and includes a deputy registrar or acting registrar under that Act;

"regulations" means regulations made by the Lieutenant Governor in Council under section 292;

"residential strata lot" means a strata lot designed or intended to be used primarily as a residence;

"rule" means a rule of a strata corporation made under section 125 or 197;

"section", when used in reference to a strata corporation, means a section of the strata corporation created under section 192 or 193;

"Standard Bylaws" means the bylaws set out in the Schedule of Standard Bylaws;

"strata corporation" means a strata corporation established under section 2;

"strata lot" means a lot shown on a strata plan;

"sue" means the act of bringing any kind of court proceeding;

"suit" means any kind of court proceeding;

"superintendent" means the Superintendent of Real Estate;

"Supreme Court" means the Supreme Court of British Columbia;

"tenant" means a person who rents all or part of a strata lot, and includes a subtenant but does not include a leasehold tenant in a leasehold strata plan as defined in section 199 or a tenant for life under a registered life estate;

"3/4 vote" means a vote in favour of a resolution by at least 3/4 of the votes cast by eligible voters who are present in person or by proxy at the time the vote is taken and who have not abstained from voting;

"unanimous vote" means a vote in favour of a resolution by all the votes of all the eligible voters;

"unit entitlement" of a strata lot means the number indicated in the Schedule of Unit Entitlement established under section 246, that is used in calculations to determine the strata lot's share of

- (a) the common property and common assets, and
- (b) the common expenses and liabilities of the strata corporation.

(2) A word or expression in this Act has the meaning given to it in the *Land Title Act*, unless it is defined in this Act or the context requires otherwise.

Part 2 — The Strata Corporation

Establishment of strata corporation

2 (1) From the time the strata plan is deposited in a land title office,

- (a) a strata corporation is established, and

(b) the owners of the strata lots in the strata plan are members of the strata corporation under the name "The Owners, Strata Plan [*the registration number of the strata plan*]".

(2) Subject to any limitation under this Act or the regulations, a strata corporation has the power and capacity of a natural person of full capacity.

Responsibilities of strata corporation

3 Except as otherwise provided in this Act, the strata corporation is responsible for managing and maintaining the common property and common assets of the strata corporation for the benefit of the owners.

Strata corporation functions through council

4 The powers and duties of the strata corporation must be exercised and performed by a council, unless this Act, the regulations or the bylaws provide otherwise.

Part 3 — The Owner Developer

Division 1 — General

Owner developer's control of strata corporation

5 (1) The owner developer must exercise the powers and perform the duties of a council from the time the strata corporation is established until a council is elected at the strata corporation's first annual general meeting.

(2) In exercising the powers and performing the duties of a council, the owner developer need not comply with bylaw requirements respecting the constitution of the council or the holding or conduct of council meetings.

Owner developer's standard of care

6 (1) In exercising the powers and performing the duties of a council, the owner developer must

(a) act honestly and in good faith with a view to the best interests of the strata corporation, and

(b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

(2) Without limiting subsection (1), the owner developer must make reasonable efforts to pursue any remedies under warranties in existence with respect to the construction of the common property and common assets.

(3) Sections 32 and 33 do not apply to an owner developer exercising the powers and performing the duties of the council, as long as the owner developer complies with subsection (1) of this section.

Division 2 — The Owner Developer and the Strata Corporation Before Strata Lots are Conveyed

Owner developer to pay expenses

7 The owner developer must pay the actual expenses of the strata corporation that accrue in the period up to the last day of the month in which the first conveyance of a strata lot to a purchaser occurs.

Passing resolutions before first conveyance

8 Before the first conveyance of a strata lot to a purchaser, the owner developer may pass any resolution of the strata corporation permitted or required by this Act or the regulations, including a resolution to amend the strata corporation's bylaws under section 127, without holding a special general meeting.

Division 3 — The Owner Developer and the Strata Corporation After the First Conveyance

Owner developer may be restricted

9 In exercising the powers and performing the duties of a council after the first conveyance of a strata lot to a purchaser, the owner developer is subject to a direction or restriction under section 27 as if the owner developer were a council.

Restriction on contracting powers

10 In the period after the first conveyance of a strata lot to a purchaser but before the first annual general meeting, no contract or transaction may be entered into by or on behalf of the strata corporation with either the owner developer or a person who is not at arm's length to the owner developer, unless the contract or transaction is approved by a resolution passed by a unanimous vote at a special general meeting.

Passing resolutions after first conveyance

11 (1) In the period after the first conveyance of a strata lot to a purchaser but before the first annual general meeting, the strata corporation may pass a resolution requiring a 3/4 vote only if the resolution is passed by a unanimous vote at a special general meeting.

(2) Despite subsection (1), a resolution under section 127 to amend the bylaws or under section 139 to change a Rental Disclosure Statement may be passed in accordance with those sections before the first annual general meeting.

Owner developer to establish contingency reserve fund

12 (1) At the time of the first conveyance of a strata lot to a purchaser, the owner developer must establish a contingency reserve fund by paying into the fund an amount calculated according to this section.

(2) If the first conveyance of a strata lot to a purchaser occurs no later than one year after the deposit of the strata plan, the minimum contribution to the fund must be 5% of the estimated operating expenses as set out in the interim budget referred to in section 13.

(3) If the first conveyance of a strata lot to a purchaser occurs later than one year after the deposit of the strata plan, the minimum contribution to the fund must be the lesser of

(a) 5% of the estimated annual operating expenses as set out in the interim budget referred to in section 13 multiplied by the number of years or partial years since the deposit of the strata plan, and

(b) 25% of the estimated annual operating expenses as set out in the interim budget referred to in section 13.

(4) The owner developer must not use money in the contingency reserve fund to pay strata corporation expenses.

(5) The contingency reserve fund belongs to the strata corporation.

Interim budget following first conveyance

13 (1) The owner developer must

(a) prepare an interim budget for the strata corporation for the 12 month period beginning the first day of the month following the month in which the first conveyance of a strata lot to a purchaser occurs, and

(b) deliver a copy of the interim budget to each prospective purchaser of a strata lot before the prospective purchaser signs an agreement of purchase and sale.

(2) The interim budget must include

(a) the estimated operating expenses of the strata corporation for the 12 month period,

(b) the contribution to the contingency reserve fund for the 12 month period, which must be at least 5% of the estimated operating expenses, and

(c) each strata lot's monthly share of the estimated operating expenses and contribution to the contingency reserve fund, calculated in accordance with section 99.

Payments during period of interim budget

14 (1) The strata corporation must pay the expenses that accrue in the period beginning the first day of the month following the month in which the first conveyance of a strata lot to a purchaser occurs until the date the first annual budget takes effect.

(2) During the period referred to in subsection (1), the owners must pay to the strata corporation, each month, their monthly share of the estimated operating expenses of the

strata corporation and contribution to the contingency reserve fund as set out in the interim budget.

(3) The strata corporation must not use money in the contingency reserve fund to pay expenses that accrue before the owners approve the first annual budget.

(4) Subject to subsection (5), if the expenses accrued by the strata corporation, for the period referred to in subsection (1), are greater than the operating expenses estimated in the interim budget for that period, the owner developer must pay the difference to the strata corporation within 8 weeks after the first annual general meeting.

(5) If the accrued expenses referred to in subsection (4) are 10% or more greater than the operating expenses estimated in the interim budget for that period, the owner developer must include in the payment referred to in subsection (4) an additional amount calculated according to the regulations.

(6) If the expenses accrued by the strata corporation, for the period referred to in subsection (1), are less than the operating expenses estimated in the interim budget for that period, the strata corporation must refund the difference to the owners in amounts proportional to their contributions.

(7) Despite subsection (6), if no owner is entitled to receive more than \$100 in total under subsection (6), the strata corporation may deposit the difference in the contingency reserve fund.

(8) If no budget is approved at the first annual general meeting, the period referred to in subsections (4), (5) and (6) ends at the first annual general meeting.

Minimum period of insurance coverage

15 The owner developer must ensure that the term of any insurance policy entered into by or on behalf of the strata corporation continues for at least 4 weeks after the first annual general meeting.

First annual general meeting to be held by owner developer

16 (1) The owner developer must hold the first annual general meeting during the 6 week period that begins on the earlier of

(a) the date on which 50% plus one of the strata lots have been conveyed to purchasers, and

(b) the date that is 9 months after the date of the first conveyance of a strata lot to a purchaser.

(2) The owner developer must give notice of the meeting in accordance with section 45 and must include with the notice the budget and financial statement referred to in section 21.

Owners may hold first annual general meeting

17 If the owner developer does not hold the first annual general meeting as required by section 16,

(a) an owner may hold the first annual general meeting after giving notice in accordance with section 45 to the persons referred to in section 45 and to the owner developer, and

(b) the owner developer must pay to the strata corporation an amount calculated according to the regulations.

Money owed by owner developer

18 Amounts payable by the owner developer under sections 14 (4) and (5) and 17 (b) are money owing to the strata corporation, and sections 112 to 118 apply.

Chair of first annual general meeting

19 The chair of the first annual general meeting is

(a) the owner developer acting personally or through an agent, or

(b) if the owner developer or the agent is unwilling or unable to act as chair, an individual elected by eligible voters who are present in person or by proxy at the meeting.

Business at first annual general meeting

20 (1) At the first annual general meeting, the eligible voters must elect a council, for a term of one year, in accordance with section 25.

(2) At the first annual general meeting, the owner developer must

(a) place before the meeting and give the strata corporation copies of all of the following:

(i) all plans that were required to obtain a building permit and any amendments to the building permit plans that were filed with the issuer of the building permit;

(ii) any document in the owner developer's possession that indicates the actual location of a pipe, wire, cable, chute, duct or other facility for the passage or provision of systems or services, if the owner developer has reason to believe that the pipe, wire, cable, chute, duct or other facility is not located as shown on a plan or plan amendment filed with the issuer of the building permit;

(iii) all contracts entered into by or on behalf of the strata corporation;

(iv) any disclosure statement required by Part 2 of the *Real Estate Act* or section 139 of this Act;

(v) the registered strata plan as obtained from the land title office;

(vi) names and addresses of all contractors, subcontractors and persons who supplied labour or materials to the project, as required by the regulations;

(vii) all warranties, manuals, schematic drawings, operating instructions, service guides, manufacturers' documentation and other similar information respecting the construction, installation, operation, maintenance, repair and servicing of any common property or common assets, including any warranty information provided to the owner developer by a person referred to in paragraph (vi);

(viii) all records required to be prepared or retained by the strata corporation under section 35;

(ix) any other records required by the regulations, and

(b) place an annual budget, prepared in accordance with section 21, before the meeting for approval.

(3) If the owner developer contravenes subsection (2) (a) and the strata corporation must pay money to obtain a document referred to in that provision, the amount of the payment is money owing to the strata corporation by the owner developer, and sections 112 to 118 apply.

First annual budget requirements

21 (1) The first annual budget must be for the 12 month period beginning on the first day of the month following the date of the first annual general meeting.

(2) The first annual budget must be distributed with the notice of the first annual general meeting under section 45 and must be accompanied by a financial statement.

(3) The budget and financial statement

(a) must contain the information required by the regulations, and

(b) may be in the form set out in the regulations.

(4) Approval of the first annual budget must be by a resolution passed by a majority vote.

(5) The proposed budget may be amended by a majority vote at the first annual general meeting before the budget itself is put to a vote.

(6) Within 8 weeks after the first annual general meeting, the owner developer must give the strata corporation a financial statement updated to

(a) the date the first annual budget takes effect, or

(b) if no budget is approved at the first annual general meeting, the date of the first annual general meeting.

Transfer to council

22 Within one week after the first annual general meeting, the owner developer must

(a) transfer control of the strata corporation's money to the newly elected council, and

(b) deliver to the newly elected council any keys, garage door openers or other means of access that the owner developer possesses for the purposes of exercising the powers and performing the duties of the council.

Access to owner developer's financial records

23 (1) For 2 years following the transfer of control referred to in section 22, the owner developer must keep all financial records that relate to the strata corporation's finances during the period before the transfer of control.

(2) During the 2 years that the owner developer keeps the financial records,

(a) the owner developer must, at the request of the strata corporation, make them available for inspection free of charge by the strata corporation, and

(b) the strata corporation may, at its expense, copy or audit them.

Strata management contracts

24 (1) A contract entered into before the first annual general meeting by or on behalf of the strata corporation for the provision of strata management services to the strata corporation ends, regardless of any provision of the contract to the contrary, on the earlier of

(a) the date that is 4 weeks after the date of the second annual general meeting,

(b) the termination date contained in the contract or agreed to by the parties, and

(c) the cancellation date established in accordance with section 39.

(2) The strata corporation may, by a resolution passed by a majority vote at the second annual general meeting, continue a contract which would otherwise end under subsection (1) (a).

(3) A resolution under subsection (2) does not require notice under section 45 (3).

Part 4 — Strata Corporation Governance

Division 1 — The Council

Election of council

25 At each annual general meeting the eligible voters who are present in person or by proxy at the meeting must elect a council.

Council exercises powers and performs duties of strata corporation

26 Subject to this Act, the regulations and the bylaws, the council must exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws and rules.

Control of council

27 (1) The strata corporation may direct or restrict the council in its exercise of powers and performance of duties by a resolution passed by a majority vote at an annual or special general meeting.

(2) The strata corporation may not direct or restrict the council under subsection (1) if the direction or restriction

(a) is contrary to this Act, the regulations or the bylaws, or

(b) interferes with the council's discretion to determine, based on the facts of a particular case,

(i) whether a person has contravened a bylaw or rule,

(ii) whether a person should be fined, and the amount of the fine, or

(iii) whether a person should be denied access to a recreational facility.

Eligibility for council

28 (1) The only persons who may be council members are the following:

(a) owners;

(b) individuals representing corporate owners;

(c) tenants who, under section 147 or 148, have been assigned a landlord's right to stand for council.

(2) Despite subsection (1), the strata corporation may, by a bylaw passed at an annual or special general meeting held after the first annual general meeting, allow classes of persons, other than those referred to in subsection (1), to be council members.

(3) Despite this section, a strata corporation may, by bylaw, provide that no person may stand for council or continue to be on council with respect to a strata lot if the strata corporation is entitled to register a lien against that strata lot under section 116 (1).

Membership on council

29 (1) The number of persons on council is determined by the bylaws.

(2) If a strata lot is owned by more than one person, only one owner of the strata lot may be a council member at any one time with respect to that lot, unless all the owners are on the council.

(3) If a strata lot is owned by a corporation, only one representative of the corporation may be a council member at any one time with respect to that lot.

(4) If all the owners are on the council, each strata lot has one vote at council meetings.

Contracts not invalidated

30 (1) The validity of a contract made or a certificate issued by the strata corporation is not affected by

(a) a defect in the appointment or election of the council member or officer who makes the contract or signs the certificate on behalf of the strata corporation, or

(b) a limitation on the authority of the council member or officer to act on behalf of the strata corporation.

(2) A person who knew or ought reasonably to have known of the defect or limitation at the time the person made a contract with or received a certificate from the strata corporation may not rely on subsection (1) to bind the strata corporation with respect to the contract or certificate.

Council member's standard of care

31 In exercising the powers and performing the duties of the strata corporation, each council member must

(a) act honestly and in good faith with a view to the best interests of the strata corporation, and

(b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

Disclosure of conflict of interest

32 A council member who has a direct or indirect interest in a contract or transaction with the strata corporation must

(a) disclose fully and promptly to the council the nature and extent of the interest,

(b) abstain from voting on the contract or transaction, and

(c) leave the council meeting

(i) while the contract or transaction is discussed, unless asked by council to be present to provide information, and

(ii) while the council votes on the contract or transaction.

Accountability

33 (1) If a council member who has an interest in a contract or transaction fails to comply with section 32, the strata corporation or an owner may apply for an order under subsection (3) of this section to a court having jurisdiction unless, after full disclosure of the nature and extent of the council member's interest in the contract or transaction, the contract or transaction is ratified by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) For the purposes of the 3/4 vote referred to in subsection (1), a person who has an interest in the contract or transaction is not an eligible voter.

(3) If, on application under subsection (1), the court finds that the contract or transaction was unreasonable or unfair to the strata corporation at the time it was entered into, the court may do one or more of the following:

(a) set aside the contract or transaction if no significant injustice will be caused to third parties;

(b) if the council member has not acted honestly and in good faith, require the council member to compensate the strata corporation or any other person for a loss arising from the contract or transaction, or from the setting aside of the contract or transaction;

(c) require the council member to pay to the strata corporation any profit the council member makes as a consequence of the contract or transaction.

Approval of council member remuneration

34 Any remuneration paid to a member of council for the member's exercise of council powers or performance of council duties must be approved in advance of payment

(a) in the budget,

(b) in the bylaws, or

(c) by a resolution passed by a 3/4 vote at an annual or special general meeting.

Division 2 — Records

Strata corporation records

35 (1) The strata corporation must prepare all of the following records:

(a) minutes of annual and special general meetings and council meetings, including the results of any votes;

(b) a list of council members;

(c) a list of

(i) owners, with their strata lot addresses, mailing addresses if different, strata lot numbers as shown on the strata plan, parking stall numbers, if any, and unit entitlements,

(ii) names and addresses of mortgagees who have filed a Mortgagee's Request for Notification under section 60,

(iii) names of tenants, and

(iv) assignments of voting or other rights by landlords to tenants under sections 147 and 148;

(d) books of account showing money received and spent and the reason for the receipt or expenditure;

(e) any other records required by the regulations.

(2) The strata corporation must retain copies of all of the following:

(a) the records referred to in subsection (1);

(b) the registered strata plan and any strata plan amendments as obtained from the land title office;

(c) this Act and the regulations;

(d) the bylaws and rules;

(e) resolutions that deal with changes to common property, including the designation of limited common property;

(f) waivers and consents under section 41, 44 or 45;

(g) written contracts to which the strata corporation is a party;

(h) any decision of an arbitrator or judge in a proceeding in which the strata corporation was a party, and any legal opinions obtained by the strata corporation;

(i) the budget and financial statement for the current year and for previous years;

(j) income tax returns, if any;

(k) correspondence sent or received by the strata corporation and council;

(l) bank statements, cancelled cheques and certificates of deposit;

(m) Information Certificates issued under section 59;

(n) the records and documents given to the strata corporation by the owner developer under section 20, or obtained by the strata corporation under section 23;

(o) any other records required by the regulations.

(3) Records referred to in this section must be retained by the strata corporation for the periods set out in the regulations.

Access to records

36 (1) On receiving a request, the strata corporation must make the records and documents referred to in section 35 available for inspection by, and provide copies of them to,

(a) an owner,

(b) a tenant who, under section 147 or 148, has been assigned a landlord's right to inspect and obtain copies of records and documents, or

(c) a person authorized in writing by an owner or tenant referred to in paragraph (a) or (b).

(2) On receiving the request of a tenant, or a person authorized in writing by a tenant, the strata corporation must

(a) make the bylaws and rules available for inspection, and

(b) provide copies of the bylaws and rules.

(3) The strata corporation must comply with a request under subsection (1) or (2) within 2 weeks unless the request is in respect of bylaws or rules, in which case the strata corporation must comply with the request within one week.

(4) The strata corporation may charge a fee for a copy of a record or document provided under this section of not more than the amount set out in the regulations and may refuse to supply the copy until the fee is paid.

Strata manager to return records

37 (1) If a strata management contract ends, the person providing the strata management services must, within 4 weeks, give the strata corporation any records referred to in section 35 that are in the person's possession or control.

(2) A person who fails to comply with subsection (1) must pay to the strata corporation an amount calculated according to the regulations.

Division 3 — Contracts

Capacity to enter contracts and join organizations

38 In addition to its capacities under any other enactment, a strata corporation has the capacity

(a) to enter into contracts in respect of its powers and duties under this Act, the regulations and the bylaws, and

(b) to join organizations to further its purposes under this Act, the regulations and the bylaws.

Cancellation of strata management contracts

39 (1) A contract entered into by or on behalf of the strata corporation for the provision of strata management services to the strata corporation may be cancelled, without liability or penalty, despite any provision of the contract to the contrary,

(a) by the strata corporation on 2 months' notice if the cancellation is first approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or

(b) by the other party to the contract on 2 months' notice.

(2) The strata corporation does not need any prior approval to cancel the contract in accordance with its terms or to refuse to renew the contract when it expires.

Division 4 — Annual General Meetings and Special General Meetings

Annual general meeting

40 (1) The strata corporation must hold annual general meetings except as provided under section 41.

(2) An annual general meeting must be held no later than 2 months after the strata corporation's fiscal year end.

Waiver of annual general meeting

41 (1) The strata corporation does not have to hold an annual general meeting if, before the last date by which the meeting must be held, all eligible voters waive, in writing, the holding of the meeting and consent, in writing, to resolutions that

(a) approve the budget for the coming fiscal year,

(b) elect a council by acclamation, and

(c) deal with any other business.

(2) If 2 or more persons share one vote with respect to a strata lot, all of them must consent to the waiver of the meeting and to the resolutions under subsection (1).

Special general meeting called by strata corporation

42 The strata corporation may hold a special general meeting at any time after giving notice in accordance with section 45.

Special general meeting called by voters

43 (1) Persons holding at least 25% of the strata corporation's votes may, by written demand, require that the strata corporation hold a special general meeting to consider a resolution or other matter specified in the demand.

(2) The demand must be signed by each of the persons making it.

(3) Subject to section 44, the strata corporation must hold the special general meeting within 4 weeks after the demand is given to the strata corporation.

(4) The president of the council may call the special general meeting without holding a council meeting.

(5) At the special general meeting, the resolution or any other matter specified in the demand is the first item on the agenda and must be dealt with before consideration of any other matter about which notice has been given.

(6) If a special general meeting is not held within the time period set out in subsection (3), the persons making the demand may themselves hold a special general meeting by complying with the provisions of this Act, the regulations and the bylaws respecting the calling and holding of special general meetings.

Waiver of special general meeting

44 (1) The strata corporation does not have to hold a special general meeting to consider a resolution if all eligible voters waive, in writing, the holding of the meeting and consent, in writing, to the resolution.

(2) If 2 or more persons share one vote with respect to a strata lot, all of them must consent to the waiver of the meeting and to the resolution under subsection (1).

Notice requirements for annual or special general meeting

45 (1) The strata corporation must give at least 2 weeks' written notice of an annual or special general meeting to all of the following:

(a) every owner, whether or not a notice must also be sent to the owner's mortgagee or tenant;

(b) every mortgagee who has given the strata corporation a Mortgagee's Request for Notification under section 60;

(c) every tenant who has been assigned a landlord's right to vote under section 147 or 148, if the strata corporation has received notice of the assignment.

(2) A person who has a right to be notified under this section may, in writing, waive the right and may, in writing, revoke a waiver.

(3) The notice of the annual or special general meeting must include a description of the matters that will be voted on at the meeting, including the proposed wording of any resolution requiring a 3/4 vote or unanimous vote.

(4) If the meeting is an annual general meeting, the notice must include the budget and financial statement referred to in section 103.

(5) A vote at an annual or special general meeting may proceed despite the lack of notice as required by this section, if all persons entitled to receive notice waive, in writing, their right to notice.

(6) If 2 or more persons share one vote with respect to a strata lot, all of them must consent to the waiver of notice under subsection (5).

Agenda and resolutions at an annual or special general meeting

46 (1) Subject to subsection (2), the council determines the agenda of an annual or special general meeting.

(2) Persons holding at least 25% of the strata corporation's votes may, by written demand, propose a resolution or raise a matter specified in the demand.

(3) A resolution or matter raised under subsection (2) must be included

(a) in the notice given under section 45 (3) about the next annual or special general meeting of the strata corporation, and

(b) on the agenda of that meeting.

(4) Subsection (3) does not apply to a special general meeting held under section 43 (6).

Failure to give proper notice of meeting

47 Failure to give proper notice of an annual or special general meeting to a person entitled to receive notice under section 45 does not invalidate a vote taken at the meeting as long as the strata corporation made a reasonable attempt to give the notice in accordance with that section.

Quorum for annual or special general meeting

48 (1) Business must not be conducted at an annual or special general meeting unless a quorum is present.

(2) Subject to the bylaws, a quorum for an annual or special general meeting is

(a) eligible voters holding 1/3 of the strata corporation's votes, present in person or by proxy, or

(b) if there are fewer than 4 strata lots or fewer than 4 owners, eligible voters holding 2/3 of the strata corporation's votes, present in person or by proxy.

(3) Unless otherwise provided in the bylaws, if within 1/2 hour from the time appointed for an annual or special general meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time but, if on the day to which the meeting is adjourned a quorum described in subsection (2) is not present

within 1/2 hour from the time appointed for the meeting, the eligible voters present in person or by proxy constitute a quorum.

Electronic attendance at meetings

49 (1) A strata corporation may, by bylaw, provide for attendance at an annual or special general meeting by telephone or any other method, if the method permits all persons participating in the meeting to communicate with each other during the meeting.

(2) A person who attends a meeting as provided under subsection (1) is present in person at the meeting.

Voting at annual or special general meetings

50 (1) At an annual or special general meeting, matters are decided by majority vote unless a different voting threshold is required or permitted by the Act or the regulations.

(2) Despite section 45 (3), during an annual or special general meeting amendments may be made to the proposed wording of a resolution requiring a 3/4 vote if the amendments

(a) do not substantially change the resolution, and

(b) are approved by a 3/4 vote before the vote on the resolution.

Reconsideration of resolution passed by 3/4 vote

51 (1) This section applies only if a resolution required to be passed by a 3/4 vote is passed at an annual or special general meeting by persons holding less than 50% of the strata corporation's votes.

(2) The strata corporation must not take any action to implement a resolution referred to in subsection (1) for one week following the vote unless there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage.

(3) Within the one week following the vote, persons holding at least 25% of the strata corporation's votes may, by written demand, require that the strata corporation hold a special general meeting to reconsider the resolution.

(4) The demand must be signed by each person making it.

(5) After receiving a demand for a special general meeting under subsection (3), the strata corporation must not take any action to implement the resolution unless there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage.

(6) The strata corporation must hold the special general meeting within 4 weeks after the demand is given to the strata corporation.

(7) The president of the council may call the special general meeting without holding a council meeting.

(8) At the special general meeting, the resolution to be reconsidered is the first item on the agenda and must be dealt with before consideration of any other matter about which notice has been given.

(9) Despite any other provision of this Act, the regulations or the bylaws, if a quorum is not present within 1/2 hour of the start of the special general meeting, the meeting must not proceed.

(10) The resolution stands and may be implemented only if one of the following conditions is met:

(a) a demand for reconsideration is not made under this section;

(b) the resolution is approved by a 3/4 vote at the special general meeting held under this section;

(c) the meeting held under this section does not proceed for lack of a quorum as set out in subsection (9).

(11) The resolution may be presented for reconsideration under this section only once.

Unanimous votes

52 (1) This section applies only to strata corporations comprised of 10 or more strata lots.

(2) If a resolution required to be passed by a unanimous vote under the Act or the regulations is supported by all of the strata corporation's votes except for

(a) the vote in respect of one strata lot, in a strata corporation comprised of at least 10 strata lots, or

(b) the votes in respect of more than one strata lot, if those votes together represent less than 5% of the strata corporation's votes,

the strata corporation may, by a resolution passed by a 3/4 vote at an annual or special general meeting, apply to the Supreme Court for an order under subsection (3).

(3) On application under subsection (2), the court may, if satisfied that the passage of the resolution is in the best interests of the strata corporation and would not unfairly prejudice the dissenting voter or voters, make an order providing that the vote proceed as if the dissenting voter or voters had no vote.

(4) In making an order under subsection (3), the court may make any other order it considers just, including an order that the strata corporation offer to purchase a strata lot owned by a dissenting voter at its fair market value or that the strata corporation otherwise compensate a dissenting voter.

Division 5 — Voting

Number of votes per strata lot

53 (1) At an annual or special general meeting each strata lot has one vote unless different voting rights are set out in a Schedule of Voting Rights in the prescribed form in accordance with section 247, 248 or 264.

(2) Despite subsection (1), a strata corporation may, by bylaw, provide that the vote for a strata lot may not be exercised, except on matters requiring a unanimous vote, if the strata corporation is entitled to register a lien against that strata lot under section 116 (1).

(3) If, in accordance with a bylaw passed under subsection (2), a vote for a strata lot may not be exercised, the strata lot's vote must not be considered for the purposes of determining a quorum in accordance with section 48 or for the purposes of sections 43 (1), 46 (2) and 51 (3).

Voters

54 The following persons may vote at an annual or special general meeting:

(a) an owner, unless a tenant or mortgagee has the right to vote under paragraph (b) or (c);

(b) a tenant who has been assigned a landlord's right to vote under section 147 or 148, unless a mortgagee has the right to vote under paragraph (c);

(c) a mortgagee of a strata lot, but only in respect of insurance, maintenance, finance or other matters affecting the security for the mortgage and only if

(i) the mortgage gives the mortgagee the right to vote, and

(ii) at least 3 days before the meeting the mortgagee has given to the strata corporation, the owner and the tenant referred to in paragraph (b), if any, written notice of the mortgagee's intention to vote.

Special voters

55 (1) If a person who may vote under section 54 is under 16 years of age, the person's right to vote may be exercised only by the person's parent or guardian.

(2) If a person who may vote under section 54 lacks the capacity to make a decision for a reason other than being under 16 years of age, the person's right to vote may be exercised only by someone who is legally authorized to act for the person with respect to the strata lot.

Proxies

56 (1) A person who may vote under section 54 or 55 may vote in person or by proxy.

(2) A document appointing a proxy

(a) must be in writing and be signed by the person appointing the proxy,

(b) may be either general or for a specific meeting or a specific resolution, and

(c) may be revoked at any time.

(3) The following persons may be proxies:

(a) only if permitted by regulation and subject to prescribed restrictions, an employee of the strata corporation;

(b) only if permitted by regulation and subject to prescribed restrictions, a person who provides strata management services to the strata corporation;

(c) subject to the regulations, any other person.

(4) A proxy stands in the place of the person appointing the proxy, and can do anything that person can do, including vote, propose and second motions and participate in the discussion, unless limited in the appointment document.

Shared vote

57 (1) If 2 or more persons share one vote with respect to a strata lot, only one of them may vote on any given matter.

(2) If the chair is advised before or during a vote that the 2 or more persons who share the one vote disagree on how their vote should be cast on a matter, the chair must not count their vote in respect of that matter.

Court appointed voter

58 (1) If there is no person to vote in respect of a strata lot, an owner, the strata corporation or an interested person may apply to the Supreme Court for an order under subsection (2).

(2) On application under subsection (1), the court may make an order declaring that there is no person to vote in respect of the strata lot, and appointing the Public Guardian and Trustee or any other person to vote in respect of the strata lot.

(3) If the application concerns a matter that requires a unanimous vote and the court is satisfied that there is no person to vote in respect of a strata lot, the court must make an order under subsection (2).

(4) The court may make any order it considers advisable, including an order respecting the payment of fees, to give effect to an appointment of the Public Guardian and Trustee or other person.

(5) The court may vary an order made under this section.

Division 6 — Information Certificate

Information Certificate

59 (1) Within one week of a request by an owner, a purchaser or a person authorized by an owner or purchaser, the strata corporation must give to the person making the request an Information Certificate in the prescribed form.

(2) The certificate must contain the information required by subsection (3), as of the date of the certificate.

(3) The certificate must disclose all of the following in respect of the strata corporation and the strata lot for which the request is made:

- (a) the monthly strata fees payable by the owner;
- (b) any amount that the owner owes the strata corporation, other than an amount paid into court or to the strata corporation in trust under section 114;
- (c) any agreements under which the owner takes responsibility for expenses relating to alterations to a strata lot, the common property or the common assets;
- (d) any amount that the owner is obligated to pay in the future for a special levy that has already been approved and the date by which the payment is to be made;
- (e) any amount by which the expenses of the strata corporation for the current fiscal year are expected to exceed the expenses budgeted for the fiscal year;
- (f) the amount in the contingency reserve fund minus any expenditures which have already been approved but not yet taken from the fund;
- (g) any amendments to the bylaws that are not yet filed in the land title office;
- (h) any resolution passed by a 3/4 vote or unanimous vote that is required to be filed in the land title office but that has not yet been filed in the land title office;
- (i) any notice that has been given for a resolution that has not been voted on, if the resolution requires a 3/4 vote or unanimous vote or deals with an amendment to the bylaws;
- (j) any court proceeding or arbitration in which the strata corporation is a party and any judgments or orders against the strata corporation;
- (k) any notices or work orders received by the strata corporation that remain outstanding for the strata lot, the common property or the common assets;
- (l) the number of strata lots in the strata plan that are rented;
- (m) any other information required by the regulations.

(4) Copies of all of the following must be attached to the certificate:

- (a) the rules of the strata corporation;

(b) the current budget of the strata corporation;

(c) the owner developer's Rental Disclosure Statement under section 139, if any.

(5) The information in subsection (3) disclosed in a certificate is binding on the strata corporation in its dealings with a person who relied on the certificate and acted reasonably in doing so.

(6) On application by the strata corporation, by an owner or by a person who is affected by a certificate, the Supreme Court may make any order it considers just in the circumstances to give effect to or relieve the strata corporation from some or all of the consequences of an inaccurate certificate.

(7) The strata corporation may charge, to the person requesting the certificate, a fee for the certificate of not more than the amount set out in the regulations and may refuse to issue the certificate until the fee is paid.

Division 7 — Giving Notice and Providing Information

Notice to mortgagee

60 A mortgagee of a strata lot who wishes to receive notices of annual or special general meetings under section 45 and notices of money owing under section 113 must give a Mortgagee's Request for Notification in the prescribed form to the strata corporation.

Notice given by strata corporation

61 (1) A notice or other record or document that the strata corporation is required or permitted to give to a person under this Act, the regulations, the bylaws or the rules must be given to the person,

(a) if the person has provided the strata corporation with an address outside the strata plan for receiving notices and other records or documents,

(i) by leaving it with the person, or

(ii) by mailing it to the address provided, or

(b) if the person has not provided the strata corporation with an address outside the strata plan for receiving notices and other records or documents,

(i) by leaving it with the person,

(ii) by leaving it with an adult occupant of the person's strata lot,

(iii) by putting it under the door of the person's strata lot,

(iv) by mailing it to the person at the address of the strata lot,

(v) by putting it through a mail slot or in a mail box used by the person for receiving mail, or

(vi) by faxing it to a fax number provided by the person.

(2) The notice, record or document may be addressed to the person by name, or to the person as owner or tenant.

(3) A notice or other record or document that is given to a person under subsection (1) (a) (ii) or (b) (ii) to (vi) is conclusively deemed to have been given 4 days after it is left with an adult, put under the door, mailed, put through a mail slot or in a mail box or faxed.

Address of strata corporation

62 (1) The strata corporation must ensure that the correct mailing address for the strata corporation is filed in the land title office.

(2) The address may be accompanied by a fax number.

(3) If a strata corporation changes its mailing address, it must file a Strata Corporation Change of Mailing Address in the prescribed form in the land title office.

Notice given to strata corporation

63 (1) A notice or other record or document that is required or permitted under this Act, the regulations, the bylaws or the rules to be given to the strata corporation must be given to the strata corporation

(a) by leaving it with a council member,

(b) by mailing it to the strata corporation at its most recent mailing address on file in the land title office,

(c) by faxing it to the strata corporation using the strata corporation's fax number or a fax number provided by a council member for the purpose of receiving the notice, record or document, or

(d) by putting it through the mail slot, or in the mail box, used by the strata corporation for receiving notices, records and documents.

(2) A notice or other record or document that is given to the strata corporation under subsection (1) (b) to (d) is conclusively deemed to be given 4 days after it is mailed, faxed or put through the mail slot or in the mail box.

Legal service on strata corporation

64 Despite section 63 but subject to another enactment or a court order, service on a strata corporation of a notice of a proceeding in any court may only be effected by

(a) personal service on a council member, or

(b) mailing it, by registered mail, to the strata corporation at its most recent mailing address on file in the land title office.

Informing resident owners and tenants

65 For the purposes of sections 98 (6), 106, 108 (4), 125 (4), 128 (4) and 167, and any regulations that require the strata corporation to inform owners or tenants of certain matters, the strata corporation may, instead of giving notice under section 61, inform resident owners and tenants by one or more of the following methods or by any other method:

(a) leaving a document containing the information at a location designated by the strata corporation for the distribution of such information;

(b) posting a document containing the information in a part of the common property designated by the strata corporation for the posting of such information.

Part 5 — Property

Division 1 — General Property Matters

Ownership of property

66 An owner owns the common property and common assets of the strata corporation as a tenant in common in a share equal to the unit entitlement of the owner's strata lot divided by the total unit entitlement of all the strata lots.

Assessment and taxation

67 For the purposes of assessment and taxation, each strata lot, together with the owner's share in the common property and other taxable common assets of the strata corporation, is a separate parcel of land.

Strata lot boundaries

68 (1) Unless otherwise shown on the strata plan, if a strata lot is separated from another strata lot, the common property or another parcel of land by a wall, floor or ceiling, the boundary of the strata lot is midway between the surface of the structural portion of the wall, floor or ceiling that faces the strata lot and the surface of the structural portion of the wall, floor or ceiling that faces the other strata lot, the common property or the other parcel of land.

(2) If a strata lot is not separated from another strata lot, the common property or another parcel of land by a wall, floor or ceiling, the boundary of the strata lot is as shown on the strata plan.

(3) A boundary shown on the strata plan must be shown in a manner approved by the registrar.

(4) Despite subsections (1) to (3), but subject to the regulations, in the case of a bare land strata plan, the boundaries must be shown on the strata plan

(a) by reference to survey markers, and

(b) in compliance with rules, if any, made under section 75 of the *Land Surveyors Act* for the purposes of this section.

Implied easements

69 (1) There exists an easement in favour of each strata lot in the strata plan and the owner of each strata lot

(a) for the strata lot's vertical and sideways support by the common property and by every other strata lot capable of providing support,

(b) for the passage or provision of water, sewage, drainage, gas, oil, electricity, garbage, heating and cooling systems and other services, including telephone, radio and television, through or by means of any pipes, wires, cables, chutes, ducts or other facilities existing in the common property or another strata lot to the extent those systems or services are capable of being, and intended to be, used in connection with the enjoyment of the strata lot, and

(c) for shelter of the strata lot by every part of a building that is shown on the strata plan as part of the common property or another strata lot and that is capable of providing shelter.

(2) There exists an easement in favour of the common property and the owners of the common property

(a) for the common property's vertical and sideways support by every strata lot capable of providing support,

(b) for the passage or provision of the services and facilities described in subsection (1) (b) existing in a strata lot to the extent those systems or services are capable of being, and intended to be, used in connection with the enjoyment of the common property, and

(c) for shelter of the common property by every part of a building that is shown on the strata plan as part of a strata lot and that is capable of providing shelter.

(3) The easements referred to in subsections (1) and (2)

(a) exist without registration in a land title office,

(b) charge and burden that part of the common property capable of providing support or shelter to a strata lot,

(c) charge and burden each strata lot capable of providing support or shelter to another strata lot or to the common property,

(d) charge and burden each strata lot and that part of the common property in which any part of the services and facilities described in subsections (1) (b) and (2) (b) are located, and

(e) include all of the rights and obligations needed to give effect to and enforce them, including a right of entry to inspect, maintain, repair and replace the shelter, support, services and facilities described in subsections (1) and (2).

(4) The easements referred to in subsections (1) and (2) may be enforced by the strata corporation on its own behalf or on behalf of one or more owners to the same extent as if the strata corporation were the owner of a strata lot or the common property that benefits from the easement.

(5) The easements referred to in subsections (1) (c) and (2) (c) do not apply to strata lots in a bare land strata plan.

Changes to strata lot

70 (1) An owner or owners may, with the prior written approval of the strata corporation, remove all or part of a wall that is a common boundary between

(a) adjoining strata lots, or

(b) strata lots that have been consolidated into a single strata lot.

(2) The strata corporation must approve the proposed removal under subsection (1) unless the removal

(a) fails to comply with

(i) the British Columbia Building Code referred to in the Building Regulations of British Columbia,

(ii) any applicable municipal or regional district bylaws, or

(iii) any applicable Nisga'a Government laws, or

(b) interferes with the provision of utilities or other services to any other strata lot or to the common property.

(3) The owner or owners must give copies of any required building permits to the strata corporation when seeking its approval under subsection (1).

(4) Subject to the regulations, if an owner wishes to increase or decrease the habitable part of the area of a residential strata lot, by making a nonhabitable part of the strata lot habitable or by making a habitable part of the strata lot nonhabitable, and the unit entitlement of the strata lot is calculated on the basis of habitable area in accordance with section 246 (3) (a) (i) or on the basis of square footage in accordance with section 1 of the *Condominium Act*, R.S.B.C. 1996, c. 64, the owner must

- (a) seek an amendment to the Schedule of Unit Entitlement under section 261, and
- (b) obtain the unanimous vote referred to in section 261 before making the change.

Change in use of common property

71 Subject to the regulations, the strata corporation must not make a significant change in the use or appearance of common property or land that is a common asset unless

- (a) the change is approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or
- (b) there are reasonable grounds to believe that immediate change is necessary to ensure safety or prevent significant loss or damage.

Repair of property

72 (1) Subject to subsection (2), the strata corporation must repair and maintain common property and common assets.

(2) The strata corporation may, by bylaw, make an owner responsible for the repair and maintenance of

- (a) limited common property that the owner has a right to use, or
- (b) common property other than limited common property only if identified in the regulations and subject to prescribed restrictions.

(3) The strata corporation may, by bylaw, take responsibility for the repair and maintenance of specified portions of a strata lot.

Division 2 — Limited Common Property and Exclusive Use of Common Property

Designation of limited common property

73 Common property may be designated as limited common property

- (a) by the owner developer
 - (i) by a designation on the strata plan when it is deposited in the land title office, or
 - (ii) by a plan amendment under section 258,
- (b) by an amendment to the strata plan under section 257, or
- (c) by a resolution passed at an annual or special general meeting under section 74.

Designation of limited common property by 3/4 vote

74 (1) Common property may be designated as limited common property by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) A resolution passed under subsection (1) must be filed in the land title office with a sketch plan that

(a) satisfies the registrar,

(b) defines the areas of limited common property, and

(c) specifies each strata lot whose owners are entitled to the exclusive use of the limited common property.

(3) A resolution passed under subsection (1) does not have effect until it is filed in the land title office.

(4) The designation of limited common property by a resolution under this section does not require an amendment to the strata plan.

Removal of designation of limited common property

75 (1) If a designation of common property as limited common property was made

(a) by the owner developer at the time the strata plan was deposited or by a plan amendment by the owner developer under section 258, or

(b) by an amendment to the strata plan under section 257,

the designation may only be removed by amending the plan under section 257.

(2) If a designation of common property as limited common property was made by a resolution passed by a 3/4 vote under section 74, it may only be removed by a resolution passed by a 3/4 vote at an annual or special general meeting.

(3) A resolution passed under subsection (2) does not have effect until it is filed in the land title office.

(4) The removal of a designation of limited common property by a resolution under subsection (2) does not require an amendment to the strata plan.

Short term exclusive use

76 (1) Subject to section 71, the strata corporation may give an owner or tenant permission to exclusively use, or a special privilege in relation to, common assets or common property that is not designated as limited common property.

(2) A permission or privilege under subsection (1) may be given for a period of not more than one year, and may be made subject to conditions.

(3) The strata corporation may renew the permission or privilege and on renewal may change the period or conditions.

(4) The permission or privilege given under subsection (1) may be cancelled by the strata corporation giving the owner or tenant reasonable notice of the cancellation.

Access to common property by strata corporation

77 An owner who has the right to use common property, including limited common property, or common assets must allow the strata corporation reasonable access to the common property or common assets to exercise its powers and perform its duties.

Division 3 — Property Acquisition and Disposal

Acquisition of land by strata corporation

78 (1) Before the strata corporation acquires land, the acquisition must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) Land must not be registered at a land title office in the name of the strata corporation unless the document transferring the interest in the land to the strata corporation is accompanied by a Certificate of Strata Corporation in the prescribed form, stating that

(a) the resolution referred to in subsection (1) has been passed, and

(b) the document conforms to the resolution.

(3) The strata corporation may, without prior approval,

(a) accept a grant of an easement or restrictive covenant benefiting land in the strata plan, or

(b) accept a discharge of an easement burdening land in the strata plan.

Disposal of land held in strata corporation's name

79 To sell, lease, mortgage, grant an easement over, grant a restrictive covenant affecting or otherwise dispose of land that is a common asset, the strata corporation must proceed as follows:

(a) a resolution approving the disposition must be passed by a 3/4 vote at an annual or special general meeting;

(b) any document needed to effect the disposition must be executed by the strata corporation and delivered to the land title office accompanied by a Certificate of Strata Corporation in the prescribed form, stating that the resolution referred to in paragraph (a) has been passed and that the document conforms to the resolution.

Disposal of common property

80 (1) To dispose of common property in a way set out in section 253 (1), the strata corporation must ensure that the requirements of Part 7 of the *Land Title Act* are met.

(2) To dispose of common property in a way not set out in section 253 (1), the strata corporation must ensure that the following requirements are met:

(a) a resolution approving the disposition must be passed by a 3/4 vote at an annual or special general meeting;

(b) holders of financial charges noted on the common property record must consent in writing to the proposed disposition unless in the registrar's opinion the interests of the persons who have not consented in writing are not adversely affected by the disposition;

(c) any document needed to effect the disposition must be executed by the strata corporation and delivered to the land title office accompanied by

(i) a Certificate of Strata Corporation in the prescribed form, stating that the resolution referred to in paragraph (a) has been passed and that the document conforms to the resolution, and

(ii) the written consents referred to in paragraph (b).

(3) For the purpose of determining what consents are required under subsection (2) (b) from holders of financial charges, section 97 (3) to (8) of the *Land Title Act* applies to the disposition of common property.

Strata corporation must not mortgage common property

81 The strata corporation must not mortgage common property.

Acquisition and disposal of personal property by strata corporation

82 (1) The strata corporation may acquire personal property for the use of the strata corporation.

(2) The strata corporation may sell, lease, mortgage or otherwise dispose of personal property.

(3) The strata corporation must obtain prior approval by a resolution passed by a 3/4 vote at an annual or special general meeting of an acquisition or disposal of personal property if the personal property has a market value of more than

(a) an amount set out in the bylaws, or

(b) \$1 000, if the bylaws are silent as to the amount.

(4) This section does not apply to the acquisition or disposal of an investment instrument referred to in section 95 (2).

Division 4 — Work Orders

Work order against strata corporation property

83 The strata corporation must comply with a requirement to do work on or to

- (a) common property, or
- (b) land that is a common asset

if the work is required by a notice or order of a public or local authority which is authorized by law to require the work, and the notice or order is given to the strata corporation.

Work order against strata lot

84 (1) Except as provided in section 41.1 of the *Fire Services Act*, a strata corporation that receives a notice or order requiring work to be done on or to a strata lot, from a public or local authority authorized by law to require the work, must promptly give the notice or order to the owner of the strata lot.

(2) An owner who receives a notice or order requiring work to be done on or to the owner's strata lot, from a public or local authority authorized by law to require the work or from the strata corporation under subsection (1), must do the work.

Owner's failure to comply with work order

85 (1) If an owner, after receiving the notice or order under section 84, fails to do the required work, the strata corporation may do the required work.

(2) If the owner appeals the work order and advises the strata corporation in writing of the appeal, the strata corporation must wait for the results of the appeal.

(3) Except in an emergency, the strata corporation must notify the owner in writing of its intention to do the work at least one week before starting the work.

(4) The owner must reimburse the strata corporation for any money the strata corporation spends doing work on or to the strata lot under this section.

Division 5 — Builders Liens and Other Charges

Builders Lien Act applies

86 Except as provided in sections 87 to 90 of this Act, the *Builders Lien Act* applies to land in a strata plan.

Builders liens against strata lots in phased strata plans

87 Despite any other enactment, in a phased strata plan a claim of lien under the *Builders Lien Act* may be filed against only the strata lots in the phase in which the materials were supplied or the work was done.

Builders lien after purchase from owner developer

88 (1) Despite any other Act or agreement to the contrary, if an owner developer conveys a strata lot to a purchaser, a claim of lien under the *Builders Lien Act* filed against the strata lot, or against the strata lot's share in the common property, must be filed before the earlier of

(a) the date on which the time for filing a claim of lien under the *Builders Lien Act* expires, and

(b) the date which is 45 days after the date the strata lot is conveyed to the purchaser.

(2) Despite any other Act or agreement to the contrary, a purchaser of a strata lot from an owner developer must retain a holdback of an amount set out in the regulations until the earlier of

(a) the date on which the time for filing a claim of lien under the *Builders Lien Act* expires, and

(b) the date which is 55 days after the date the strata lot is conveyed to the purchaser.

(3) The holdback is subject to a lien under the *Builders Lien Act*.

(4) The purchaser must release the holdback to the owner developer at the end of the holdback period provided for in subsection (2) unless in the meantime a claim of lien has been filed, or proceedings have been commenced, to enforce a lien against the holdback.

Removal of claim of lien after purchase from owner developer

89 (1) If one or more claims of lien under the *Builders Lien Act* are filed against a strata lot purchased from an owner developer, the purchaser may apply to the Supreme Court for an order for permission to pay into the court the lesser of

(a) the total amount of the claims of lien filed, and

(b) the full amount of the holdback under section 88 (2).

(2) Payment into the court discharges the lien and releases the purchaser from liability to the owner developer or the lien claimant for the liens.

(3) The order under subsection (1) must provide that the claims of lien be removed from the title to the strata lot.

(4) The money paid into the court is security for the liens in place of the strata lot.

(5) If the full amount of the holdback has not been paid into the court, the purchaser must release the balance of the holdback to the owner developer.

Removal of liens and other charges

90 (1) An owner may apply to the Supreme Court to remove a claim of lien under the *Builders Lien Act* or other registered charge that charges more than one strata lot from the title to the owner's strata lot.

(2) The court may order the claim of lien or other charge removed from the title to the owner's strata lot on payment into the court of the strata lot's share of the amount secured by the claim of lien or other charge.

(3) Payment into the court releases the owner from liability to the lien claimant or other charge holder for the amount secured by the claim of lien or other charge.

(4) The strata lot's share of the amount secured by the claim of lien or other charge is calculated as set out in section 166 as if the amount of the claim of lien or other charge were a judgment.

(5) The money paid into the court is security for the lien or other charge in place of the strata lot.

Part 6 — Finances

Division 1 — Operating Fund and Contingency Reserve Fund

Strata corporation responsible for common expenses

91 The strata corporation is responsible for the common expenses of the strata corporation.

Operating fund and contingency reserve fund

92 To meet its expenses the strata corporation must establish, and the owners must contribute, by means of strata fees, to

(a) an operating fund for common expenses that usually occur either once a year or more often than once a year, and

(b) a contingency reserve fund for common expenses that usually occur less often than once a year or that do not usually occur.

Minimum and maximum contributions to contingency reserve fund

93 Subject to the requirements set out in the regulations, the strata corporation must determine the amount of the annual contribution to the contingency reserve fund.

Depreciation report

94 (1) The strata corporation may prepare a depreciation report estimating the repair and replacement cost for major items in the strata corporation and the expected life of those items to assist it in determining the appropriate amount for the annual contribution to the contingency reserve fund.

(2) A depreciation report may contain information based on the guidelines for depreciation reports as set out in the regulations and may be in the prescribed form.

Management of contingency reserve fund

95 (1) The strata corporation must account for money in the contingency reserve fund separately from other money of the strata corporation.

(2) The strata corporation must invest all of the money in the contingency reserve fund in one or the other or a combination of the following:

- (a) those investments permitted by the regulations;
- (b) insured accounts with savings institutions in British Columbia.

(3) Any interest or income earned on the money in the contingency reserve fund becomes part of the fund.

(4) Despite subsection (2), the strata corporation may lend money in the contingency reserve fund to the operating fund as permitted by the regulations.

Expenditures from contingency reserve fund

96 The strata corporation must not spend money from the contingency reserve fund unless the expenditure is

- (a) consistent with the purposes of the fund as set out in section 92 (b), and
- (b) first approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or authorized under section 98.

Expenditures from operating fund

97 The strata corporation must not spend money from the operating fund unless the expenditure is

- (a) consistent with the purposes of the fund as set out in section 92 (a), and
- (b) first approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or authorized
 - (i) in the budget, or
 - (ii) under section 98 or 104 (3).

Unapproved expenditures

98 (1) If a proposed expenditure has not been put forward for approval in the budget or at an annual or special general meeting, the strata corporation may only make the expenditure in accordance with this section.

(2) Subject to subsection (3), the expenditure may be made out of the operating fund if the expenditure, together with all other unapproved expenditures, whether of the same type or not, that were made under this subsection in the same fiscal year, is

(a) less than the amount set out in the bylaws, or

(b) if the bylaws are silent as to the amount, less than \$2 000 or 5% of the total contribution to the operating fund for the current year, whichever is less.

(3) The expenditure may be made out of the operating fund or contingency reserve fund if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage, whether physical or otherwise.

(4) A bylaw setting out an amount for the purposes of subsection (2) (a) may set out further conditions for, or limitations on, any expenditures under that provision.

(5) Any expenditure under subsection (3) must not exceed the minimum amount needed to ensure safety or prevent significant loss or damage.

(6) The strata corporation must inform owners as soon as feasible about any expenditure made under subsection (3).

Division 2 — Contribution to Expenses

Calculating strata fees

99 (1) Subject to section 100, owners must contribute to the strata corporation their strata lots' shares of the total contributions budgeted for the operating fund and contingency reserve fund by means of strata fees calculated in accordance with this section and the regulations.

(2) Subject to the regulations, the strata fees for a strata lot's share of the contribution to the operating fund and contingency reserve fund are calculated as follows:

$$\frac{\text{unit entitlement of strata lot}}{\text{total unit entitlement of all strata lots}} \times \text{total contribution}$$

Change to basis for calculation of contribution

100 (1) At an annual or special general meeting held after the first annual general meeting, the strata corporation may, by a resolution passed by a unanimous vote, agree to use one or more different formulas, other than the formulas set out in section 99 and the regulations, for the calculation of a strata lot's share of the contribution to the operating fund and contingency reserve fund.

(2) An agreement under subsection (1) may be revoked or changed by a resolution passed by a unanimous vote at an annual or special general meeting.

(3) A resolution passed under subsection (1) or (2) has no effect until it is filed in the land title office, with a Certificate of Strata Corporation in the prescribed form stating that the resolution has been passed by a unanimous vote.

No return of contributions on sale of strata lot

101 On the sale of a strata lot, the seller is not entitled to a return of contributions to the contingency reserve fund.

Division 3 — Budgets

Change of fiscal year end

102 (1) The strata corporation may, by a resolution passed by a 3/4 vote at an annual or special general meeting held after the first annual general meeting, change the dates of its fiscal year, and as a result may have a budget for

(a) a period of more than 12 months, but less than 18 months, or

(b) a period of less than 12 months, but more than 6 months.

(2) If a change to the dates of a strata corporation's fiscal year results in a period not covered by a budget, section 104 (2) and (3) applies.

Budget requirements

103 (1) The strata corporation must prepare a budget for the coming fiscal year for approval by a resolution to be passed by a majority vote at each annual general meeting.

(2) The proposed budget must be distributed with the notice of the annual general meeting under section 45 and must be accompanied by a financial statement.

(3) The budget and financial statement

(a) must contain the information required by the regulations, and

(b) may be in the form set out in the regulations.

(4) The proposed budget may be amended by a majority vote at the annual general meeting before the budget itself is put to a vote.

Failure to approve budget

104 (1) If a budget is not approved at an annual general meeting, the strata corporation must within 30 days, or such longer period as approved by a resolution passed by a 3/4 vote at the meeting, prepare a new budget and place it before a special general meeting for approval by a resolution passed by a majority vote.

(2) If a fiscal year to which a budget relates ends before a new budget is approved, the owners must, until the new budget is approved, continue to pay to the strata corporation the same monthly strata fees that they were required to pay under the previous budget.

(3) Until a new budget is approved, the strata corporation may spend money out of the operating fund only in accordance with section 98 or

(a) on the type of expenses that are set out in the previous budget and that usually occur once a year or more often than once a year, and

(b) up to the maximum amount set out in the previous budget for each category of expense.

Budget surpluses and deficits

105 (1) Subject to section 14, contributions to the operating fund which are not required to meet operating expenses accruing during the fiscal year to which the budget relates must be dealt with in one or more of the following ways, unless the strata corporation determines otherwise by a resolution passed by a 3/4 vote at an annual or special general meeting:

(a) transferred into the contingency reserve fund;

(b) carried forward as part of the operating fund, as a surplus;

(c) used to reduce the total contribution to the next fiscal year's operating fund.

(2) If operating expenses exceed the total contribution to the operating fund, the deficit must be eliminated during the next fiscal year.

Informing owners of strata fees

106 Within 2 weeks following the annual or special general meeting at which a budget is passed, the strata corporation must inform owners of any changes to their strata fees resulting from the new budget.

Payment of strata fees

107 (1) A bylaw that establishes a schedule for the payment of strata fees may set out a rate of interest, not to exceed the rate set out in the regulations, to be paid if an owner is late in paying his or her strata fees under that schedule.

(2) The interest payable on a late payment of strata fees in accordance with a bylaw referred to in subsection (1) is not a fine, and forms part of the strata fees for the purposes of section 116.

Division 4 — Special Levies and User Fees

Special levy

108 (1) The strata corporation may raise money from the owners by means of a special levy.

(2) The strata corporation must calculate each strata lot's share of a special levy

(a) in accordance with section 99, 100 or 195, in which case the levy must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or

(b) in another way that establishes a fair division of expenses for that particular levy, in which case the levy must be approved by a resolution passed by a unanimous vote at an annual or special general meeting.

(3) The resolution to approve a special levy must set out all of the following:

(a) the purpose of the levy;

(b) the total amount of the levy;

(c) the method used to determine each strata lot's share of the levy;

(d) the amount of each strata lot's share of the levy;

(e) the date by which the levy is to be paid or, if the levy is payable in installments, the dates by which the installments are to be paid.

(4) The strata corporation must

(a) use the money collected for the purpose set out in the resolution, and

(b) inform owners about the expenditure of the money collected.

(5) If the amount collected exceeds that required, or for any other reason is not fully used for the purpose set out in the resolution, the strata corporation must return the money to the owners in amounts proportional to their contributions.

(6) Despite subsection (5), if no owner is entitled to receive more than \$100 in total under subsection (5), the strata corporation may deposit the excess in the contingency reserve fund.

Payment of special levy when strata lot sold

109 If a special levy is approved before a strata lot is conveyed to a purchaser,

(a) the seller owes the strata corporation the portion of the levy that is payable before the date the strata lot is conveyed, and

(b) the purchaser owes the strata corporation the portion of the levy that is payable on or after the date the strata lot is conveyed.

User fees

110 A strata corporation must not impose user fees for the use of common property or common assets by owners, tenants or occupants, or their visitors, other than as set out in the regulations.

Division 5 — Borrowing Powers of Strata Corporation

Strata corporation may borrow

111 (1) The strata corporation may, after approval by a resolution passed by a 3/4 vote at an annual or special general meeting, borrow money required by it to exercise its powers and perform its duties and, subject to section 81, may secure the repayment of money borrowed by it, and the payment of interest on that money.

(2) Without limiting subsection (1), the strata corporation may secure the repayment of money borrowed by it, and the payment of interest, by one or more of the following:

- (a) a mortgage of property, other than common property;
- (b) an assignment of unpaid strata fees or special levies;
- (c) a negotiable instrument.

Division 6 — Money Owing to Strata Corporation

Notice to owner or tenant of money owing to strata corporation

112 (1) Before suing or beginning arbitration to collect money from an owner or tenant, the strata corporation must give the owner or tenant at least 2 weeks' written notice demanding payment and indicating that action may be taken if payment is not made within that 2 week period.

(2) Before the strata corporation registers a lien against an owner's strata lot under section 116, the strata corporation must give the owner at least 2 weeks' written notice demanding payment and indicating that a lien may be registered if payment is not made within that 2 week period.

Notice to mortgagee

113 If a mortgagee has given the strata corporation a Mortgagee's Request for Notification under section 60, the strata corporation

- (a) may give the mortgagee written notice that the strata lot owner has failed to pay money owing to the strata corporation for more than 60 days, and
- (b) must give the mortgagee a copy of any notice given to the owner under section 112.

Disputed debt

114 (1) If there is a dispute over whether an owner or tenant owes money to the strata corporation, the owner or tenant may pay the disputed amount

- (a) into court if court proceedings have been started and the Rules of Court allow payment into court, or

(b) to the strata corporation to hold in trust if the matter has been referred to arbitration or if court proceedings have been started.

(2) On receipt of an amount under subsection (1) (b), the strata corporation holds the money and any interest on the money in trust for the parties to the dispute until the dispute is resolved.

(3) After the dispute is resolved, the strata corporation must pay the amount to the party entitled to it as set out in the decision of the court or arbitrator.

Certificate of Payment

115 (1) Within one week of the request of an owner or purchaser, or a person authorized by an owner or purchaser, the strata corporation must give the person making the request a Certificate of Payment in the prescribed form if

(a) the owner does not owe money to the strata corporation, or

(b) the owner does owe money but

(i) the money claimed by the strata corporation has been paid into court, or to the strata corporation in trust, under section 114, or

(ii) arrangements satisfactory to the strata corporation have been made to pay the money owing.

(2) The certificate is current for the purposes of section 256 for a period of 60 days from the date it is issued.

(3) The strata corporation may charge a fee for the certificate, but the fee must not exceed the amount set out in the regulations.

(4) In completing the certificate, the strata corporation may include money owing in respect of

(a) the matters set out in section 116, and

(b) fines and the costs of remedying a contravention of a bylaw or rule charged against the owner or fines and costs for which the owner is responsible under section 131.

(5) A certificate must not include claims of damages against an owner which have not been determined by a court or by arbitration.

Certificate of Lien

116 (1) The strata corporation may register a lien against an owner's strata lot by registering in the land title office a Certificate of Lien in the prescribed form if the owner fails to pay the strata corporation any of the following with respect to that strata lot:

- (a) strata fees;
- (b) a special levy;
- (c) a reimbursement of the cost of work referred to in section 85;
- (d) the strata lot's share of a judgment against the strata corporation;
- (e) [Repealed 1999-21-25.]

(2) The strata corporation may register a lien against any strata lot, but only one strata lot, owned by an owner as owner developer, by registering in the land title office a Certificate of Lien in the prescribed form if the owner developer fails to pay an amount payable to the strata corporation under section 14 (4) or (5), 17 (b) or 20 (3).

(3) Subsections (1) and (2) do not apply if

- (a) the amount owing has, under section 114, been paid into court or to the strata corporation in trust,
- (b) arrangements satisfactory to the strata corporation have been made to pay the money owing, or
- (c) the amount owing is in respect of a fine or the costs of remedying a contravention.

(4) On registration the certificate creates a lien against the owner's strata lot in favour of the strata corporation for the amount owing.

(5) The strata corporation's lien ranks in priority to every other lien or registered charge except

- (a) to the extent that the strata corporation's lien is for a strata lot's share of a judgment against the strata corporation,
- (b) if the other lien or charge is in favour of the Crown and is not a mortgage of land, or
- (c) if the other lien or charge is made under the *Builders Lien Act*.

(6) On receiving the amount owing, the strata corporation must within one week remove the lien by registering in the land title office an Acknowledgment of Payment in the prescribed form.

Forced sale of owner's strata lot to collect money owing

117 (1) After the strata corporation has registered a Certificate of Lien against a strata lot, the strata corporation may apply to the Supreme Court for an order for the sale of the strata lot.

(2) If the strata corporation has obtained a judgment for the amount owing, the court may, after considering all the circumstances, make an order for the sale of the strata lot.

(3) If the strata corporation has not obtained a judgment for the amount owing, the court may try the issue and may

(a) order that judgment be entered against the owner in favour of the strata corporation for the amount of the lien or for an amount that the court, as a result of the trial, finds owing, and

(b) if judgment is entered against the owner, make an order for the sale of the strata lot after considering all the circumstances.

(4) An order for the sale of a strata lot must provide that, if the amount owing is not paid within the time period required by the order, the strata corporation may sell the strata lot at a price and on terms to be approved by the court.

Costs added to amount owing

118 The following costs of registering a lien against an owner's strata lot under section 116 or enforcing a lien under section 117 may be added to the amount owing to the strata corporation under a Certificate of Lien:

(a) reasonable legal costs;

(b) land title and court registry fees;

(c) other reasonable disbursements.

Part 7 — Bylaws and Rules

Division 1 — General

Nature of bylaws

119 (1) The strata corporation must have bylaws.

(2) The bylaws may provide for the control, management, maintenance, use and enjoyment of the strata lots, common property and common assets of the strata corporation and for the administration of the strata corporation.

Standard Bylaws

120 (1) The bylaws of the strata corporation are the Standard Bylaws except to the extent that different bylaws are filed in the land title office.

(2) On deposit of the strata plan an owner developer may file bylaws that differ from the Standard Bylaws.

Unenforceable bylaws

121 (1) A bylaw is not enforceable to the extent that it

- (a) contravenes this Act, the regulations, the *Human Rights Code* or any other enactment or law,
- (b) destroys or modifies an easement created under section 69, or
- (c) prohibits or restricts the right of an owner of a strata lot to freely sell, lease, mortgage or otherwise dispose of the strata lot or an interest in the strata lot.

(2) Subsection (1) (c) does not apply to

- (a) a bylaw under section 141 that prohibits or limits rentals,
- (b) a bylaw under section 122 relating to the sale of a strata lot, or
- (c) a bylaw restricting the age of persons who may reside in a strata lot.

Bylaws relating to sale of strata lot

122 The strata corporation may pass a bylaw governing activities relating to the sale of a strata lot, including locations for the posting of signs and times for the showing of common property and holding of open houses, but the bylaw may not prohibit or unreasonably restrict those activities.

Limits to pet and age bylaws

123 (1) A bylaw that prohibits a pet does not apply to a pet living with an owner, tenant or occupant at the time the bylaw is passed and which continues to live there after the bylaw is passed.

(2) A bylaw that restricts the age of persons who may reside in a strata lot does not apply to a person who resides in the strata lot at the time the bylaw is passed and who continues to reside there after the bylaw is passed.

Voluntary dispute resolution bylaw

124 (1) The bylaws may provide for a process for the voluntary resolution of disputes among owners, tenants and the strata corporation or any combination of them.

(2) A voluntary dispute resolution process in the bylaws must not

- (a) require a person to use the voluntary dispute resolution process, or
- (b) confer on any person or body a power to make a binding decision.

(3) The use of a voluntary dispute resolution process in the bylaws does not affect a person's powers, duties or rights including, without limitation, the right to sue or begin arbitration.

(4) An admission, statement, document or record that is made only for the purpose of a voluntary dispute resolution process in the bylaws may not be used in court, in an arbitration or in any other proceeding.

Rules

125 (1) The strata corporation may make rules governing the use, safety and condition of the common property and common assets.

(2) A rule is not enforceable to the same extent that a bylaw is not enforceable under section 121 (1).

(3) All rules, including those posted on signs, must be set out in a written document that is capable of being photocopied.

(4) The strata corporation must inform owners and tenants of any new rules as soon as feasible.

(5) If a rule conflicts with a bylaw of the strata corporation, the bylaw prevails.

(6) A rule ceases to have effect at the first annual general meeting held after it is made, unless the rule is ratified by a resolution passed by a majority vote

(a) at that annual general meeting, or

(b) at a special general meeting held before that annual general meeting.

(7) Once a rule has been ratified under subsection (6), it is effective until it is repealed, replaced or altered, without the need for further ratification.

Division 2 — Amending the Bylaws

Amendment of bylaws

126 The bylaws of a strata corporation may be changed, repealed, replaced, added to or otherwise amended by complying with the requirements of this Division.

Amendment of bylaws before first annual general meeting

127 (1) Despite section 128, if a strata plan is a bare land strata plan or if all the strata lots in a strata plan are residential, no amendment may be made to the bylaws before the first annual general meeting unless it is approved by a resolution passed by a unanimous vote at a special general meeting.

(2) If all the strata lots in a strata plan are nonresidential, the bylaws may be amended, in accordance with section 128, at a special general meeting held before the first annual general meeting.

(3) If a strata plan is composed of residential and nonresidential strata lots, no amendment may be made to the bylaws before the first annual general meeting, unless

(a) it is approved by a resolution passed by a unanimous vote at a special general meeting, or

(b) separate residential and nonresidential sections are formed.

(4) If separate sections are formed,

(a) the residential section may not amend the bylaws before the first annual general meeting unless the amendment is approved by a resolution passed by a unanimous vote at a special general meeting of the section, and

(b) the nonresidential section may amend the bylaws, in accordance with section 197, at a special general meeting of the section held before the first annual general meeting.

Bylaw amendment procedures

128 (1) Subject to section 197, amendments to bylaws must be approved at an annual or special general meeting,

(a) in the case of a strata plan composed entirely of residential strata lots, by a resolution passed by a 3/4 vote,

(b) in the case of a strata plan composed entirely of nonresidential strata lots, by a resolution passed by a 3/4 vote or as otherwise provided in the bylaws, or

(c) in the case of a strata plan composed of both residential and nonresidential strata lots, by both a resolution passed by a 3/4 vote of the residential strata lots and a resolution passed by a 3/4 vote of the nonresidential strata lots, or as otherwise provided in the bylaws for the nonresidential strata lots.

(2) An amendment to a bylaw has no effect until an Amendment to Bylaws in the prescribed form is filed in the land title office.

(3) An Amendment to Bylaws must be filed in the land title office within 60 days of the amendment being approved.

(4) The strata corporation must inform owners and tenants of any amendment to the bylaws as soon as feasible after the amendment is approved.

Division 3 — Enforcing the Bylaws and Rules

Enforcement options

129 (1) To enforce a bylaw or rule the strata corporation may do one or more of the following:

(a) impose a fine under section 130;

(b) remedy a contravention under section 133;

- (c) deny access to a recreational facility under section 134.
- (2) Before enforcing a bylaw or rule the strata corporation may give a person a warning or may give the person time to comply with the bylaw or rule.

Fines

- 130** (1) The strata corporation may fine an owner if a bylaw or rule is contravened by
- (a) the owner,
 - (b) a person who is visiting the owner or was admitted to the premises by the owner for social, business or family reasons or any other reason, or
 - (c) an occupant, if the strata lot is not rented by the owner to a tenant.
- (2) The strata corporation may fine a tenant if a bylaw or rule is contravened by
- (a) the tenant,
 - (b) a person who is visiting the tenant or was admitted to the premises by the tenant for social, business or family reasons or any other reason, or
 - (c) an occupant, if the strata lot is not sublet by the tenant to a subtenant.

Landlord's and owner's responsibility for fines and costs incurred by tenant

- 131** (1) If the strata corporation fines a tenant or requires a tenant to pay the costs of remedying a contravention of the bylaws or rules, the strata corporation may collect the fine or costs from the tenant, that tenant's landlord and the owner, but may not collect an amount that, in total, is greater than the fine or costs.
- (2) If the landlord or owner pays some or all of the fine or costs levied against the tenant, the tenant owes the landlord or owner the amount paid.

Maximum fines

- 132** (1) The strata corporation must set out in its bylaws the maximum amount it may fine an owner or tenant for each contravention of a bylaw or rule.
- (2) The strata corporation may set out in its bylaws
- (a) different maximum amounts of fines for different bylaws and rules, and
 - (b) the frequency at which fines may be imposed for a continuing contravention of a bylaw or rule.
- (3) The maximum amount of a fine and the maximum frequency of imposition of fines must not exceed the maximums set out in the regulations.

Strata corporation may remedy a contravention

133 (1) The strata corporation may do what is reasonably necessary to remedy a contravention of its bylaws or rules, including

- (a) doing work on or to a strata lot, the common property or common assets, and,
- (b) removing objects from the common property or common assets.

(2) The strata corporation may require that the reasonable costs of remedying the contravention be paid by the person who may be fined for the contravention under section 130.

Denial of access to recreational facility

134 The strata corporation may, for a reasonable length of time, deny an owner, tenant, occupant or visitor the use of a recreational facility that is common property or a common asset if the owner, tenant, occupant or visitor has contravened a bylaw or rule relating to the recreational facility.

Complaint, right to answer and notice of decision

135 (1) The strata corporation must not

- (a) impose a fine against a person,
- (b) require a person to pay the costs of remedying a contravention, or
- (c) deny a person the use of a recreational facility

for a contravention of a bylaw or rule unless the strata corporation has

- (d) received a complaint about the contravention,
- (e) given the owner or tenant the particulars of the complaint, in writing, and a reasonable opportunity to answer the complaint, including a hearing if requested by the owner or tenant, and
- (f) if the person is a tenant, given notice of the complaint to the person's landlord and to the owner.

(2) The strata corporation must, as soon as feasible, give notice in writing of a decision on a matter referred to in subsection (1) (a), (b) or (c) to the persons referred to in subsection (1) (e) and (f).

(3) Once a strata corporation has complied with this section in respect of a contravention of a bylaw or rule, it may impose a fine or other penalty for a continuing contravention of that bylaw or rule without further compliance with this section.

Complaint against council member

136 (1) If a complaint is made about a council member contravening a bylaw or rule, the council member must not participate in a decision made under section 135 about the complaint.

(2) Subsection (1) does not apply if all the owners are on the council.

Eviction by landlord

137 A repeated or continuing contravention of a reasonable and significant bylaw or rule by a tenant of a residential strata lot is an event that allows the landlord to give the tenant a notice terminating the tenancy agreement under section 47 [*landlord's notice: cause*] of the *Residential Tenancy Act*.

Eviction by strata corporation

138 (1) A repeated or continuing contravention of a reasonable and significant bylaw or rule by a tenant of a residential strata lot that seriously interferes with another person's use and enjoyment of a strata lot, the common property or the common assets is an event that allows the strata corporation to give the tenant a notice terminating the tenancy agreement under section 47 [*landlord's notice: cause*] of the *Residential Tenancy Act*.

(2) An eviction under subsection (1) does not affect any rights of the landlord under the tenancy agreement.

Part 8 — Rentals

Rental disclosure by owner developer

139 (1) An owner developer who rents or intends to rent one or more residential strata lots must

(a) file with the superintendent before the first residential strata lot is offered for sale to a purchaser, or conveyed to a purchaser without being offered for sale, a Rental Disclosure Statement in the prescribed form, and

(b) give a copy of the statement to each prospective purchaser before the prospective purchaser enters into an agreement to purchase.

(2) The owner developer may change the statement by changing the number of strata lots to be rented or the rental period for the strata lots, or both, if the owner developer

(a) owns all the strata lots in the strata plan, or

(b) obtains the prior approval of the change by a resolution passed by a 3/4 vote at an annual or special general meeting.

(3) For the purposes of the 3/4 vote referred to in subsection (2), the following persons are not eligible voters:

(a) a person voting in respect of a nonresidential strata lot;

- (b) a person voting in respect of a residential strata lot which is currently rented;
 - (c) the owner developer.
- (4) An owner developer who changes a statement under subsection (2) must immediately
- (a) file the changed statement with the superintendent,
 - (b) give a copy of the changed statement to each purchaser who received a previous version of the statement, and
 - (c) give a copy of the changed statement to each prospective purchaser before the prospective purchaser enters into an agreement to purchase.

Contravention of disclosure requirements

140 If the owner developer contravenes section 139, the purchaser of a residential strata lot may cancel the agreement to purchase without penalty.

Restriction of rentals by strata corporation

141 (1) The strata corporation must not screen tenants, establish screening criteria, require the approval of tenants, require the insertion of terms in tenancy agreements or otherwise restrict the rental of a strata lot except as provided in subsection (2).

(2) The strata corporation may only restrict the rental of a strata lot by a bylaw that

- (a) prohibits the rental of residential strata lots, or
- (b) limits one or more of the following:
 - (i) the number or percentage of residential strata lots that may be rented;
 - (ii) the period of time for which residential strata lots may be rented.

(3) A bylaw under subsection (2) (b) (i) must set out the procedure to be followed by the strata corporation in administering the limit.

Limits to rental restriction bylaws

142 (1) For the purposes of this section, "family" and "family member" have the meaning set out in the regulations.

(2) A bylaw referred to in section 141 (2) does not apply to prevent the rental of a strata lot to a member of the owner's family.

(3) A rental of a strata lot to a family member under this section creates an assignment of the owner's powers and duties under section 148.

Rental restriction bylaw does not immediately apply to some strata lots

143 (1) A bylaw that prohibits or limits rentals does not apply to a strata lot until the later of

(a) one year after a tenant who is occupying the strata lot at the time the bylaw is passed ceases to occupy it as a tenant, and

(b) one year after the bylaw is passed.

(2) Subject to subsection (1), if a strata lot has been designated as a rental strata lot on a Rental Disclosure Statement in the prescribed form, and if all the requirements of section 139 have been met, a bylaw that prohibits or limits rentals does not apply to that strata lot until the earlier of

(a) the date the strata lot is conveyed by the first purchaser of the strata lot, and

(b) the date the rental period expires, as disclosed in the statement.

Exemption from rental restriction bylaw

144 (1) An owner may apply to the strata corporation for an exemption from a bylaw that prohibits or limits rentals on the grounds that the bylaw causes hardship to the owner.

(2) The application must be in writing and must state

(a) the reason the owner thinks an exemption should be made, and

(b) whether the owner wishes a hearing.

(3) If the owner wishes a hearing, the strata corporation must hear the owner or the owner's agent within 3 weeks after the date the application is given to the strata corporation.

(4) An exemption is allowed if the strata corporation does not give its decision in writing to the owner

(a) within one week after the hearing, or

(b) if no hearing is requested, within 2 weeks after the application is given to the strata corporation.

(5) An exemption granted by the strata corporation may be for a limited time.

(6) The strata corporation must not unreasonably refuse to grant an exemption.

Rental agreement in contravention of rental restriction bylaw

145 (1) If an agreement for the rental of a residential strata lot contravenes a bylaw that prohibits or limits rentals, the tenant

(a) is not in contravention of the bylaw, and

(b) may, within 90 days of learning of the landlord's contravention, end the tenancy agreement without penalty by giving notice to the landlord.

(2) If a tenant ends a tenancy agreement under subsection (1), the landlord must pay the tenant's reasonable moving expenses to a maximum of one month's rent.

Landlord to give bylaws, rules and Notice of Tenant's Responsibilities to tenant

146 (1) Before a landlord rents all or part of a residential strata lot, the landlord must give the prospective tenant

(a) the current bylaws and rules, and

(b) a Notice of Tenant's Responsibilities in the prescribed form.

(2) Within 2 weeks of renting all or part of a residential strata lot, the landlord must give the strata corporation a copy of the notice signed by the tenant.

(3) If a landlord fails to comply with subsection (1) or (2), the tenant

(a) is still bound by the bylaws and rules, but

(b) may, within 90 days of learning of the landlord's failure to comply, end the tenancy agreement without penalty by giving notice to the landlord.

(4) If a tenant ends a tenancy agreement under subsection (3), the landlord must pay the tenant's reasonable moving expenses to a maximum of one month's rent.

Assignment of powers and duties to tenant

147 (1) A landlord may assign to a tenant some or all of the powers and duties of the landlord that arise under this Act, the regulations, the bylaws or the rules, but may not assign to a tenant the landlord's responsibility under section 131 for fines or the costs of remedying a contravention of the bylaws or rules.

(2) The assignment is not effective until the landlord gives the strata corporation a written notice stating all of the following:

(a) the name of the tenant to whom the assignment is made;

(b) the powers and duties that have been assigned;

(c) the time period during which the assignment is effective.

Long term lease

148 (1) In this section, "**long term lease**" means a lease to the same person for a set term of 3 years or more.

- (2) If a residential strata lot is leased under a long term lease, the tenant is assigned the powers and duties of the landlord under this Act, the regulations, the bylaws and the rules for the term of the lease.
- (3) Before exercising any powers of the landlord, the tenant must have given to the strata corporation written notice of the assignment referred to in subsection (2), stating the name of the tenant and the time period during which the lease is effective.
- (4) The strata corporation must give a copy of the notice referred to in subsection (3) to the landlord and to the owner.
- (5) The assignment does not include an assignment of the landlord's responsibility under section 131 for fines or the costs of remedying a contravention of the bylaws or rules.
- (6) The tenant must not, without the owner's consent, exercise any power or right of an owner
- (a) to acquire or dispose of land,
 - (b) to cancel or amend the strata plan, or
 - (c) to do anything that would affect the owner's interest in the strata lot, common property or land that is a common asset.
- (7) The landlord must not deal with his or her interest in the strata lot, common property or land that is a common asset in a way that unreasonably interferes with the rights of the tenant under the lease or assignment.

Part 9 — Insurance

Property insurance required for strata corporation

- 149** (1) The strata corporation must obtain and maintain property insurance on
- (a) common property,
 - (b) common assets,
 - (c) buildings shown on the strata plan, and
 - (d) fixtures built or installed on a strata lot, if the fixtures are built or installed by the owner developer as part of the original construction on the strata lot.
- (2) For the purposes of subsection (1) (d) and section 152 (b), "fixtures" has the meaning set out in the regulations.
- (3) Subsection (1) (d) does not apply to a bare land strata plan.
- (4) The property insurance must

- (a) be on the basis of full replacement value, and
- (b) insure against major perils, as set out in the regulations, and any other perils specified in the bylaws.

Liability insurance required for strata corporation

- 150** (1) The strata corporation must obtain and maintain liability insurance to insure the strata corporation against liability for property damage and bodily injury.
- (2) The insurance must be of at least the amount required in the regulations.

Errors and omissions insurance

151 The strata corporation may obtain and maintain errors and omissions insurance for council members against their liability and expenses for errors and omissions made in the exercise of their powers and performance of their duties as council members.

Optional strata corporation insurance

- 152** The strata corporation may obtain and maintain insurance in respect of the following:
- (a) a peril or liability of the strata corporation that is not referred to in section 149 or 150;
 - (b) fixtures built or installed on a strata lot that were not built or installed by the owner developer as part of the original construction on the strata lot.

Insurable interest

153 The strata corporation has an insurable interest in any property insured under section 149 or 152.

Review and report on insurance

- 154** The strata corporation must
- (a) review annually the adequacy of the strata corporation's insurance, and
 - (b) report on the insurance coverage at each annual general meeting.

Named insureds

- 155** Despite the terms of the insurance policy, named insureds in a strata corporation's insurance policy include
- (a) the strata corporation,
 - (b) the owners and tenants from time to time of the strata lots shown on the strata plan, and

(c) the persons who normally occupy the strata lots.

Payment of insurance proceeds

156 Despite the terms of the insurance policy, in making a payment, other than a payment arising from the liability of the strata corporation, under the strata corporation's insurance policy, an insurer must make the payment

(a) to the order of the insurance trustee designated by the bylaws, or

(b) if an insurance trustee is not designated, to the order of the strata corporation to be held in trust until paid out under section 157.

Application of insurance money

157 Insurance money received under section 156 with respect to damaged property must be used to repair or replace the damaged property without delay unless the strata corporation decides not to make the repair or replacement under section 159.

Insurance deductible

158 (1) Subject to the regulations, the payment of an insurance deductible in respect of a claim on the strata corporation's insurance is a common expense to be contributed to by means of strata fees calculated in accordance with section 99 (2) or 100 (1).

(2) Subsection (1) does not limit the capacity of the strata corporation to sue an owner in order to recover the deductible portion of an insurance claim if the owner is responsible for the loss or damage that gave rise to the claim.

(3) Despite any other section of this Act or the regulations, strata corporation approval is not required for a special levy or for an expenditure from the contingency reserve fund to cover an insurance deductible required to be paid by the strata corporation to repair or replace damaged property, unless the strata corporation has decided not to repair or replace under section 159.

Decision not to repair or replace

159 (1) The strata corporation may, by a resolution passed by a 3/4 vote at an annual or special general meeting held no later than 60 days after the receipt of the money referred to in section 156, decide not to repair or replace the damaged property.

(2) Subject to section 160, if the strata corporation decides not to repair or replace the damaged property, the insurance trustee or the strata corporation that receives the payment under subsection (1) of this section holds the money and any interest on the money in trust for each person who has an interest in the money, including the holder of a registered charge, and

(a) must distribute the money according to each person's interest, or

(b) if an application is made under section 160, must distribute the money in accordance with the order made under that section.

Court orders

160 (1) If the strata corporation decides not to repair or replace the damaged property and the strata plan is not cancelled, any of the following persons may apply to the Supreme Court for an order under this section:

- (a) an owner;
- (b) the holder of a registered charge against a strata lot;
- (c) an insurer of land shown on the strata plan;
- (d) any other person the court considers an appropriate person.

(2) On application by a person referred to in subsection (1), the court may, by order, implement a scheme to do one or more of the following:

- (a) rebuild some or all of the damaged property or to make some other use of the land;
- (b) provide for the interests of the owners and registered charge holders on a just and equitable basis.

(3) The court may make any order it considers advisable to give effect to the scheme, including, without limitation, orders with respect to

- (a) the payment of insurance money received by the strata corporation,
- (b) the discharge of the liabilities of the strata corporation, the persons liable to contribute to the discharge and their share of the liability,
- (c) the amendment of the strata plan,
- (d) the transfer or conveyance of the interest of owners whose strata lots have been wholly or partially destroyed to the other owners in proportion to the unit entitlements of the strata lots of the other owners, and for the compensation of the owners whose interests have been transferred or conveyed,
- (e) the sale of land shown on the strata plan, or the sale of the common assets, and
- (f) the distribution of any of the common assets of the strata corporation.

Owner's insurance

161 (1) Despite the *Insurance Act* or any other law, an owner may obtain and maintain insurance for any or all of the following:

- (a) loss or damage to the owner's strata lot and the fixtures referred to in section 149 (1) (d)

- (i) against perils that are not insured by the strata corporation, and
 - (ii) for amounts that are in excess of amounts insured by the strata corporation;
- (b) fixtures in the owner's strata lot, other than the fixtures referred to in section 149 (1) (d);
- (c) improvements to fixtures referred to in section 149 (1) (d);
- (d) loss of rental value of the owner's strata lot in excess of insurance obtained and maintained by the strata corporation;
- (e) liability for property damage and bodily injury, whether occurring on the owner's strata lot or on the common property.

(2) Despite this Act, the *Insurance Act* or any other law, an owner of a strata lot in a bare land strata plan may obtain and maintain insurance on buildings or fixtures built or installed on the strata lot.

Contribution

162 Despite the terms of the insurance policy,

- (a) neither the strata corporation's insurance policy nor an owner's insurance policy is liable to be brought into contribution with another policy unless the other policy is issued on the same property, and
- (b) neither the strata corporation's insurance policy nor the owner's insurance policy is "other insurance" in relation to another policy unless the other policy is issued on the same property.

Part 10 — Legal Proceedings and Arbitration

Division 1 — Suits Against the Strata Corporation

Strata corporation may be sued

163 (1) The strata corporation may be sued as representative of the owners with respect to any matter relating to the common property, common assets, bylaws or rules, or involving an act or omission of the strata corporation.

(2) An owner may sue the strata corporation.

Preventing or remedying unfair acts

164 (1) On application of an owner or tenant, the Supreme Court may make any interim or final order it considers necessary to prevent or remedy a significantly unfair

- (a) action or threatened action by, or decision of, the strata corporation, including the council, in relation to the owner or tenant, or

(b) exercise of voting rights by a person who holds 50% or more of the votes, including proxies, at an annual or special general meeting.

(2) For the purposes of subsection (1), the court may

(a) direct or prohibit an act of the strata corporation, the council, or the person who holds 50% or more of the votes,

(b) vary a transaction or resolution, and

(c) regulate the conduct of the strata corporation's future affairs.

Other court remedies

165 On application of an owner, tenant, mortgagee of a strata lot or interested person, the Supreme Court may do one or more of the following:

(a) order the strata corporation to perform a duty it is required to perform under this Act, the regulations, the bylaws or the rules;

(b) order the strata corporation to stop contravening this Act, the regulations, the bylaws or the rules;

(c) make any other orders it considers necessary to give effect to an order under paragraph (a) or (b).

Owner's liability for judgment against strata corporation

166 (1) A judgment against the strata corporation is a judgment against all the owners.

(2) A strata lot's share of a judgment against the strata corporation is calculated in accordance with section 99 (2) or 100 (1) as if the amount of the judgment were a contribution to the operating fund and contingency reserve fund, and an owner's liability is limited to that proportionate share of the judgment.

(3) Other than as set out in this section, an owner has no personal liability, in his or her capacity as an owner, for loss or damage arising from any of the following:

(a) the management and maintenance of the common property and common assets by the strata corporation;

(b) the actions or omissions of the council or strata corporation;

(c) any contracts made or debts or liabilities incurred by or on behalf of the strata corporation.

Defending suits

167 (1) The strata corporation must inform owners as soon as feasible if it is sued.

(2) The expense of defending a suit brought against the strata corporation is shared by the owners in the same manner as a judgment is shared under section 166, except that an owner who is suing the strata corporation is not required to contribute.

Strata corporation may join owner

168 In suits against the strata corporation, the strata corporation may join as a party the owner whose act or omission gave rise to the claim against the strata corporation.

Limit on owner's responsibility for costs

169 (1) If the strata corporation joins or sues an owner in the owner's capacity as owner or as owner developer, or if an owner sues the strata corporation, that owner

- (a) is not liable to contribute to legal costs that a court or arbitrator requires the strata corporation to pay,
- (b) does not, despite being an owner, have a right to information or documents relating to the suit, including legal opinions kept under section 35 (2) (h), and
- (c) does not, despite being an owner, have a right to attend those portions of any annual or special general meeting or council meeting at which the suit is dealt with or discussed.

(2) If the strata corporation pays an amount to an owner in full or partial satisfaction of the owner's claim against the strata corporation, whether or not under a judgment, the owner is not liable to share in the cost of the payment with other owners.

Division 2 — Suits by the Strata Corporation

Suits against owners

170 The strata corporation may sue an owner.

Strata corporation may sue as representative of all owners

171 (1) The strata corporation may sue as representative of all owners, except any who are being sued, about any matter affecting the strata corporation, including any of the following matters:

- (a) the interpretation or application of this Act, the regulations, the bylaws or the rules;
- (b) the common property or common assets;
- (c) the use or enjoyment of a strata lot;
- (d) money owing, including money owing as a fine, under this Act, the regulations, the bylaws or the rules.

(2) Before the strata corporation sues under this section, the suit must be authorized by a resolution passed by a 3/4 vote at an annual or special general meeting.

(3) For the purposes of the 3/4 vote referred to in subsection (2), a person being sued is not an eligible voter.

(4) The authorization referred to in subsection (2) is not required for a proceeding under the *Small Claims Act* against an owner or other person to collect money owing to the strata corporation, including money owing as a fine, if the strata corporation has passed a bylaw dispensing with the need for authorization, and the terms and conditions of that bylaw are met.

(5) All owners, except any being sued, must contribute to the expense of suing under this section.

(6) A strata lot's share of the total contribution to the expense of suing is calculated in accordance with section 99 (2) or 100 (1) except that

(a) an owner who is being sued is not required to contribute, and

(b) the unit entitlement of a strata lot owned by an owner who is being sued is not used in the calculations.

Strata corporation may sue on behalf of some owners

172 (1) The strata corporation may sue on behalf of one or more owners about matters affecting only their strata lots if, before beginning the suit,

(a) it obtains the written consent of those owners, and

(b) the suit is authorized by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) Only those owners on whose behalf the suit is brought must contribute to the expense of suing under this section.

(3) A strata lot's share of the total contribution to the expense of suing is calculated in accordance with section 99 (2) or 100 (1) except that

(a) only owners on whose behalf the suit is brought are required to contribute, and

(b) only the unit entitlement of strata lots owned by owners on whose behalf the suit is brought are used in the calculations.

Other court remedies

173 On application by the strata corporation, the Supreme Court may do one or more of the following:

- (a) order an owner, tenant or other person to perform a duty he or she is required to perform under this Act, the regulations, the bylaws or the rules;
- (b) order an owner, tenant or other person to stop contravening this Act, the regulations, the bylaws or the rules;
- (c) make any other orders it considers necessary to give effect to an order under paragraph (a) or (b).

Division 2.1 – Validity of Suits and Arbitrations

Validity of suits and arbitrations undertaken by strata corporation

173.1 (1) The failure of a strata corporation to obtain an authorization required under section 171 (2) or 172 (1) (b) in relation to a suit or an arbitration

- (a) does not affect the strata corporation's capacity to commence a suit or arbitration that is otherwise undertaken in accordance with this Act,
- (b) does not invalidate a suit or arbitration that is otherwise undertaken in accordance with this Act, and
- (c) does not, in respect of a suit or arbitration commenced or continued by the strata corporation that is otherwise undertaken in accordance with this Act, constitute
 - (i) a defence to that suit or arbitration, or
 - (ii) an objection to the capacity of the strata corporation to commence or continue that suit or arbitration.

(2) Despite any decision of a court to the contrary made before or after the coming into force of this section, subsection (1) applies to a suit and an arbitration commenced or continued before or after the coming into force of this section.

(3) This section is retroactive to the extent necessary to give full force and effect to its provisions and must not be construed as lacking retroactive effect in relation to any matter merely because it makes no specific reference to that matter.

Division 3 — Administrator of Strata Corporation

Appointment of administrator

174 (1) The strata corporation, or an owner, tenant, mortgagee or other person having an interest in a strata lot, may apply to the Supreme Court for the appointment of an administrator to exercise the powers and perform the duties of the strata corporation.

(2) The court may appoint an administrator if, in the court's opinion, the appointment of an administrator is in the best interests of the strata corporation.

(3) The court may

- (a) appoint the administrator for an indefinite or set period,
 - (b) set the administrator's remuneration,
 - (c) order that the administrator exercise or perform some or all of the powers and duties of the strata corporation, and
 - (d) relieve the strata corporation of some or all of its powers and duties.
- (4) The remuneration and expenses of the administrator must be paid by the strata corporation.
- (5) The administrator may delegate a power.
- (6) On application of the administrator or a person referred to in subsection (1), the court may remove or replace the administrator or vary an order under this section.

Division 4 — Arbitration

Application of this Division

175 (1) This Division applies to a dispute referred to in section 177 if any of the parties to the dispute is an owner or tenant at the time the dispute arises.

(2) Despite subsection (1), this Division does not apply if

- (a) the arbitration provisions of the *Residential Tenancy Act* apply to the dispute, or
- (b) the arbitration provisions of the *Residential Tenancy Act* do not apply to the dispute and all the parties to the dispute agree that the *Commercial Arbitration Act* will apply.

Suit requirements and procedures apply

176 The requirements and procedures regarding authorization for suits and liability for expenses and judgments in suits by and against the strata corporation, as set out in sections 166, 167, 169, 171 and 172, apply with appropriate changes to an arbitration in which the strata corporation is a party.

Disputes that can be arbitrated

177 (1) The strata corporation may refer a dispute with an owner or tenant to arbitration if the dispute concerns a matter set out in subsection (3).

(2) An owner or tenant may refer a dispute with the strata corporation or with another owner or tenant to arbitration if the dispute concerns a matter set out in subsection (3).

(3) A dispute may be referred to arbitration if it concerns any of the following:

- (a) the interpretation or application of this Act, the regulations, the bylaws or the rules;

- (b) the common property or common assets;
- (c) the use or enjoyment of a strata lot;
- (d) money owing, including money owing as a fine, under this Act, the regulations, the bylaws or the rules;
- (e) an action or threatened action by, or decision of, the strata corporation, including the council, in relation to an owner or tenant;
- (f) the exercise of voting rights by a person who holds 50% or more of the votes, including proxies, at an annual or special general meeting.

Effect of court proceedings on arbitration

178 (1) A dispute cannot be referred to arbitration once a court proceeding has been commenced.

(2) A court having jurisdiction may hear a dispute that has been referred to arbitration, but a party to the arbitration may apply to the court for an order to stay the court's proceedings.

(3) The court must stay its proceedings unless the court is satisfied there is good reason to continue its proceedings.

(4) In determining whether to stay its proceedings, the court may consider all of the following:

- (a) the legal and factual complexity of the dispute;
- (b) the suitability of the intended arbitrator;
- (c) the comparative expense and delay of the court proceedings and the arbitration;
- (d) the interests of any other parties;
- (e) the likelihood that all the parties to the arbitration will cooperate to do all things necessary for the proper conduct of the arbitration;
- (f) any other matter the court thinks proper.

Beginning arbitration

179 (1) A party may begin arbitration by giving the other party a Notice Beginning Arbitration in the prescribed form that describes the dispute and proposes either an arbitrator, a choice of arbitrators or a method for appointing an arbitrator.

(2) Within 2 weeks after receiving the Notice Beginning Arbitration, the party receiving the notice must give the party who began the arbitration a Notice of Reply in the prescribed form.

(3) The Notice of Reply must

(a) indicate agreement to one of the proposed arbitrators or the proposed method of appointing an arbitrator, or

(b) propose another arbitrator, choice of arbitrators or method of appointing an arbitrator.

(4) Within one week after receiving a Notice of Reply that proposes another arbitrator, choice of arbitrators or method of appointing an arbitrator, the party who began the arbitration must give the other party a Notice Responding to Reply in the prescribed form.

(5) The Notice Responding to Reply must

(a) indicate agreement to one of the proposed arbitrators or the proposed method of appointing an arbitrator, or

(b) reject the proposed arbitrator, choice of arbitrators or method of appointing an arbitrator.

(6) If an arbitrator, choice of arbitrators or method of appointing an arbitrator is rejected in the Notice Responding to Reply, each party has one week after that notice is given to appoint his or her own arbitrator, and the 2 arbitrators must either

(a) name a third person as the sole arbitrator, or

(b) name a third arbitrator to act with them and to chair the panel.

(7) On application of a party, the Supreme Court may appoint an arbitrator if for any reason a single arbitrator or a panel of arbitrators is not appointed within 6 weeks after the Notice Beginning Arbitration is given.

(8) A person who is an owner, tenant or occupant in the strata corporation, or the strata manager or other employee of the strata corporation, may not be an arbitrator unless all the parties consent.

(9) Subject to subsection (8), any person 19 years old or older may be an arbitrator.

Consolidation of disputes

180 Similar disputes that arise between different parties may be heard in one arbitration if all parties agree on

(a) the appointment of the arbitrator, and

(b) the steps to be taken to consolidate the disputes into one arbitration.

Mediation

181 Before holding a hearing, the arbitrator must advise the parties of the possibility of a mediated settlement.

Notice of arbitration

182 (1) Before holding a hearing, the arbitrator may provide notice to a person who is not a party to the arbitration but who in the arbitrator's opinion may be directly affected by the issues under consideration at the arbitration.

(2) A person who receives notice under this section may make a statement in writing to the arbitrator.

(3) A person who makes a statement under subsection (2) may be joined as a party in the arbitration if

- (a) the person consents to being joined as a party,
- (b) the arbitrator requests that the person be joined as a party, and
- (c) the other parties consent.

Arbitration procedures

183 (1) Subject to this Division and the regulations, the arbitrator may conduct the hearing in the manner the arbitrator considers appropriate.

(2) Before the hearing the parties to the arbitration must submit to the arbitrator a written statement describing the nature of the dispute and the evidence they intend to call.

(3) The arbitrator must hold a hearing as soon as possible at a location in or near the strata corporation's premises.

(4) The arbitration hearing is open to all owners or tenants, unless all the parties to the arbitration agree that the hearing should be held in private.

(5) A party may be represented at any stage of the arbitration by another person, including a lawyer.

(6) If all parties agree, the arbitration hearing may consist of an exchange of written statements or any other procedure.

Examination and evidence

184 (1) The parties to an arbitration must, when ordered by the arbitrator, submit to being examined by the arbitrator and must produce all relevant records that the arbitrator may require.

(2) The arbitrator must allow each party adequate opportunity to present and rebut evidence.

(3) A person who is not a party to a dispute may give evidence only if

- (a) the person consents to give evidence, and
 - (b) the person is requested to give evidence by a party to the dispute.
- (4) The arbitrator may admit evidence that he or she considers relevant to the issues in dispute, whether or not that evidence would be admissible in a court.
- (5) The arbitrator may require that a party or a witness give evidence on oath or affirmation, and may administer the oath or affirmation.

Arbitrator's decision

185 (1) The arbitrator may make whatever decision he or she considers just having regard to this Act, the regulations, the bylaws and the rules, and may do one or more of the following:

- (a) order a party to do something;
 - (b) order a party to refrain from doing something;
 - (c) order a party to pay money as damages.
- (2) The arbitrator's decision must include reasons, be in writing and be signed by the arbitrator.
- (3) Within 4 weeks of the date of the decision, the arbitrator may vary a decision to correct a clerical or typographical error or omission, or a similar type of error or omission.

Costs

186 (1) The arbitrator may make an order for costs, specifying the persons entitled to costs, the persons who must pay the costs, the amount of the costs and the manner of payment.

- (2) If the arbitrator does not make an order respecting costs, a party may, within 30 days of being notified of the decision, apply to the arbitrator for an order respecting costs.
- (3) If no application is made under subsection (2), or if following an application the arbitrator does not make an order respecting costs, subject to any agreement to the contrary, the parties must bear their own costs and must pay equal shares of the fees of the arbitrator.

Decision final

187 The decision of the arbitrator is final and binding on the parties except that

- (a) the decision may be reviewed as provided under the *Judicial Review Procedure Act*, and
- (b) the decision may be appealed under section 188.

Appeal to court

188 (1) A party to an arbitration may, within 30 days after receiving the decision, appeal to the Supreme Court on any question of law arising out of the decision if

- (a) all of the parties to the arbitration consent, or
- (b) the court grants leave to appeal.

(2) In an application under subsection (1), the court may grant leave, but only if it determines that

- (a) the importance of the decision justifies the intervention of the court and that the determination of the question of law may prevent a miscarriage of justice, or
- (b) the question of law is of importance to some class or body of persons of which the applicant is a member, or that the question of law is of general or public importance.

Enforcement of decision

189 (1) An arbitrator's decision and order for costs may be filed in the Supreme Court and on being filed have the same effect, and all proceedings may be taken on them, as if they were orders of the Supreme Court.

(2) An arbitrator's decision and order for costs may be filed in the Provincial Court if

- (a) the amount claimed or the value of the personal property or services is within the monetary jurisdiction of the court, and
- (b) the decision is in respect of
 - (i) debt or damages,
 - (ii) recovery of personal property,
 - (iii) specific performance of an agreement relating to personal property or services, or
 - (iv) relief from opposing claims to personal property.

(3) On being filed under subsection (2), the decision and order for costs have the same effect, and all proceedings may be taken on them, as if they were orders of the Provincial Court.

(4) Despite subsections (1) to (3), a decision or order for costs may not be filed until

- (a) the time limit for an appeal has expired and no appeal has been taken, or
- (b) the appeal is completed or abandoned.

Part 11 — Sections

Act applies to strata corporation with sections

190 (1) Subject to the regulations, the provisions of this Act apply to a strata corporation with sections.

(2) If there is a conflict between a provision of this Part and a provision of another Part, the provision of this Part prevails.

Sections allowed

191 (1) A strata corporation may have sections only for the purpose of representing the different interests of

- (a) owners of residential strata lots and owners of nonresidential strata lots,
- (b) owners of nonresidential strata lots, if they use their strata lots for significantly different purposes, or
- (c) owners of different types of residential strata lots.

(2) For the purposes of subsection (1) (c), strata lots are different types if they fall within the criteria set out in the regulations.

Creation of sections by owner developer

192 An owner developer may create sections for a strata corporation at the time the strata plan is deposited by filing in the land title office

- (a) bylaws that provide for the creation and administration of each section, and
- (b) any resolutions to designate limited common property, in accordance with section 74, for the exclusive use of all the strata lots in a section.

Creation or cancellation of sections by strata corporation

193 (1) To create or cancel sections, the strata corporation must hold an annual or special general meeting to consider the creation or cancellation.

(2) The notice of meeting must include

- (a) a resolution to amend the bylaws to provide for either the creation and administration of each section or the cancellation of the sections, and
- (b) any resolutions to designate limited common property, in accordance with section 74, for the exclusive use of all the strata lots in a section or to remove a designation in accordance with section 75.

(3) The resolution referred to in subsection (2) (a) must be passed

(a) by a 3/4 vote by the eligible voters in the proposed or existing section, and

(b) by a 3/4 vote by all the eligible voters in the strata corporation.

(4) On the filing in the land title office of a bylaw amendment creating a section, a section is created bearing the name "Section *[number of section]* of *[name of strata corporation]*".

(5) On the creation of a section the registrar may establish a general index for the section.

Powers and duties of section

194 (1) After the creation of sections, the strata corporation retains its powers and duties in matters of common interest to all the owners.

(2) With respect to a matter that relates solely to the section, the section is a corporation and has the same powers and duties as the strata corporation

(a) to establish its own operating fund and contingency reserve fund for common expenses of the section, including expenses relating to limited common property designated for the exclusive use of all the strata lots in the section,

(b) to budget and require section owners to pay strata fees and special levies for expenditures the section authorizes,

(c) to sue or arbitrate in the name of the section,

(d) to enter into contracts in the name of the section,

(e) to acquire and dispose of land and other property in the name of or on behalf of the section, and

(f) to enforce bylaws and rules.

(3) Despite subsection (2), a section must not enter into a contract, or sue or arbitrate, in the name of the strata corporation and the strata corporation has no liability for contracts made, or debts or legal costs incurred, by the section.

(4) A section may obtain insurance only

(a) against perils that are not insured by the strata corporation, or

(b) for amounts that are in excess of amounts insured by the strata corporation.

(5) For the purposes of subsection (4), a section has the same insurable interest as the strata corporation has in property contained within the section.

(6) Division 4 of Part 10 applies to a dispute between sections and between a section and the strata corporation.

Expenses of section

195 Subject to section 100 and the regulations, expenses of the strata corporation that relate solely to the strata lots in a section are shared by the owners of strata lots in the section and each strata lot's share of a contribution to the operating fund and contingency reserve fund is calculated as follows:

$$\frac{\text{unit entitlement of strata lot}}{\text{total unit entitlement of all strata lots in section}} \times \text{total contribution}$$

Administration of section

196 (1) The eligible voters of a section may call and hold meetings and pass resolutions in the same manner as eligible voters of the strata corporation.

(2) Each section must elect an executive for that section and the section executive has the same powers and duties with respect to the section as the strata corporation's council has with respect to the strata corporation.

(3) A member of a section executive is eligible for election to the strata corporation's council.

Bylaws and rules for section

197 (1) The strata corporation's bylaws apply to the section unless they have been amended by the section.

(2) The bylaws may only be amended by the section if the bylaw amendment is in respect of a matter that relates solely to the section.

(3) Subject to section 127 (4) (a), an amendment to the bylaws respecting a matter that relates solely to the section must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting of the section.

(3.1) Despite subsection (3), if a section is composed entirely of nonresidential strata lots, an amendment to the bylaws respecting a matter that relates solely to the section must be approved by a resolution passed

(a) by a 3/4 vote, or

(b) if a different voting threshold is provided for in the bylaws of the section, by that voting threshold

at an annual or special general meeting of the section.

(4) The executive of a section may make rules governing the use, safety and condition of

(a) land and other property acquired under section 194 (2) (e), and

(b) limited common property designated for the exclusive use of all the strata lots in the section.

(5) Section 125 applies to section rules.

Judgments against strata corporation relating to section

198 (1) If a judgment against the strata corporation relates solely to the strata lots in a section, the judgment is against only the owners of strata lots in the section.

(2) A strata lot's share of a judgment referred to in subsection (1) is calculated in accordance with section 195 as if the amount of the judgment were a contribution to the operating fund and contingency reserve fund, and an owner's liability is limited to that proportionate share of the judgment.

Part 12 — Leasehold Strata Plans

Definitions

199 In this Part:

"ground lease" means a registered lease of land

(a) granted by a leasehold landlord for the purposes of this Part, and

(b) to which a model strata lot lease is attached;

"leasehold landlord" means the government of British Columbia, the government of Canada, a municipality, a regional district, a Nisga'a Village or the Nisga'a Nation, or another public authority as defined by a regulation made under this Act;

"leasehold strata plan" means a strata plan in which the land shown on the strata plan is subject to a ground lease;

"leasehold tenant" means a person, including an owner developer, registered in the land title office as a tenant under a strata lot lease, whether entitled to it in the person's own right, in a representative capacity or otherwise, and includes a subtenant;

"strata lot lease" means a lease of a strata lot arising from the conversion of a ground lease under section 203 (1), and includes an assignment or transmission of a strata lot lease;

"termination", in respect of a strata lot lease, means

(a) the expiry of the strata lot lease without renewal, or

(b) the termination of the strata lot lease under section 213 (2).

Act applies to leasehold strata plans

200 (1) Subject to the regulations, the provisions of this Act apply to a leasehold strata plan.

(2) If there is a conflict between a provision of this Part and a provision of another Part, the provision of this Part prevails.

Deposit of leasehold strata plan

201 The registrar must not accept for deposit a leasehold strata plan unless

- (a) the title to the land included in the leasehold strata plan is registered in the name of a leasehold landlord,
- (b) the person applying to deposit the leasehold strata plan is the registered lessee under the ground lease,
- (c) the unexpired term of the ground lease is at least 50 years after the date of the application to deposit the leasehold strata plan,
- (d) all the land subject to the ground lease is shown on the leasehold strata plan, and
- (e) the leasehold strata plan is signed by the leasehold landlord.

New indefeasible title

202 When a leasehold strata plan is deposited, the registrar must

- (a) assign to the leasehold strata plan a serial deposit number, and
- (b) register new indefeasible titles in the name of the leasehold landlord for each of the strata lots shown on the plan.

Conversion of ground lease

203 (1) The deposit of the leasehold strata plan operates as a conversion of the ground lease into individual leases of the leasehold landlord's interest in each strata lot, including its share in the common property,

- (a) in the form of the model strata lot lease attached to the ground lease, and
- (b) granted to the owner developer by the leasehold landlord.

(2) The conversion of the ground lease does not affect the obligations of the owner developer and the leasehold landlord under the ground lease.

Signature of leasehold landlord not required

204 The signature of the leasehold landlord is not required for an assignment of a strata lot lease by the owner developer, unless the ground lease provides otherwise.

Obligations under strata lot lease

205 A leasehold tenant

(a) is conclusively deemed to have agreed with the leasehold landlord to observe the terms and conditions contained in the strata lot lease, and

(b) despite any agreement to the contrary, is not bound by anything contained in the ground lease that is not also contained in the strata lot lease.

Restrictions on lease, assignment or occupancy of strata lot

206 (1) The leasehold landlord may impose restrictions on the lease, assignment or occupancy of the strata lots included in a leasehold strata plan.

(2) A restriction

(a) has no effect unless it is set out in a schedule of restrictions and filed in the land title office at the time the strata plan is deposited, and

(b) comes into effect on the registration of the plan.

(3) When a restriction is filed in accordance with subsection (2), it binds the strata corporation and the leasehold tenant to the same extent as if the schedule of restrictions contained binding agreements on the part of the strata corporation and the leasehold tenant with the leasehold landlord and with every other leasehold tenant to comply in all respects with that schedule.

Change to restrictions

207 (1) Subject to subsection (3), a leasehold landlord may, on its own or on application by the strata corporation approved by a resolution passed by a 3/4 vote at an annual or special general meeting, add to, alter or repeal any of the restrictions referred to in section 206.

(2) The amended schedule of restrictions has no effect until filed in a land title office.

(3) A leasehold landlord, other than the government of British Columbia, may amend the schedule of restrictions only with the approval of the Lieutenant Governor in Council.

(4) The amendment of the restrictions on occupancy of a strata lot does not affect persons who were leasehold tenants immediately before the amendment, but affects persons who become leasehold tenants as a result of the sublease or assignment of the strata lot lease after the amendment.

Duties of strata corporation

208 (1) On request of the leasehold landlord, the strata corporation must

(a) perform its duties under this Act,

(b) obtain and maintain insurance and pay premiums on behalf of the leasehold tenants to the extent that the leasehold tenants are required to do so under their strata lot leases,

(c) repair and maintain the common property and common assets of the strata corporation on behalf of the leasehold tenants to the extent and standard that the leasehold tenants are required to do so under their strata lot leases, and

(d) require, to the extent that the leasehold tenants are required to do so under their strata lot leases, the leasehold tenants to comply with the following:

(i) the bylaws and rules;

(ii) this Act, the regulations or any other enactment or law;

(iii) any restrictions imposed by the leasehold landlord under sections 206 and 207.

(2) On application by the leasehold landlord, the Supreme Court may order the strata corporation to comply with a request made under subsection (1).

(3) The strata corporation is conclusively deemed to have a bylaw that requires the leasehold tenants to comply with the requirements of their strata lot leases that are referred to in this section.

Leasehold landlord's remedies on leasehold tenant's default

209 (1) Despite any agreement or enactment to the contrary, the leasehold landlord is not entitled to reenter and take possession of the strata lot or terminate the strata lot lease on a leasehold tenant's default in performing obligations under the strata lot lease, but may apply to the Supreme Court for an order for sale of the leasehold tenant's interest in the strata lot.

(2) On an application for sale, the court may

(a) declare that the leasehold tenant failed to observe and perform obligations under the strata lot lease, and specify the nature of the default, and

(b) order that, if the default is not corrected within the time period required by the order, the leasehold landlord may sell the leasehold tenant's interest in the strata lot at a price and on terms to be approved by the court.

(3) On an application for an order for sale or for approval of a sale, the court may, by order, give directions it considers necessary for the distribution of the proceeds and the delivery of possession.

Renewal of strata lot lease

210 (1) A strata lot lease may be renewed at the option of the leasehold landlord.

- (2) A renewal of a strata lot lease must be for a term of at least 5 years.
- (3) The leasehold landlord must, at least one year before the expiry of the strata lot lease, give notice in writing to the leasehold tenant that the leasehold landlord has elected
- (a) to renew the strata lot lease for the renewal term specified in the notice, or
 - (b) not to renew the strata lot lease.
- (4) If the notice is not given under subsection (3), the leasehold landlord must renew the strata lot lease for a term of 5 years.
- (5) If the election is not to renew, the leasehold landlord must purchase the leasehold tenant's interest in the strata lot under section 214.

Renewal terms

- 211** (1) A renewal of a strata lot lease must be on the same terms as the current strata lot lease, except that the term of the strata lot lease and the rent may be changed.
- (2) The rent must be that share of the current market rental value of the land included in the strata plan, excluding all buildings and improvements, apportioned to the strata lot in the proportion that the most recent assessed value of the strata lot bears to the total of the most recent assessed values of all the strata lots included in the leasehold strata plan.
- (3) Agreement on the rent for the renewal period must be reached by the beginning of the renewal period unless expressly provided otherwise in the strata lot lease, or agreed to in writing between the leasehold landlord and the leasehold tenant.
- (4) Despite section 175, if agreement on the rent is not reached under subsection (3) of this section, the rent must be determined by arbitration under the *Commercial Arbitration Act*.

Renewal of fewer than 2/3 of strata lot leases

- 212** An election to grant renewals to fewer than 2/3 of the strata lot leases in the leasehold strata plan is ineffective unless before delivery of the notices under section 210 (3)
- (a) the leasehold landlord gives to each leasehold tenant a written notice specifying the strata lot leases that will not be renewed and the strata lot leases that will be renewed, and
 - (b) each of the leasehold tenants whose strata lot leases are to be renewed consents in writing to fewer than 2/3 of the strata lot leases being renewed.

Destruction of buildings

- 213** (1) If the buildings that are part of the leasehold strata plan are destroyed or damaged by more than 1/3 of their fair market value, the leasehold tenants may elect not to rebuild by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) When the leasehold tenants pass the resolution referred to in subsection (1), all the strata lot leases terminate and the leasehold landlord must purchase each leasehold tenant's interest in the strata lot in accordance with section 214.

Purchase of leasehold tenant's interest on termination

214 (1) The leasehold landlord must purchase a leasehold tenant's interest in the strata lot on the termination of the strata lot lease.

(2) The purchase price must be arrived at as of the date the strata lot lease terminates and must be,

(a) if a basis for calculating the purchase price was set out in the strata lot lease or in a schedule filed with the leasehold strata plan, the price calculated on that basis, or

(b) if a basis for calculating the purchase price was not set out in the strata lot lease or a schedule, the fair market value of the leasehold tenant's interest in the strata lot evaluated, in accordance with the regulations, as if the strata lot lease did not expire.

(3) The leasehold landlord may change the basis for calculating the purchase price of the strata lots set out in a schedule if

(a) the leasehold tenants consent to the change by a resolution passed by a unanimous vote at an annual or special general meeting, and

(b) an amended schedule is filed in the land title office, accompanied by a Certificate of Strata Corporation in the prescribed form, stating that the resolution referred to in paragraph (a) has been passed and that the amended schedule conforms to the resolution.

(4) Unless expressly provided otherwise in the strata lot lease or agreed to in writing by the leasehold landlord and the leasehold tenant, the purchase price under subsection (2) (b) must be determined, despite section 175, by arbitration under the *Commercial Arbitration Act* if the leasehold landlord and the leasehold tenant have failed to agree on the purchase price by 30 days before the date the strata lot lease expires, or 30 days after the date of a termination under section 213 (2).

(5) The leasehold landlord must purchase the leasehold tenant's interest in the strata lot within 30 days after the earlier of

(a) the date the purchase price is agreed to, and

(b) the date the purchase price is determined by arbitration referred to in subsection (4).

Cancellation of strata plan

215 (1) On termination of all of the strata lot leases, the leasehold strata plan must be cancelled and the strata corporation must be wound up in accordance with Part 16.

(2) A leasehold strata plan may only be cancelled and the strata corporation wound up on termination of all the strata lot leases.

Conversion to freehold strata plan

216 (1) When the leasehold landlord transfers the fee simple estate in each of the strata lots included in a ground lease to each of the leasehold tenants and the registrar registers each leasehold tenant as the fee simple owner of their strata lot described in the strata lot lease,

(a) the strata plan continues as a strata plan and the land shown on the strata plan is not subject to a ground lease,

(b) the strata corporation continues as if it were originally created by deposit of a strata plan that was not a leasehold strata plan,

(c) the strata lot lease ceases to exist and the leasehold tenant and the leasehold tenant's successors in interest cease to be liable for the performance of obligations in the strata lot lease, and

(d) any charge in existence against the leasehold tenant's interest immediately before the registration of the fee simple becomes a charge against the fee simple estate acquired by the leasehold tenant, and, if the charge was registered, the registrar must register it against the fee simple title.

(2) The registrar may register the fee simple title in the strata lot only if the registrar has

(a) received a similar application for registration in respect of all leasehold strata lots included in the leasehold strata plan, and

(b) determined that all the applications are registrable.

Part 13 — Phased Strata Plans

Definition

217 In this Part, "**common facility**" means a major facility in a phased strata plan, including a laundry room, playground, swimming pool, recreation centre, clubhouse or tennis court, if the facility is available for the use of the owners.

Act applies to phased strata plan

218 (1) Subject to the regulations, the provisions of this Act apply to a phased strata plan.

(2) If there is a conflict between a provision of this Part and a provision of another Part, the provision of this Part prevails.

Owner developer in phased strata plan

219 For the purposes of this Part, an owner developer includes a person named as an applicant in a Phased Strata Plan Declaration.

Transfer of owner developer's interest

220 If an owner developer transfers the owner developer's interest in land described in a Phased Strata Plan Declaration, the owner developer's rights and responsibilities under the declaration, this Act and the regulations transfer to the new owner developer.

Deposit of phased strata plan in land title office

221 (1) The registrar may only accept a phase of a phased strata plan for deposit if

- (a) a Phased Strata Plan Declaration in the prescribed form, approved by an approving officer in accordance with section 222, is filed with the first phase,
- (b) each phase is approved by an approving officer in accordance with section 224, and in accordance with section 225 if required,
- (c) the boundaries of each phase are clearly identified, and
- (d) each phase, when deposited, complies with sections 240, 244 and 245.

(2) Phases in a phased strata plan must be deposited in the order in which the phases are set out in the Phased Strata Plan Declaration.

(3) The unit entitlement of strata lots in all of the phases must be calculated in accordance with section 246 using the same basis for calculations for all of the phases.

(4) On the deposit of any phase of a phased strata plan other than the final phase, the registrar may make a notation of the Phased Strata Plan Declaration on the title to every strata lot created by the plan and on the title to the remainder parcel.

(5) On the deposit of the final phase of a phased strata plan, the registrar may remove the notations made under subsection (4).

Approval of Phased Strata Plan Declaration

222 (1) Before a person applies to deposit the first phase of a phased strata plan, the person must obtain the approval of an approving officer to a Phased Strata Plan Declaration in the prescribed form.

(2) The approval of the approving officer referred to in subsection (1) expires after one year unless the first phase is deposited before that time.

Security for common facilities

223 (1) If common facilities are to be constructed in a phase other than the first phase, or constructed on a separate parcel, an approving officer may only approve the Phased Strata Plan Declaration if the owner developer

- (a) posts a bond, an irrevocable letter of credit or other security in an amount that, in the opinion of the approving officer, is sufficient to cover the full cost of constructing the common facility, including the cost of the land, or

(b) makes other arrangements, satisfactory to the approving officer, to ensure the completion of the common facility.

(2) The bond, irrevocable letter of credit or other security required under subsection (1) (a) must be drawn in favour of, and must be held by,

(a) the municipality in which the land is located,

(b) the regional district in which the land is located if the land is not located in a municipality and is not Nisga'a Lands,

(c) the Nisga'a Village if the land is located within Nisga'a Village Lands, or

(d) the Nisga'a Nation if the land is Nisga'a Lands other than Nisga'a Village Lands.

(3) If the owner developer complies with subsections (1) and (2), the approving officer may not require any further security for common facilities as a condition for approving the declaration.

Approval of phase

224 (1) Before the owner developer applies to deposit a phase of a phased strata plan, the owner developer must obtain the approval of an approving officer to that phase.

(2) The approving officer must approve a phase of a phased strata plan if it substantially complies with the requirements for that phase as set out in the Phased Strata Plan Declaration.

(3) If the approving officer approves a phase of the phased strata plan, the approving officer must endorse the approval on the plan in accordance with the regulations.

Approving officer's approval for common facilities

225 (1) If a common facility is to be constructed in conjunction with a phase of a strata plan, the phase must be approved by an approving officer in accordance with the regulations.

(2) The approving officer must approve the phase if

(a) the owner developer fulfills the requirements of section 223, or

(b) the common facility is at least 50% completed, as verified by the certificate of a registered architect or professional engineer.

Release of security

226 (1) Security provided under section 223 must be released if any of the following requirements are met:

(a) the common facility is substantially completed, as verified by the certificate of a registered architect or professional engineer;

(b) after a council is elected, the strata corporation and the owner developer enter into an agreement for the completion of the common facilities and the release of the security is authorized by a resolution passed by a 3/4 vote at an annual or special general meeting;

(c) the Supreme Court orders the release under subsection (4);

(d) the Supreme Court makes an order under subsection (5) or under section 233 (6) or 235 (6) for the provision of the common facilities.

(2) For the purpose of the 3/4 vote referred to in subsection (1) (b), the owner developer is not an eligible voter.

(3) Security provided under section 223 must not be released unless one of the requirements in subsection (1) of this section has been met.

(4) If the municipality, regional district, Nisga'a Village or Nisga'a Nation refuses to release the security, the owner developer may apply to the Supreme Court for an order that it be released.

(5) After deposit of the first phase, if a common facility is not substantially completed within the time for completion set out in the Phased Strata Plan Declaration, the strata corporation or an owner may apply to the Supreme Court for one or both of the following orders:

(a) that the owner developer complete whatever common facilities the court considers equitable;

(b) that some or all of the security provided for the common facilities be paid as provided by the court.

Owner developer's contribution to expenses

227 (1) Subject to sections 233 (2) and 235 (3), until all phases of a phased strata plan have been deposited, the owner developer must contribute to the expenses of the strata corporation that are attributable to the common facilities.

(2) Subject to the regulations, the owner developer's share of the expenses under subsection (1) is calculated as follows:

$$\frac{\text{unit entitlement of strata lots in phases not deposited}}{\text{unit entitlement of strata lots in all phases whether deposited or not}} \times \text{expenses attributable to the common facilities}$$

(3) For the purposes of subsection (2), the unit entitlement of strata lots in the phases not deposited is as set out in the Phased Strata Plan Declaration.

Effect of deposit of phase

228 (1) When a phase of a phased strata plan is deposited,

(a) the land in the phase is subdivided from the rest of the parcel or parcels referred to in section 240 and is consolidated with the land in any previously deposited strata plan of the same development,

(b) despite sections 269 to 271, the strata corporation established by the deposit of the phase is amalgamated with the strata corporation established by the deposit of the strata plan for the first phase, and

(c) the owners of the strata lots in the phase are members of the strata corporation established by the deposit of the strata plan for the first phase.

(2) The provisions of Part 3 apply to the new phase to the extent set out in the regulations.

Notification of deposit of subsequent phase

229 The owner developer must immediately notify the strata corporation of the deposit of a phase other than the first phase of a phased strata plan.

Annual general meeting after deposit of subsequent phase

230 Subject to the regulations, if a phase other than the first phase of a phased strata plan is deposited, the strata corporation must hold an annual general meeting during the 6 week period that begins on the earlier of

(a) the date on which 50% plus one of the strata lots in the new phase have been conveyed to purchasers, and

(b) the date that is 6 months after the deposit of the new phase.

Deemed election to proceed

231 On the date contained in the Phased Strata Plan Declaration for the election to proceed with a phase, the owner developer is conclusively deemed to have elected to proceed with that phase as set out in the declaration unless

(a) an amendment to the declaration has been approved in accordance with section 232 or 233, or

(b) an election not to proceed has been made and filed under section 235.

Amendment of declaration to extend time for election

232 (1) An owner developer who wishes to amend a Phased Strata Plan Declaration to extend the time for making an election to proceed with the next phase must apply to an approving officer for an amendment extending the time in which to make the election.

(2) The approving officer must not allow a declaration to be amended to extend the time for the election

(a) more than once, or

(b) for more than one year from the date stated in the declaration,

except in accordance with a court order under subsection (3).

(3) On application of an owner developer, the Supreme Court may order an approving officer to grant the extension of time requested.

Other amendments to declaration

233 (1) An owner developer who wishes to amend a Phased Strata Plan Declaration, other than by extending the time for an election under section 232, must apply to an approving officer for approval of the amendment.

(2) Unless otherwise agreed between the owner developer and the strata corporation, if the owner developer amends the declaration to reduce the unit entitlement of a subsequent phase, the approving officer may require the owner developer to contribute to the expenses of the strata corporation that are attributable to the common facilities as if the unit entitlement in the subsequent phase had not been reduced.

(3) Subsection (2) applies only if

(a) common facilities have been constructed in the existing phases, or

(b) the strata corporation has become contractually obligated to contribute toward the operating costs of common facilities on a separate parcel.

(4) On application by the strata corporation, the Supreme Court may order that the owner developer pay money, post a bond, provide a letter of credit or provide other security for the owner developer's share of the expenses of the strata corporation under subsection (2).

(5) On application by the strata corporation, the Supreme Court may determine whether the amendment to the Phased Strata Plan Declaration significantly alters the common facilities to be built in a subsequent phase in a way that is unfair to the strata corporation.

(6) If the court determines that the amendment is a significant and unfair alteration, the court may make one or both of the following orders:

(a) that the owner developer complete whatever common facilities the court considers equitable;

(b) that some or all of the security provided for the common facilities be paid as provided by the court.

(7) An agreement referred to in subsection (2) must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, and for the purposes of that 3/4 vote, the owner developer is not an eligible voter.

Matters that apply to amendment of declaration

234 (1) The owner developer must give the strata corporation written notice of an application under section 232 or 233.

(2) The strata corporation has 30 days from receipt of the notice referred to in subsection (1) to make written representations to the approving officer.

(3) The strata corporation may, by written notice to the approving officer, waive its right to make written representations to the approving officer.

(4) The approving officer, after considering the representations, if any, of the owner developer and the strata corporation, may approve the extension or amendment with or without changes or may refuse to approve the extension or amendment.

(5) If an amendment, including an extension of the time in which to make an election, is approved, the owner developer must deposit an amended Phased Strata Plan Declaration with the registrar.

Election not to proceed

235 (1) An owner developer who elects not to proceed with the next phase must, before the time set in the Phased Strata Plan Declaration for the election to proceed,

(a) give written notice of the election not to proceed to the strata corporation and the approving officer, and

(b) file with the registrar a notice of the election not to proceed, together with a reference plan, in accordance with section 100 (1) (a) of the *Land Title Act*, of the remainder parcel.

(2) On receipt of the notice of the election not to proceed, the registrar must remove the Phased Strata Plan Declaration notation from the title to the strata lots and from the title to the remainder parcel.

(3) Unless otherwise agreed between the owner developer and the strata corporation, if an owner developer elects not to proceed, the Supreme Court may order, on application of the owner developer or the strata corporation made within 2 years of the receipt of notice under subsection (1) (a), that the owner developer

(a) contribute to the expenses of the strata corporation that are attributable to the common facilities as if the owner developer had elected to proceed, and

(b) pay money, post a bond, provide a letter of credit or provide other security for the owner developer's share of the expenses of the strata corporation under paragraph (a).

(4) Subsection (3) applies only if

(a) common facilities have been constructed in the existing phases, or

(b) the strata corporation has become contractually obligated to contribute toward the operating costs of common facilities on a separate parcel.

(5) On application by the strata corporation, the Supreme Court may determine whether the owner developer's election not to proceed is unfair to the strata corporation.

(6) If the court determines that the election is unfair, the court may make one or both of the following orders:

(a) that the owner developer complete whatever common facilities the court considers equitable;

(b) that some or all of the security provided for the common facilities be paid as provided by the court.

(7) An agreement referred to in subsection (3) must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, and for the purposes of that 3/4 vote, the owner developer is not an eligible voter.

Delay in proceeding

236 (1) On application by the strata corporation, the Supreme Court may order that the owner developer complete a phase by a set date if

(a) the owner developer has elected to proceed, or is deemed to have elected to proceed under section 231, and

(b) the court is satisfied that the owner developer has not proceeded with the phase

(i) within a reasonable time after the date stated in the Phased Strata Plan Declaration or an amended declaration, or

(ii) at a reasonable speed.

(2) If the owner developer does not comply with the court order under subsection (1), the court may declare that the owner developer be deemed to have elected not to proceed.

Development after election not to proceed requires approval

237 (1) Subject to subsection (2), if the owner developer elects not to proceed with a subsequent phase, land that would have been a part of the subsequent phase may only be developed in accordance with the applicable municipal or regional district bylaws or applicable Nisga'a Government laws relating to that parcel as a separate parcel.

(2) In approving the development of land referred to in subsection (1), the municipality, regional district, Nisga'a Village or Nisga'a Nation may

(a) take into consideration the development already constructed in earlier phases, and

(b) treat the development of the subsequent phase as if it were a part of the phased development rather than a separate parcel.

Building permit

238 (1) An application for a building permit for a phase in a phased strata plan must include the common facilities for the phase as set out in the Phased Strata Plan Declaration.

(2) Parcels in a phased strata plan that will be consolidated under section 228 (1) (a) on the deposit of a phase are deemed to be consolidated for the purpose of enabling a building inspector to issue a building permit in respect of a building.

Part 14 — Land Titles

Effect of deposit of strata plan

239 (1) Land may be subdivided into 2 or more strata lots by the deposit of a strata plan in a land title office.

(2) The strata lots created by the deposit of a strata plan may, subject to this Act, devolve or be disposed of in the same manner and form as any land the title to which is registered in a land title office.

(3) Despite any other provision of this Act, a strata lot may not be subdivided by the deposit of a strata plan that, under section 2, would establish a strata corporation.

Title requirements for deposit of strata plan

240 Title to the land shown on the strata plan must be registered in the name of the person applying to deposit the plan, and the land shown on the strata plan must be shown as

(a) a single parcel on a subdivision plan, reference plan or air space plan deposited in a land title office,

(b) separate parcels, if the parcels are separated only by a highway, dike, stream or right of way,

(c) separate parcels that share a common boundary, if the parcels form part of a phased strata plan as set out in a Phased Strata Plan Declaration in the prescribed form, or

(d) separate parcels separated by land not owned by the person applying to deposit the strata plan, if an approving officer is satisfied that the strata plan would result in a viable development of benefit to the community.

Endorsement of nonoccupancy

241 (1) If a strata plan includes a building that has not been previously occupied, the plan must be endorsed by a British Columbia land surveyor certifying that the building has not been previously occupied.

(2) The endorsement must be dated not more than 180 days before the date the strata plan is tendered for deposit.

Approval for conversion of previously occupied buildings

242 (1) For the purposes of this section, "**approving authority**" means

(a) the municipal council of the municipality if the land is located in a municipality,

(b) the regional board of the regional district if the land is located in a regional district but not in a municipality and is not Nisga'a Lands,

(c) the Nisga'a Village Government if the land is located within Nisga'a Village Lands, or

(d) the Nisga'a Lisims Government if the land is Nisga'a Lands other than Nisga'a Village Lands.

(2) If a person applying to deposit a strata plan wishes to include in the strata plan a previously occupied building, the person must submit the proposed strata plan to the approving authority.

(3) The approving authority may

(a) approve the strata plan, or approve the strata plan subject to terms and conditions, or

(b) refuse to approve the strata plan, or refuse to approve the strata plan until terms and conditions imposed by the approving authority are met.

(4) The decision of the approving authority under subsection (3) is final and may not be appealed.

(5) The approving authority must not approve the strata plan unless the building substantially complies with the following:

(a) the applicable bylaws of the municipality or regional district;

(b) applicable Nisga'a Government laws;

(c) the British Columbia Building Code referred to in the Building Regulations of British Columbia.

(6) In making its decision, the approving authority must consider

(a) the priority of rental accommodation over privately owned housing in the area,

- (b) any proposals for the relocation of persons occupying a residential building,
- (c) the life expectancy of the building,
- (d) projected major increases in maintenance costs due to the condition of the building, and
- (e) any other matters that, in its opinion, are relevant.

(7) If the approving authority approves the strata plan without terms and conditions, an authorized signatory of the approving authority must endorse the plan in accordance with the regulations.

(8) If the approving authority approves the strata plan subject to terms and conditions, an authorized signatory of the approving authority must endorse the plan in accordance with the regulations once the terms and conditions have been met.

(9) The endorsement must be dated not more than 180 days before the date the strata plan is tendered for deposit.

(10) The approving authority may, by resolution, with respect to a specified type of previously occupied building,

- (a) delegate to an approving officer or other person designated in the resolution the exercise of the powers and performance of the duties of the approving authority under this section, and

- (b) impose limits or conditions on the exercise of the powers and performance of the duties delegated by the resolution.

(11) This section does not apply to a strata plan that includes a previously occupied building if the person applying to deposit the strata plan is the government or the Crown in right of Canada.

Approval of bare land strata plan

243 (1) Before a person applies to deposit a bare land strata plan, the person must obtain the approval of an approving officer.

(2) If the approving officer approves the bare land strata plan, the approving officer must endorse the approval on the bare land strata plan in accordance with the regulations.

(3) An approving officer must not approve a bare land strata plan unless it complies with the regulations.

Strata plan requirements

244 (1) A strata plan must

- (a) show the boundaries of the land included in the strata plan and, except in the case of a strata lot in a bare land strata plan, show the location of the buildings,
 - (b) contain a description sufficient for the registrar to identify the title to the land included in the strata plan,
 - (c) show the boundaries of the strata lots in accordance with section 68, and distinguish the strata lots by numbers or letters in consecutive order,
 - (d) show the area in square metres of each strata lot, including the areas and spaces referred to in subsection (2), if they are part of a strata lot,
 - (e) comply with rules, if any, made under section 75 of the *Land Surveyors Act* for the purposes of this section,
 - (f) be endorsed by a British Columbia land surveyor with an endorsement that
 - (i) buildings shown on the strata plan are within the external boundaries of the land that is the subject of the strata plan, or
 - (ii) appropriate and necessary easements or other interests exist to provide for access to any parts of the building that are not within the boundaries,
 - (g) be signed by
 - (i) the person applying to deposit the plan under section 240, and
 - (ii) each holder of a registered charge on all or part of the land included in the strata plan,
- unless, in the registrar's opinion, the interests of persons who have not signed are not adversely affected by the deposit of the plan,
- (h) be endorsed by an approving officer
 - (i) if it is a phased strata plan, under sections 224 and 225,
 - (ii) if it is a bare land strata plan, under section 243, or
 - (iii) if it is both a phased strata plan and a bare land strata plan, under sections 224, 225 and 243.
 - (i) in the case of a strata plan that includes a building,
 - (i) be endorsed by a British Columbia land surveyor under section 241 if the building has not been previously occupied, or
 - (ii) be endorsed by an authorized signatory of an approving authority under section 242 if the building has been previously occupied, and

(j) contain anything that is required by the regulations.

(2) Parking stalls, garage areas, storage areas and similar areas or spaces intended to be used in conjunction with a residential strata lot must not be designated as separate strata lots but must be included as part of a strata lot or as part of the common property.

Strata plans: accompanying documents

245 A strata plan tendered for deposit in a land title office must be accompanied by

- (a) a Schedule of Unit Entitlement in the prescribed form that complies with section 246, and
 - (i) if the unit entitlement has been calculated in accordance with section 246 (3) (a) (i) or (b) (i), a certificate of a British Columbia land surveyor that states that the schedule reflects the habitable area of residential strata lots and the total area of nonresidential strata lots, or
 - (ii) evidence of the superintendent's approval if required under section 246,
- (b) if voting rights are set out in a schedule, a Schedule of Voting Rights in the prescribed form that complies with section 247 or 248, together with evidence of the superintendent's approval if the approval is required,
- (c) the mailing address of the strata corporation as required by section 62 (1),
- (d) any bylaws that differ in any respect from the Standard Bylaws, and
- (e) the number of copies of the plan required by the registrar.

Schedule of Unit Entitlement

246 (1) The person applying to deposit a strata plan must establish the unit entitlement of a strata lot in accordance with subsection (3).

(2) The person applying to deposit a strata plan must indicate the unit entitlement of each strata lot in a Schedule of Unit Entitlement in the prescribed form.

(3) The unit entitlement of a strata lot, other than a strata lot in a bare land strata plan, must be calculated as follows:

- (a) if the strata lot is a residential strata lot, the unit entitlement is either
 - (i) the habitable area, in square metres, of the strata lot, as determined by a British Columbia land surveyor, rounded to the nearest whole number,
 - (ii) a whole number that is the same for all of the residential strata lots, or

(iii) a number that is approved by the superintendent and that in the superintendent's opinion allocates a fair portion of the common expenses to the owner of the strata lot;

(b) if the strata lot is a nonresidential strata lot, the unit entitlement is either

(i) the total area, in square metres, of the strata lot, as determined by a British Columbia land surveyor, rounded to the nearest whole number,

(ii) a whole number that is the same for all of the nonresidential strata lots, or

(iii) a number that is approved by the superintendent and that in the superintendent's opinion allocates a fair portion of the common expenses to the owner of the strata lot.

(4) For the purposes of subsection (3), "habitable area" has the meaning set out in the regulations.

(5) If the strata plan consists of both residential and nonresidential strata lots, the Schedule of Unit Entitlement must be approved by the superintendent as fairly distributing the common expenses between the owners of the residential strata lots and the owners of the nonresidential strata lots.

(6) The unit entitlement of a strata lot in a bare land strata plan must be

(a) a whole number that is the same for all of the strata lots in the strata plan, or

(b) a number that is approved by the superintendent and that in the superintendent's opinion allocates a fair portion of the common expenses to the owner of the strata lot.

(7) Subject to the regulations, an owner or the strata corporation may apply to the Supreme Court for an order under subsection (8) if

(a) the unit entitlement of a residential strata lot is calculated on the basis of habitable area in accordance with subsection (3) (a) (i) or on the basis of square footage in accordance with section 1 of the *Condominium Act*, R.S.B.C. 1996, c. 64, and

(b) the actual habitable area or square footage is not accurately reflected in the unit entitlement of the strata lot as shown on the Schedule of Unit Entitlement.

(8) On application under subsection (7) and after consideration of the matters set out in the regulations, the Supreme Court may

(a) order that a Schedule of Unit Entitlement be amended, in accordance with the regulations, to accurately reflect the habitable area or square footage of a strata lot, and

(b) make any other orders it considers necessary to give effect to an order under this subsection.

Schedule of Voting Rights not approved by superintendent

247 (1) If a strata plan has at least one nonresidential strata lot, the person applying to deposit the strata plan may establish a Schedule of Voting Rights in the prescribed form that sets out the number of votes per strata lot.

(2) In the Schedule of Voting Rights

(a) if a strata plan is composed of both residential and nonresidential strata lots,

(i) all residential strata lots must have one vote each, and

(ii) the number of votes for each nonresidential strata lot must be calculated as follows:

$$\frac{\text{unit entitlement of nonresidential strata lot}}{\text{average unit entitlement of residential strata lots}}$$

where the average unit entitlement of residential strata lots equals the total unit entitlement of all residential strata lots divided by the total number of residential strata lots, or

(b) if a strata plan is composed entirely of nonresidential strata lots, the number of votes for each strata lot must be calculated as follows:

$$\frac{\text{unit entitlement of strata lot}}{\text{total unit entitlement of all strata lots}}$$

Schedule of Voting Rights approved by superintendent

248 (1) If a strata plan has at least one nonresidential strata lot, the person applying to deposit the strata plan may submit to the superintendent for approval a Schedule of Voting Rights in the prescribed form that sets out the number of votes per strata lot in a way that is different from the requirements of section 247.

(2) The superintendent must approve the Schedule of Voting Rights if satisfied that it establishes a fair distribution of votes among owners.

Registrar must deposit

249 (1) The registrar must deposit a strata plan if satisfied that the application to deposit the strata plan and any accompanying documents comply with the requirements for deposit and registration in the *Land Title Act* and this Act, and any other applicable requirements.

(2) On deposit of a strata plan the registrar must assign to the strata plan a serial deposit number and register new indefeasible titles for the strata lots.

(3) For the purposes of this Act, and despite sections 261 (2), 267 and 270, the registrar is under no duty to ensure that a Schedule of Unit Entitlement or Schedule of Voting Rights complies with the requirements of this Act or the regulations, requires the approval of the superintendent or has been approved by the superintendent.

General index

250 (1) On the deposit of a strata plan, the registrar must establish a general index for the strata corporation.

(2) The registrar must make an endorsement of all of the following in the general index:

(a) the Schedule of Unit Entitlement referred to in section 245 (a);

(b) the Schedule of Voting Rights, if any, referred to in section 245 (b);

(c) the mailing address, and any fax number, of the strata corporation filed under section 62 or 245 (c);

(d) the bylaws referred to in section 245 (d);

(e) any amendments to the bylaws;

(f) any amalgamation agreements under section 269;

(g) any order of the registrar under section 275 or of the Supreme Court under section 279;

(h) any resolutions and accompanying documents that are required to be filed in the land title office under this Act or the regulations;

(i) any other document relating to the strata corporation that is required to be filed in the land title office and that is not noted or endorsed elsewhere in the records of the land title office.

(3) If a document is required under this Act or the regulations to be filed in the land title office, the filing is complete when an endorsement of the document is made in the general index.

Common property

251 (1) The registrar must include on each indefeasible title for a strata lot a reference to the owner's share in the common property created by the strata plan.

(2) An owner must not deal with the owner's share in the common property and common assets of the strata corporation separately from the owner's strata lot except as expressly allowed by this Act.

(3) A document that deals with a strata lot deals also, without express reference, with the share of the owner in the common property and common assets of the strata corporation.

Common property record

252 (1) On the deposit of a strata plan, the registrar must establish a common property record for the strata corporation.

(2) The common property record in subsection (1) forms part of the register.

(3) Despite any other provision of this Act or the *Land Title Act*, the registrar must note on the common property record a charge or other interest that separately charges the common property.

Subdivision of common property

253 (1) A disposition of common property by way of any of the following is a subdivision of land and Part 7 of the *Land Title Act* applies to that subdivision:

(a) a transfer of a freehold estate;

(b) a lease for a term exceeding 3 years;

(c) an interest that confers or may confer a right to acquire a freehold estate or a lease exceeding 3 years.

(2) Unless a contrary intention is shown, the signatures required under section 97 of the *Land Title Act* operate as a release of the interests of owners and registered charge holders in the common property to be subdivided, but do not operate to release a charge or interest that exclusively affects that common property.

(3) Despite the *Land Title Act*, the registrar may permit the signatures required under section 97 of that Act to appear on an accompanying instrument.

(4) When common property is subdivided, it ceases to be common property and becomes land held in the name of or on behalf of the strata corporation but not shown on the strata plan.

Certificate of Strata Corporation

254 A Certificate of Strata Corporation delivered to the land title office is, as far as the registrar is concerned, conclusive evidence of the facts stated in the certificate.

Acquisition of land

255 If the strata corporation acquires land, the following words must be used to describe the transferees: "The Owners, Strata Plan [*the registration number of the strata plan*], a strata corporation under the *Strata Property Act*".

Certificate of Payment required

256 (1) The registrar must not accept any of the following for registration unless it is accompanied by a current Certificate of Payment in the prescribed form referred to in section 115 or, in the case of an electronic application for registration, unless it is accompanied by an electronic declaration under section 168.41 of the *Land Title Act*:

- (a) a lease of a strata lot;
- (b) an assignment of a lease of a strata lot;
- (c) an agreement for sale of a strata lot;
- (d) a conveyance of title to a strata lot.

(2) The registrar is not required to retain the certificate.

Part 15 — Strata Plan Amendment and Amalgamation

Division 1 — Strata Plan Amendment

Amending strata plan to designate limited common property

257 To amend a strata plan to designate limited common property, or to amend a strata plan to remove a designation of limited common property made by the owner developer at the time the strata plan was deposited or by amendment of the strata plan, the strata plan must be amended as follows:

- (a) a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting;
- (b) an application to amend the strata plan must be made to the registrar accompanied by
 - (i) a reference or explanatory plan, whichever the registrar requires, that
 - (A) shows the amendment, and
 - (B) is in a form required under the *Land Title Act* and the regulations made under that Act for a reference or explanatory plan, and
 - (ii) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) has been passed and that the reference or explanatory plan conforms to the resolution.

Parking designated by owner developer as limited common property

258 (1) An owner developer may, at any time before the first annual general meeting of the strata corporation, amend the strata plan to designate parking stalls as limited common property for the exclusive use of owners of strata lots in the strata plan.

(2) In designating parking stalls under subsection (1), the owner developer acts as the council and must

(a) act honestly and in good faith with a view to the best interests of the strata corporation, and

(b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

(3) An owner developer may, at any time before the first annual general meeting of the strata corporation, amend the strata plan to designate a maximum of 2 extra parking stalls as limited common property for the exclusive use of the owners of each strata lot in the strata plan.

(4) In this section, "**extra parking stalls**" means any parking stalls, on land shown on the strata plan as set aside for parking, that are in addition to the total number of parking stalls calculated by adding

(a) one stall per strata lot, or any greater number of stalls required by an applicable municipal bylaw, Nisga'a Government law or other enactment, plus

(b) one stall per 10 strata lots for visitor parking or any greater number of visitor parking stalls required by an applicable municipal bylaw, Nisga'a Government law or other enactment.

(5) In designating extra parking stalls under subsection (3), the owner developer is not required to act with a view to the best interests of the strata corporation, but must act honestly and in good faith and exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

(6) A designation of parking stalls under subsection (1) or (3) does not require approval by a resolution at an annual or special general meeting.

(7) An application to amend the strata plan under this section must be made to the registrar accompanied by a reference or explanatory plan, whichever the registrar requires, that

(a) shows the amendment, and

(b) is in a form required under the *Land Title Act* and the regulations made under that Act for a reference or explanatory plan.

Amending strata plan to add to, consolidate or divide a strata lot

259 (1) Strata lots may not be consolidated unless

(a) they are owned by the same person, and

(b) the holders of registered charges against the strata lots have dealt, to the satisfaction of the registrar, with the issue of the priority of their interests as they will apply to the consolidated strata lot.

(2) If a strata lot being divided includes a building that was not shown on the strata plan at the time the strata plan was deposited, sections 241 and 242 apply.

(3) To divide a strata lot into 2 or more strata lots, to consolidate 2 or more strata lots or to add part of a strata lot to another strata lot, the strata plan must be amended as follows:

(a) subject to section 260, a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting;

(b) an application to amend the strata plan must be made to the registrar accompanied by

(i) a subdivision, reference or explanatory plan, whichever the registrar requires, that

(A) shows the amendment,

(B) complies, as far as the registrar considers necessary, with sections 244 and 245, and

(C) is in a form required under the *Land Title Act* and the regulations made under that Act for a subdivision, reference or explanatory plan,

(ii) if a strata lot is being divided, a certificate signed by an approving officer indicating that the proposed amendment complies with any applicable municipal or regional district bylaws or applicable Nisga'a Government laws,

(iii) if the amendment changes the unit entitlement of any strata lot, a new Schedule of Unit Entitlement that meets the requirements of section 264, together with evidence of the superintendent's approval,

(iv) if the amendment changes the voting rights of any strata lot, a Schedule of Voting Rights that meets the requirements of section 264, together with evidence of the superintendent's approval,

(v) if approval of the amendment is required, a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) or in section 260 (4) has been passed and that the subdivision, reference or explanatory plan and any new Schedule of Unit Entitlement or Schedule of Voting Rights conform to the resolution, and

(vi) any document required by the registrar to resolve the priority of interests of any holders of registered charges against the strata lots being altered.

(4) Despite any other provision of this Act, an amendment to a strata plan under this section may result in a residential strata lot having less than one or more than one vote.

(5) Despite any other provision of this Act, a strata plan may not be amended to divide a strata lot if the amendment would result in a strata plan consisting of bare land strata lots and strata lots that are not bare land strata lots.

Exceptions to requirement for unanimous vote

260 (1) Subject to subsection (4), an amendment to the strata plan to divide a strata lot into 2 or more strata lots does not require any strata corporation approval if

- (a) the combined unit entitlement of the 2 or more strata lots being created is the same as or less than the unit entitlement of the strata lot being divided,
- (b) the total number of votes of the 2 or more strata lots being created is the same as or less than the number of votes of the strata lot being divided, and
- (c) the amendment will not increase the share of the common expenses borne by a strata lot, other than the strata lot being divided.

(2) An amendment to the strata plan to consolidate 2 or more strata lots does not require any strata corporation approval if

- (a) the unit entitlement of the consolidated strata lot is the same as or less than the combined unit entitlement of the 2 or more strata lots being consolidated,
- (b) the total number of votes of the consolidated strata lot is the same as or less than the number of votes of the 2 or more strata lots being consolidated, and
- (c) the amendment will not increase the share of the common expenses borne by a strata lot, other than the strata lots being consolidated.

(3) An amendment to the strata plan to add part of a strata lot to another strata lot does not require any strata corporation approval if

- (a) the total unit entitlement of the 2 strata lots after the amendment is the same as or less than the total unit entitlement of the strata lots before the amendment,
- (b) the total number of votes of the 2 strata lots after the amendment is the same as or less than the total number of votes of the strata lots before the amendment, and
- (c) the amendment will not increase the share of the common expenses borne by a strata lot, other than the strata lots being altered.

(4) An amendment to the strata plan to divide a residential strata lot into 2 or more strata lots must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting.

Amending Schedule of Unit Entitlement

261 (1) To amend a Schedule of Unit Entitlement to reflect a change in the habitable area of a residential strata lot in a strata plan in which the unit entitlement of the strata lot is

calculated on the basis of habitable area in accordance with section 246 (3) (a) (i) or on the basis of square footage in accordance with section 1 of the *Condominium Act*, R.S.B.C. 1996, c. 64, the schedule must be amended as follows:

(a) a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting;

(b) an application to amend the schedule must be made to the registrar accompanied by

(i) a new Schedule of Unit Entitlement that meets the requirements of section 246, together with evidence of the superintendent's approval, and

(ii) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) has been passed and that the Schedule of Unit Entitlement conforms to the resolution.

(2) The registrar must, if satisfied that the application and accompanying documents to amend the Schedule of Unit Entitlement comply with the requirements of this Act and the regulations, file the Schedule of Unit Entitlement.

Amending strata plan to make land held by strata corporation into new strata lot

262 (1) Land that is held in the name of or on behalf of the strata corporation, but not shown on the strata plan, must not be added to a strata lot or used to create a new strata lot, unless

(a) it shares a common boundary with land in the strata plan,

(b) it is separated only by a highway, dike, stream or right of way from land in the strata plan, or

(c) it is separated from the land in the strata plan, but the approving officer is satisfied that the amendment to the strata plan would result in a viable development of benefit to the community.

(2) A strata lot in another strata plan may not be added to a strata lot or used to create a new strata lot under this section.

(3) To add land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, to a strata lot or to create a new strata lot out of that land, the strata plan must be amended as follows:

(a) subject to paragraph (b), a resolution approving the amendment must be passed by a 3/4 vote at an annual or special general meeting;

(b) a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting if

(i) the amendment will change the unit entitlement of a strata lot,

(ii) the amendment will decrease the relative voting power of a strata lot, other than the strata lot being added to or created, or

(iii) the amendment will increase the share of common expenses borne by a strata lot, other than the strata lot being added to or created;

(c) an application to amend the strata plan must be made to the registrar accompanied by

(i) a reference or explanatory plan, whichever the registrar requires, that

(A) shows the amendment,

(B) complies, as far as the registrar considers necessary, with sections 244 and 245, and

(C) is in a form required under the *Land Title Act* and the regulations made under that Act for a reference or explanatory plan,

(ii) a certificate signed by an approving officer indicating that the proposed amendment complies with any applicable municipal or regional district bylaws or applicable Nisga'a Government laws,

(iii) if the amendment changes the unit entitlement of any strata lot, a new Schedule of Unit Entitlement that meets the requirements of section 264, together with evidence of the superintendent's approval,

(iv) if the amendment changes the voting rights of any strata lot, a Schedule of Voting Rights that meets the requirements of section 264, together with evidence of the superintendent's approval,

(v) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) or (b), whichever is required, has been passed and that the reference or explanatory plan and any new Schedule of Unit Entitlement or Schedule of Voting Rights conform to the resolution,

(vi) a transfer of any land that is being added to the strata lot or made into a new strata lot, and

(vii) any document required by the registrar to resolve the priority of interests of any holders of registered charges against the land affected by the amendment.

Amending strata plan to add a strata lot to common property

263 (1) A strata lot or part of a strata lot may not be added to common property unless it is free of mortgages or any other charges that may result in a transfer of an estate or interest in the strata lot.

(2) To add a strata lot or part of a strata lot to common property, the strata plan must be amended as follows:

(a) a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting;

(b) an application to amend the strata plan must be made to the registrar accompanied by

(i) a reference or explanatory plan, whichever the registrar requires, that

(A) shows the amendment,

(B) complies, as far as the registrar considers necessary, with sections 244 and 245, and

(C) is in a form required under the *Land Title Act* and the regulations made under that Act for a reference or explanatory plan,

(ii) if the amendment changes the unit entitlement of any strata lot, a new Schedule of Unit Entitlement that meets the requirements of section 264, together with evidence of the superintendent's approval,

(iii) if the amendment changes the voting rights of any strata lot, a Schedule of Voting Rights that meets the requirements of section 264, together with evidence of the superintendent's approval,

(iv) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) has been passed and that the reference or explanatory plan and any new Schedule of Unit Entitlement or Schedule of Voting Rights conform to the resolution,

(v) a transfer of any land that is being added to the common property, and

(vi) any document required by the registrar to ensure that the land being added to the common property is free of mortgages or charges referred to in subsection (1).

Calculation of unit entitlement and voting rights following amendment

264 (1) If a strata plan amendment under section 259, 262 or 263 changes unit entitlement, a new Schedule of Unit Entitlement must be established in accordance with section 246 by using the same formula for calculations that was used to establish the Schedule of Unit Entitlement that is being replaced.

(2) If a strata plan amendment under section 259, 262 or 263 changes voting rights, a new Schedule of Voting Rights must be established in accordance with section 247 or 248 by using the same formula for calculations that was used to establish the Schedule of Voting Rights that is being replaced.

(3) If a strata plan amendment will result in a residential strata lot having less than one vote or more than one vote, a Schedule of Voting Rights in the prescribed form setting out the number of votes per strata lot must be established even if the strata plan does not have at least one nonresidential strata lot.

(4) Despite section 247 (2) (a) (i), a Schedule of Voting Rights established under this section may provide that a residential strata lot has less than one or more than one vote.

(5) If an amendment to a Schedule of Unit Entitlement under section 261 changes unit entitlement, a new Schedule of Unit Entitlement must be established in accordance with section 246 by using the same formula for calculations that was used to establish the Schedule of Unit Entitlement that is being replaced.

(6) Each of the following must be submitted to the superintendent for approval:

(a) a new Schedule of Unit Entitlement established under subsection (1);

(b) a new Schedule of Voting Rights established under subsection (2);

(c) a new Schedule of Unit Entitlement established under subsection (5).

Amending strata plan to make common property into land held by the strata corporation

265 (1) A subdivision of common property is required to make common property into land held in the name of or on behalf of the strata corporation but not shown on the strata plan.

(2) The subdivision referred to in subsection (1) is a subdivision of land to which Part 7 of the *Land Title Act* applies.

(3) Section 253 (2), (3) and (4) applies to a subdivision of land referred to in this section.

Amending strata plan to add land held by strata corporation to the common property

266 (1) Land that is held in the name of or on behalf of the strata corporation, but not shown on the strata plan, may not be added to the common property unless it is free of mortgages and other charges referred to in section 263 (1), and one of the following requirements is met:

(a) it shares a common boundary with land in the strata plan;

(b) it is separated only by a highway, dike, stream or right of way from land in the strata plan;

(c) it is separated from the land in the strata plan, but the approving officer is satisfied that the amendment to the strata plan would result in a viable development of benefit to the community.

(2) A strata lot in another strata plan may not be added to the common property under this section.

(3) To add land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, to common property, the strata plan must be amended as follows:

(a) a resolution approving the amendment must be passed by a 3/4 vote at an annual or special general meeting;

(b) an application to amend the strata plan must be made to the registrar accompanied by

(i) a reference or explanatory plan, whichever the registrar requires, that

(A) shows the amendment,

(B) complies, as far as the registrar considers necessary, with sections 244 and 245, and

(C) is in a form required under the *Land Title Act* and the regulations made under that Act for a reference or explanatory plan,

(ii) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) has been passed and that the reference or explanatory plan conforms to the resolution,

(iii) any document required by the registrar to resolve the priority of interests of any holders of registered charges against the land held in the name of or on behalf of the strata corporation, and

(iv) any document required by the registrar to ensure that the land being added to the common property is free of mortgages and charges referred to in section 263 (1).

Registrar's duties on amendment

267 The registrar must, if satisfied that an application and accompanying documents to amend a strata plan comply with this Act and the *Land Title Act* and the regulations made under those Acts,

(a) deposit the reference or explanatory plan,

(b) note the amendment on the strata plan,

(c) make any entry of the amendment that the registrar considers necessary on the common property record,

(d) file the Certificate of Strata Corporation, any certificate of compliance respecting conformity with any applicable municipal or regional district bylaws or Nisga'a Government laws and any Schedule of Unit Entitlement or Schedule of Voting Rights,

(e) register any new indefeasible title and any other registrable document that the registrar has required, and

(f) cancel the title to any land that is being consolidated with other land.

Easements following amendment

268 On the amendment of a strata plan under section 259, 262, 263 or 266, a new or changed strata lot and any new common property created by the plan is subject to the obligation of, and has the benefit of, easements that, immediately before the deposit, affected the land within the strata plan.

Division 2 — Amalgamation

Amalgamation

269 (1) Two or more strata corporations may amalgamate by entering into an amalgamation agreement that contains

(a) the terms and conditions of the amalgamation, and

(b) the bylaws that will apply to the proposed amalgamated strata corporation.

(2) The amalgamating strata corporations must proceed as follows:

(a) a resolution approving the amalgamation agreement must be passed by each of the amalgamating strata corporations by a 3/4 vote at an annual or special general meeting;

(b) an application to amalgamate the strata corporations must be made to the registrar accompanied by

(i) the amalgamation agreement,

(ii) a reference or explanatory plan, whichever the registrar requires, that

(A) consolidates the strata plans into a single strata plan,

(B) complies, as far as the registrar considers necessary, with sections 244 and 245, and

(C) is in a form required under the *Land Title Act* and the regulations made under that Act for a reference or explanatory plan,

(iii) a new Schedule of Unit Entitlement that meets the requirements of section 246, together with evidence of the superintendent's approval if the approval is required,

(iv) if a Schedule of Voting Rights has been filed with the superintendent, a new Schedule of Voting Rights that meets the requirements of section 247

or 248, together with evidence of the superintendent's approval if the approval is required,

(v) a Certificate of Strata Corporation in the prescribed form from each strata corporation, stating that the resolution referred to in paragraph (a) has been passed and that the reference or explanatory plan and the new Schedule of Unit Entitlement and any new Schedule of Voting Rights conform to the amalgamation agreement, and

(vi) any bylaws of the amalgamated strata corporation that differ in any respect from the Standard Bylaws.

Registrar's duties on amalgamation

270 The registrar must, if satisfied that the application and accompanying documents received under section 269 comply with this Act and the *Land Title Act* and the regulations made under those Acts,

- (a) comply with the requirements of section 267,
- (b) endorse on the amalgamation agreement the name of the amalgamated strata corporation,
- (c) file bylaws, if any, for the amalgamated strata corporation, and
- (d) alter the indefeasible titles and amend all relevant plans in whatever way is necessary to give full effect to the amalgamation agreement.

Effect of amalgamation

271 On and after the date the registrar deposits the reference or explanatory plan,

- (a) the amalgamating strata corporations are amalgamated and are continued as one strata corporation under the name endorsed on the amalgamation agreement,
- (b) the amalgamated strata corporation is seized of, and holds and possesses, the property, rights and interests and is subject to the liabilities and obligations of each amalgamating strata corporation,
- (c) the bylaws of the amalgamated strata corporation are the Standard Bylaws except to the extent that different bylaws have been filed with the registrar under section 269, and
- (d) each owner in each amalgamating strata corporation is bound by the terms of the amalgamation agreement.

Part 16 — Cancellation of Strata Plan and Winding Up of Strata Corporation

Division 1 — Voluntary Winding Up Without Liquidator

Vote to cancel strata plan and become tenants in common

272 (1) To apply to the registrar to cancel a strata plan and become tenants in common of

- (a) land shown on the strata plan,
- (b) land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and
- (c) personal property held by or on behalf of the strata corporation,

a resolution must be passed by a unanimous vote at an annual or special general meeting.

(2) The resolution must approve all of the following:

- (a) the cancellation of the strata plan;
- (b) the dissolution of the strata corporation;
- (c) the conversion schedule referred to in section 273;
- (d) the conversion of each owner's interest, in the owner's strata lot and in the common property and common assets of the strata corporation, to an interest as a tenant in common in the shares set out in the conversion schedule in
 - (i) land that was shown on the strata plan immediately before it was cancelled,
 - (ii) land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and
 - (iii) personal property held by or on behalf of the strata corporation.

Conversion schedule

273 (1) The conversion schedule must meet any requirements as to form and content that are required by this Act and the regulations, and must do all of the following:

- (a) state whether the strata corporation holds land in its name, or has land held on its behalf, that is not shown on the strata plan;
- (b) identify land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, by legal description sufficient to allow the registrar to identify it in the records of the land title office;
- (c) list the name and postal address of each owner and registered charge holder of the land;
- (d) list all registered interests in the land
 - (i) as they exist at the time of the resolution, and

(ii) as they will exist if the registrar grants an order and the owners become tenants in common in shares calculated according to the following formula:

$$\frac{\text{most recent assessed value of an owner's strata lot}}{\text{most recent assessed value of all the strata lots in the strata plan, excluding any strata lots held by or on behalf of the strata corporation}}$$

(2) If there is no assessed value for the owner's strata lot or for any strata lot in the strata plan, an appraised value

- (a) that has been determined by an independent appraiser, and
- (b) that is approved by a resolution passed by a 3/4 vote at an annual or special general meeting

may be used in place of the assessed value for the purposes of the formula in subsection (1) (d) (ii).

(3) If a strata corporation has a schedule of interest on destruction that was required under section 4 (g) of the *Condominium Act*, R.S.B.C. 1996, c. 64, or a similar schedule that was required under any former Act, that schedule determines the owner's interests in the land and personal property on the winding up of the strata corporation and for that purpose replaces the formula in subsection (1) (d) (ii).

Application to registrar

274 To cancel a strata plan under section 272, an application, in a form satisfactory to the registrar, must be made to the registrar accompanied by

- (a) the conversion schedule,
- (b) the written consent to the winding up signed by all holders of registered charges against land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan,
- (c) a Certificate of Strata Corporation in the prescribed form stating that
 - (i) the unanimous resolution referred to in section 272 (1) has been passed and the conversion schedule conforms to the resolution, and
 - (ii) the strata corporation has no debts other than debts held by persons who have consented in writing, under paragraph (b), to the winding up of the strata corporation,
- (d) a reference plan, in a form required under the *Land Title Act* and the regulations made under that Act, that shows
 - (i) the land shown on the strata plan, and

(ii) the land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and

(e) any document required by the registrar

(i) to resolve the priority of interests of any registered charges against the land shown on the strata plan or held in the name of or on behalf of the strata corporation, but not shown on the strata plan, or

(ii) to transfer title.

Registrar's order

275 (1) If the registrar is satisfied that the requirements of section 274 are met, the registrar may order that

(a) the strata plan is cancelled, and

(b) land that was shown on the strata plan or held in the name of or on behalf of the strata corporation, but not shown on the strata plan, vests in the owners as tenants in common in the shares set out in the conversion schedule.

(2) An order of the registrar

(a) may be made on terms the registrar considers necessary,

(b) may be made conditional on the creation, enlargement, extension, cancellation or registration of any interest that the registrar considers necessary to give effect to a term of the order, and

(c) may be made without a hearing.

(3) When the order is made, the registrar must

(a) file the order,

(b) register indefeasible titles to the land referred to in the order in accordance with the order, and

(c) give a copy of the order to each owner and registered charge holder shown on the conversion schedule by sending it by registered mail to the address shown on that schedule.

(4) When the order is filed

(a) the strata corporation is dissolved,

(b) the owners are owners, as tenants in common, of

(i) the land in accordance with the titles registered by the registrar, and

- (ii) the personal property in shares equal to their shares of the land as set out in the conversion schedule,
- (c) any encumbrances against each strata lot and the common property are claims against the interest of each owner in the land and interests appurtenant to the land in the strata plan, and have the same priority they had before the registrar's order,
- (d) all claims against the property created after the deposit of the strata plan, other than the encumbrances mentioned in paragraph (c), are extinguished, and
- (e) owners are jointly and individually liable for the debts of the strata corporation to the creditors who do not have claims against the property of the strata corporation.

Division 2 — Voluntary Winding Up With Liquidator

Application of *Business Corporations Act* to voluntary winding up of strata corporation

276 (1) Except as otherwise provided in this Act and the regulations, the provisions of the *Business Corporations Act* that apply to a voluntary liquidation of a company apply to the voluntary winding up of a strata corporation with a liquidator and, for that purpose,

- (a) a reference to “registrar” in the *Business Corporations Act* as it applies for the purposes of this Act must be read as a reference to the registrar as defined in this Act,
- (b) a reference to “commencement of the liquidation” in the *Business Corporations Act* as it applies for the purposes of this Act must be read as a reference to the date on which the unanimous resolution referred to in section 277 of this Act is passed, and
- (c) a requirement in the *Business Corporations Act* as it applies for the purposes of this Act that documents must be filed with the registrar must be read as a requirement that the documents must be filed in the land title office.

(2) Division 10 of Part 10 and section 324 of the *Business Corporations Act* do not apply to the voluntary winding up of a strata corporation with a liquidator.

(3) A person commits an offence who contravenes section 327 (2) or 335 of the *Business Corporations Act* as it applies for the purposes of this Act and sections 428 to 430 of the *Business Corporations Act* apply in relation to those offences.

Disposal of books and papers of strata corporation

276.1 If a strata corporation has been wound up under this Division, the liquidator is responsible for the care and custody of the strata corporation’s records and documents for 2 years after the date of cancellation of the strata plan, but not longer.

Appointment of liquidator

277 (1) To appoint a liquidator to wind up the strata corporation, a resolution to cancel the strata plan and appoint a liquidator must be passed by a unanimous vote at an annual or special general meeting.

(2) A liquidator must have the qualifications of a liquidator that are required by the *Business Corporations Act*.

(3) The resolution must give the name and address of the liquidator and approve all of the following:

- (a) the cancellation of the strata plan;
- (b) the dissolution of the strata corporation;
- (c) the surrender to the liquidator of each owner's interest in
 - (i) land shown on the strata plan,
 - (ii) land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and
 - (iii) personal property held by or on behalf of the strata corporation;
- (d) an estimate of the costs of winding up;
- (e) the interest schedule referred to in section 278.

Interest schedule

278 (1) The interest schedule must meet any requirements as to form and content that are required by this Act and the regulations, and must do all of the following:

- (a) state whether the strata corporation holds land in its name, or has land held on its behalf, that is not shown on the strata plan;
- (b) identify land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, by legal description sufficient to allow the registrar to identify it in the records of the land title office;
- (c) list the name and postal address of each owner;
- (d) list the name, postal address and the estimated value of the interest of each holder of a registered charge against the land;
- (e) list the name, postal address and interest of each creditor of the strata corporation who is not a holder of a registered charge against the land;
- (f) list each owner's share of the proceeds of distribution in accordance with the following formula:

most recent assessed value of an owner's strata lot

most recent assessed value of all the strata lots in the strata plan, excluding any strata lots held by or on behalf of the strata corporation

(2) If there is no assessed value for the owner's strata lot or for any strata lot in the strata plan, an appraised value

(a) that has been determined by an independent appraiser, and

(b) that is approved by a resolution passed by a 3/4 vote at an annual or special general meeting

may be used in place of the assessed value for the purposes of the formula in subsection (1) (f).

(3) If a strata corporation has a schedule of interest on destruction that was required under section 4 (g) of the *Condominium Act*, R.S.B.C. 1996, c. 64, or a similar schedule that was required under any former Act, that schedule determines the owner's share of the proceeds of distribution on the winding up of the strata corporation and for that purpose replaces the formula in subsection (1) (f).

Vesting order

279 (1) Within 30 days of being appointed, the liquidator must apply to the Supreme Court for an order confirming the appointment of the liquidator and vesting in the liquidator

(a) land shown on the strata plan,

(b) land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and

(c) personal property held by or on behalf of the strata corporation

for the purpose of selling the land and personal property and distributing the proceeds as set out in the interest schedule.

(2) The court may grant the order if satisfied that the requirements of section 277 have been met.

Filing vesting order

280 (1) The liquidator must deliver a certified copy of the vesting order under section 279, accompanied by the interest schedule, to the registrar.

(2) The registrar must file the order and interest schedule if satisfied that

(a) the legal description of the land in the interest schedule is sufficient to allow the registrar to identify it in the records of the land title office, and

(b) the liquidator will have a good, safeholding and marketable title to the land.

(3) When the order is filed, the liquidator must notify the owners, registered charge holders and other creditors identified in the interest schedule by registered mail to their addresses given in that schedule.

Effect of filing vesting order

281 When the vesting order is filed

(a) the strata plan is cancelled,

(b) the registrar must register indefeasible title in the name of the liquidator to

(i) the land that was shown on the strata plan immediately before it was cancelled, and

(ii) the land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and

(c) the personal property of the strata corporation vests in the liquidator.

Approval of disposition

282 (1) Before any land or personal property is disposed of, the liquidator must obtain the approval of the disposition by a resolution passed by a 3/4 vote at an annual or special general meeting, or the disposition is void.

(2) The resolution may specify the conditions under which a disposition may be made.

Filing of application for dissolution

283 The registrar must not file the application for dissolution referred to in section 343 (1) of the *Business Corporations Act* as it applies for the purposes of this Act unless that application is accompanied by a Certificate of Strata Corporation in the prescribed form stating that the final accounts referred to in the application have been approved by a resolution passed by a 3/4 vote at an annual or special general meeting.

Division 3 — Court Ordered Winding Up

Application for court order to wind up strata corporation

284 (1) An owner, a mortgagee of a strata lot or any other person the Supreme Court considers appropriate may apply to the Supreme Court for an order winding up the strata corporation.

(2) On application by a person referred to in subsection (1), the court may order that a liquidator be appointed if the court is of the opinion that the winding up would be in the best interests of the owners, registered charge holders and other creditors.

(3) In determining whether the winding up would be in the best interests of the owners, registered charge holders and other creditors, the court must consider

- (a) the scheme and intent of this Act,
- (b) the probability of unfairness to one or more owners, registered charge holders or other creditors, if winding up is not ordered, and
- (c) the probability of confusion and uncertainty in the affairs of the strata corporation or the owners if winding up is not ordered.

Winding up

285 Division 2 applies to a winding up under this Division except that the Supreme Court

- (a) may vary or dispense with any of the provisions in Division 2,
- (b) may impose any conditions and give any directions that it thinks fit for the purpose of the winding up,
- (c) has for the purposes of this Division the powers referred to in section 160, and
- (d) may vary its order.

Division 4 — General

Application

286 This Part applies to bare land strata plans except to the extent set out in the regulations.

Plan cancellation provisions of *Land Title Act* do not apply

287 The plan cancellation provisions of the *Land Title Act* do not apply to a strata plan deposited under this Act.

Delivery of duplicate title

288 (1) A strata plan must not be cancelled unless all of the duplicate indefeasible titles, if any, of the strata lots included in the strata plan have been cancelled under the *Land Title Act* or are deemed to be cancelled under subsection (4).

(2) On application to the registrar to cancel a strata plan, the registrar may, by a written demand to the owner of a strata lot in the strata plan and to anyone to whom a duplicate indefeasible title was issued, require that a duplicate indefeasible title be delivered to the registrar for cancellation.

(3) A person who receives the written demand for the duplicate indefeasible title must deliver it to the registrar within 30 days after receiving the demand.

(4) If the person fails to deliver the duplicate indefeasible title to the registrar as required under subsection (3), the duplicate indefeasible title is deemed to be cancelled and the registrar may cancel the existing indefeasible title.

Priorities must be resolved

289 A strata plan may be cancelled under Division 1 or 2 only if the priorities of all registered charges against the strata lots and the common property, as they are to apply to the land included in the strata plan after the strata plan has been cancelled, have been resolved to the satisfaction of the registrar.

Part 17 — General

Offences

290 An individual who knowingly makes a false statement in a Certificate of Strata Corporation in the prescribed form commits an offence and is liable on conviction to a fine of not more than \$2 000 or to imprisonment for not more than 6 months, or to both.

Application of other laws

291 (1) The *Business Corporations Act* does not apply to a strata corporation except as specifically provided in this Act.

(2) Section 5 of the *Offence Act* does not apply to this Act or to the regulations.

(3) The rule against perpetuities and the *Perpetuity Act* do not apply to an agreement or instrument entered into by a strata corporation.

(4) For the purposes of the *Land (Spouse Protection) Act*, a strata lot is deemed to be land on which a building is located.

Power to make regulations

292 (1) The Lieutenant Governor in Council may make regulations as authorized by section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) respecting a fee, including a maximum fee, for a document supplied by a strata corporation or for a procedure or function required or permitted under this Act;

(b) respecting forms permitted or required under this Act;

(c) respecting the amount to be calculated for the purposes of section 14 (5), 17 (b) or 37 (2);

- (d) specifying the persons whose names and addresses must be provided for the purposes of section 20 (2) (a) (vi);
- (e) regarding a record or information
 - (i) to be given by an owner developer to a strata corporation under section 20,
 - (ii) to be prepared or retained by the strata corporation under section 35, and
 - (iii) to be included in an Information Certificate under section 59;
- (f) specifying the time periods for which records must be retained by a strata corporation;
- (g) respecting the persons who may be proxies, the number of proxies they may hold, the circumstances in which they may be proxies and restrictions on their powers as proxies;
- (h) exempting persons from the requirements of or varying the requirements under section 70 (4);
- (i) respecting a change in the use or appearance of common property or land that is a common asset under section 71;
- (j) identifying common property the repair and maintenance of which may be made the responsibility of an owner under section 72 (2);
- (k) respecting the amount of a lien holdback under section 88 (2);
- (l) providing for the form of and information to be included in depreciation reports, budgets and financial statements;
- (l.1) specifying permitted investments for the purposes of section 95 (2) (a);
- (m) varying the method for calculating a strata lot's share of contributions for the purposes of sections 99, 195 or any other section or varying the method for calculating an owner developer's contribution for the expenses of common facilities under section 227;
- (n) respecting the maximum amount of interest to be paid under a bylaw referred to in section 107 (1);
- (o) respecting the imposition of user fees by a strata corporation under section 110;
- (p) respecting the maximum amount of a fine or the maximum frequency of imposition of fines under section 132;
- (q) respecting the minimum amount of liability insurance under section 150 and the payment of an insurance deductible referred to in section 158;

(r) specifying the criteria for differentiating between different types of strata lots for the purposes of section 191 (2);

(s) respecting the evaluation of the fair market value of a leasehold tenant's interest for the purposes of section 214;

(t) applying or disapplying provisions of the Act to phased strata plans and the phases of phased strata plans, and modifying the operation of provisions of the Act to provide for the orderly administration of phases in a phased strata plan;

(u) respecting strata plans, including their form, content and approval;

(v) respecting the form and content of an endorsement required or permitted under this Act;

(w) respecting the procedure for applications under, exempting persons from the requirements of, setting out matters for the court to consider or varying the requirements under section 246 (7) and (8);

(x) respecting the form and content of a conversion schedule under section 273 (1) and an interest schedule under section 278 (1);

(y) respecting the cancellation of bare land strata plans and, without limitation,

(i) establishing the circumstances under which a bare land strata plan may be cancelled,

(ii) establishing the procedures to be followed in the cancellation of a bare land strata plan, and

(iii) limiting the application of the regulations to bare land strata plans that are created before a prescribed date;

(z) varying a provision of this Act to provide for a different time period or monetary amount than that stated in the Act.

(3) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) defining strata plans to be bare land strata plans;

(b) defining "family" and "family member" for the purposes of section 142;

(c) defining "fixtures" and "major perils" for the purposes of section 149;

(d) defining "public authority" for the purposes of the definition of "leasehold landlord" in section 199;

(e) defining "habitable area" for the purposes of section 246 (4);

- (f) defining any word or expression used but not defined in this Act;
 - (g) respecting the conduct of hearings by arbitrators;
 - (h) respecting the determination of the amount of the annual contribution to the contingency reserve fund under section 93;
 - (i) respecting the circumstances in which a strata corporation may lend money in the contingency reserve fund to the operating fund;
 - (j) respecting all matters that by this Act are required or permitted to be prescribed.
- (4) For surrendered land, the regulations may provide for one or more of the following:
- (a) the registration under the land title legislation of leases of prescribed land if the land has been surrendered under the *Indian Act* (Canada) and is vested in Her Majesty the Queen in right of Canada;
 - (b) the subdivision of all or part of the surrendered land into strata lots by the deposit in a land title office of leasehold strata plans;
 - (c) strata corporations with respect to the surrendered land, including the composition of the strata corporations;
 - (d) related matters, including the rights and obligations of any person or strata corporation.
- (5) For the purposes of subsection (4), the regulations may
- (a) exempt all or part of the surrendered land, any leases and any person or strata corporation from the application of all or part of this Act, and
 - (b) enact additional provisions respecting the surrendered land, any leases and any person or strata corporation even though the additional provisions may be wholly or partially inconsistent with this Act.

Transitional

- 293** (1) Except as otherwise provided by this Act and the regulations, this Act and the regulations apply to a strata plan deposited and a strata corporation created under the *Condominium Act*, R.S.B.C. 1996, c. 64 or any former Act.
- (2) On the coming into force of this subsection, a regulation of a strata corporation is deemed to be a rule and the provisions of this Act that apply to rules apply to regulations made by a strata corporation.
- (3) The coming into force of this Act does not affect the deposit of a strata plan if the application for deposit was made before the coming into force of this Act.

(4) The Lieutenant Governor in Council may make regulations for meeting or removing any difficulty arising out of the transition to this Act from the *Condominium Act*, R.S.B.C. 1996, c. 64, and for that purpose disapplying or varying any provision of this Act.

Sections Spent

294 to 321 [Repeal and consequential amendments. Spent. 1998-43-294 to 321.]

Commencement

322 This Act comes into force by regulation of the Lieutenant Governor in Council.

Schedule of Standard Bylaws

Division 1 — Duties of Owners, Tenants, Occupants and Visitors

Payment of strata fees

1 An owner must pay strata fees on or before the first day of the month to which the strata fees relate.

Repair and maintenance of property by owner

2 (1) An owner must repair and maintain the owner's strata lot, except for repair and maintenance that is the responsibility of the strata corporation under these bylaws.

(2) An owner who has the use of limited common property must repair and maintain it, except for repair and maintenance that is the responsibility of the strata corporation under these bylaws.

Use of property

3 (1) An owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in a way that

- (a) causes a nuisance or hazard to another person,
- (b) causes unreasonable noise,
- (c) unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets or another strata lot,
- (d) is illegal, or
- (e) is contrary to a purpose for which the strata lot or common property is intended as shown expressly or by necessary implication on or by the strata plan.

(2) An owner, tenant, occupant or visitor must not cause damage, other than reasonable wear and tear, to the common property, common assets or those parts of a strata lot

which the strata corporation must repair and maintain under these bylaws or insure under section 149 of the Act.

(3) An owner, tenant, occupant or visitor must ensure that all animals are leashed or otherwise secured when on the common property or on land that is a common asset.

(4) An owner, tenant or occupant must not keep any pets on a strata lot other than one or more of the following:

- (a) a reasonable number of fish or other small aquarium animals;
- (b) a reasonable number of small caged mammals;
- (c) up to 2 caged birds;
- (d) one dog or one cat.

Inform strata corporation

4 (1) Within 2 weeks of becoming an owner, an owner must inform the strata corporation of the owner's name, strata lot number and mailing address outside the strata plan, if any.

(2) On request by the strata corporation, a tenant must inform the strata corporation of his or her name.

Obtain approval before altering a strata lot

5 (1) An owner must obtain the written approval of the strata corporation before making an alteration to a strata lot that involves any of the following:

- (a) the structure of a building;
- (b) the exterior of a building;
- (c) chimneys, stairs, balconies or other things attached to the exterior of a building;
- (d) doors, windows or skylights on the exterior of a building, or that front on the common property;
- (e) fences, railings or similar structures that enclose a patio, balcony or yard;
- (f) common property located within the boundaries of a strata lot;
- (g) those parts of the strata lot which the strata corporation must insure under section 149 of the Act.

(2) The strata corporation must not unreasonably withhold its approval under subsection (1), but may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the alteration.

(3) This section does not apply to a strata lot in a bare land strata plan.

Obtain approval before altering common property

6 (1) An owner must obtain the written approval of the strata corporation before making an alteration to common property, including limited common property, or common assets.

(2) The strata corporation may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the alteration.

Permit entry to strata lot

7 (1) An owner, tenant, occupant or visitor must allow a person authorized by the strata corporation to enter the strata lot

(a) in an emergency, without notice, to ensure safety or prevent significant loss or damage, and

(b) at a reasonable time, on 48 hours' written notice, to inspect, repair or maintain common property, common assets and any portions of a strata lot that are the responsibility of the strata corporation to repair and maintain under these bylaws or insure under section 149 of the Act.

(2) The notice referred to in subsection (1) (b) must include the date and approximate time of entry, and the reason for entry.

Division 2 — Powers and Duties of Strata Corporation

Repair and maintenance of property by strata corporation

8 The strata corporation must repair and maintain all of the following:

(a) common assets of the strata corporation;

(b) common property that has not been designated as limited common property;

(c) limited common property, but the duty to repair and maintain it is restricted to

(i) repair and maintenance that in the ordinary course of events occurs less often than once a year, and

(ii) the following, no matter how often the repair or maintenance ordinarily occurs:

(A) the structure of a building;

(B) the exterior of a building;

(C) chimneys, stairs, balconies and other things attached to the exterior of a building;

(D) doors, windows and skylights on the exterior of a building or that front on the common property;

(E) fences, railings and similar structures that enclose patios, balconies and yards;

(d) a strata lot in a strata plan that is not a bare land strata plan, but the duty to repair and maintain it is restricted to

(i) the structure of a building,

(ii) the exterior of a building,

(iii) chimneys, stairs, balconies and other things attached to the exterior of a building,

(iv) doors, windows and skylights on the exterior of a building or that front on the common property, and

(v) fences, railings and similar structures that enclose patios, balconies and yards.

Division 3 — Council

Council size

9 (1) Subject to subsection (2), the council must have at least 3 and not more than 7 members.

(2) If the strata plan has fewer than 4 strata lots or the strata corporation has fewer than 4 owners, all the owners are on the council.

Council members' terms

10 (1) The term of office of a council member ends at the end of the annual general meeting at which the new council is elected.

(2) A person whose term as council member is ending is eligible for reelection.

(3) to (5) [Repealed 1999-21-51.]

Removing council member

11 (1) Unless all the owners are on the council, the strata corporation may, by a resolution passed by a majority vote at an annual or special general meeting, remove one or more council members.

(2) After removing a council member, the strata corporation must hold an election at the same annual or special general meeting to replace the council member for the remainder of the term.

Replacing council member

- 12** (1) If a council member resigns or is unwilling or unable to act for a period of 2 or more months, the remaining members of the council may appoint a replacement council member for the remainder of the term.
- (2) A replacement council member may be appointed from any person eligible to sit on the council.
- (3) The council may appoint a council member under this section even if the absence of the member being replaced leaves the council without a quorum.
- (4) If all the members of the council resign or are unwilling or unable to act for a period of 2 or more months, persons holding at least 25% of the strata corporation's votes may hold a special general meeting to elect a new council by complying with the provisions of the Act, the regulations and the bylaws respecting the calling and holding of meetings.

Officers

- 13** (1) At the first meeting of the council held after each annual general meeting of the strata corporation, the council must elect, from among its members, a president, a vice president, a secretary and a treasurer.
- (2) A person may hold more than one office at a time, other than the offices of president and vice president.
- (3) The vice president has the powers and duties of the president
 - (a) while the president is absent or is unwilling or unable to act, or
 - (b) for the remainder of the president's term if the president ceases to hold office.
- (4) If an officer other than the president is unwilling or unable to act for a period of 2 or more months, the council members may appoint a replacement officer from among themselves for the remainder of the term.

Calling council meetings

- 14** (1) Any council member may call a council meeting by giving the other council members at least one week's notice of the meeting, specifying the reason for calling the meeting.
- (2) The notice does not have to be in writing.
- (3) A council meeting may be held on less than one week's notice if
 - (a) all council members consent in advance of the meeting, or
 - (b) the meeting is required to deal with an emergency situation, and all council members either

- (i) consent in advance of the meeting, or
- (ii) are unavailable to provide consent after reasonable attempts to contact them.

(4) The council must inform owners about a council meeting as soon as feasible after the meeting has been called.

Requisition of council hearing

15 (1) By application in writing, stating the reason for the request, an owner or tenant may request a hearing at a council meeting.

(2) If a hearing is requested under subsection (1), the council must hold a meeting to hear the applicant within one month of the request.

(3) If the purpose of the hearing is to seek a decision of the council, the council must give the applicant a written decision within one week of the hearing.

Quorum of council

16 (1) A quorum of the council is

- (a) 1, if the council consists of one member,
- (b) 2, if the council consists of 2, 3 or 4 members,
- (c) 3, if the council consists of 5 or 6 members, and
- (d) 4, if the council consists of 7 members.

(2) Council members must be present in person at the council meeting to be counted in establishing quorum.

Council meetings

17 (1) At the option of the council, council meetings may be held by electronic means, so long as all council members and other participants can communicate with each other.

(2) If a council meeting is held by electronic means, council members are deemed to be present in person.

(3) Owners may attend council meetings as observers.

(4) Despite subsection (3), no observers may attend those portions of council meetings that deal with any of the following:

- (a) bylaw contravention hearings under section 135 of the Act;
- (b) rental restriction bylaw exemption hearings under section 144 of the Act;

(c) any other matters if the presence of observers would, in the council's opinion, unreasonably interfere with an individual's privacy.

Voting at council meetings

18 (1) At council meetings, decisions must be made by a majority of council members present in person at the meeting.

(2) Unless there are only 2 strata lots in the strata plan, if there is a tie vote at a council meeting, the president may break the tie by casting a second, deciding vote.

(3) The results of all votes at a council meeting must be recorded in the council meeting minutes.

Council to inform owners of minutes

19 The council must inform owners of the minutes of all council meetings within 2 weeks of the meeting, whether or not the minutes have been approved.

Delegation of council's powers and duties

20 (1) Subject to subsections (2) to (4), the council may delegate some or all of its powers and duties to one or more council members or persons who are not members of the council, and may revoke the delegation.

(2) The council may delegate its spending powers or duties, but only by a resolution that

(a) delegates the authority to make an expenditure of a specific amount for a specific purpose, or

(b) delegates the general authority to make expenditures in accordance with subsection (3).

(3) A delegation of a general authority to make expenditures must

(a) set a maximum amount that may be spent, and

(b) indicate the purposes for which, or the conditions under which, the money may be spent.

(4) The council may not delegate its powers to determine, based on the facts of a particular case,

(a) whether a person has contravened a bylaw or rule,

(b) whether a person should be fined, and the amount of the fine, or

(c) whether a person should be denied access to a recreational facility.

Spending restrictions

21 (1) A person may not spend the strata corporation's money unless the person has been delegated the power to do so in accordance with these bylaws.

(2) Despite subsection (1), a council member may spend the strata corporation's money to repair or replace common property or common assets if the repair or replacement is immediately required to ensure safety or prevent significant loss or damage.

Limitation on liability of council member

22 (1) A council member who acts honestly and in good faith is not personally liable because of anything done or omitted in the exercise or intended exercise of any power or the performance or intended performance of any duty of the council.

(2) Subsection (1) does not affect a council member's liability, as an owner, for a judgment against the strata corporation.

Division 4 — Enforcement of Bylaws and Rules

Maximum fine

23 The strata corporation may fine an owner or tenant a maximum of

(a) \$50 for each contravention of a bylaw, and

(b) \$10 for each contravention of a rule.

Continuing contravention

24 If an activity or lack of activity that constitutes a contravention of a bylaw or rule continues, without interruption, for longer than 7 days, a fine may be imposed every 7 days.

Division 5 — Annual and Special General Meetings

Person to chair meeting

25 (1) Annual and special general meetings must be chaired by the president of the council.

(2) If the president of the council is unwilling or unable to act, the meeting must be chaired by the vice president of the council.

(3) If neither the president nor the vice president of the council chairs the meeting, a chair must be elected by the eligible voters present in person or by proxy from among those persons who are present at the meeting.

Participation by other than eligible voters

26 (1) Tenants and occupants may attend annual and special general meetings, whether or not they are eligible to vote.

(2) Persons who are not eligible to vote, including tenants and occupants, may participate in the discussion at the meeting, but only if permitted to do so by the chair of the meeting.

(3) Persons who are not eligible to vote, including tenants and occupants, must leave the meeting if requested to do so by a resolution passed by a majority vote at the meeting.

Voting

27 (1) At an annual or special general meeting, voting cards must be issued to eligible voters.

(2) At an annual or special general meeting a vote is decided on a show of voting cards, unless an eligible voter requests a precise count.

(3) If a precise count is requested, the chair must decide whether it will be by show of voting cards or by roll call, secret ballot or some other method.

(4) The outcome of each vote, including the number of votes for and against the resolution if a precise count is requested, must be announced by the chair and recorded in the minutes of the meeting.

(5) If there is a tie vote at an annual or special general meeting, the president, or, if the president is absent or unable or unwilling to vote, the vice president, may break the tie by casting a second, deciding vote.

(6) If there are only 2 strata lots in the strata plan, subsection (5) does not apply.

(7) Despite anything in this section, an election of council or any other vote must be held by secret ballot, if the secret ballot is requested by an eligible voter.

Order of business

28 The order of business at annual and special general meetings is as follows:

- (a) certify proxies and corporate representatives and issue voting cards;
- (b) determine that there is a quorum;
- (c) elect a person to chair the meeting, if necessary;
- (d) present to the meeting proof of notice of meeting or waiver of notice;
- (e) approve the agenda;
- (f) approve minutes from the last annual or special general meeting;
- (g) deal with unfinished business;

- (h) receive reports of council activities and decisions since the previous annual general meeting, including reports of committees, if the meeting is an annual general meeting;
- (i) ratify any new rules made by the strata corporation under section 125 of the Act;
- (j) report on insurance coverage in accordance with section 154 of the Act, if the meeting is an annual general meeting;
- (k) approve the budget for the coming year in accordance with section 103 of the Act, if the meeting is an annual general meeting;
- (l) deal with new business, including any matters about which notice has been given under section 45 of the Act;
- (m) elect a council, if the meeting is an annual general meeting;
- (n) terminate the meeting.

Division 6 — Voluntary Dispute Resolution

Voluntary dispute resolution

29 (1) A dispute among owners, tenants, the strata corporation or any combination of them may be referred to a dispute resolution committee by a party to the dispute if

- (a) all the parties to the dispute consent, and
- (b) the dispute involves the Act, the regulations, the bylaws or the rules.

(2) A dispute resolution committee consists of

- (a) one owner or tenant of the strata corporation nominated by each of the disputing parties and one owner or tenant chosen to chair the committee by the persons nominated by the disputing parties, or
- (b) any number of persons consented to, or chosen by a method that is consented to, by all the disputing parties.

(3) The dispute resolution committee must attempt to help the disputing parties to voluntarily end the dispute.

Division 7 — Marketing Activities by Owner Developer

Display lot

30 (1) An owner developer who has an unsold strata lot may carry on sales functions that relate to its sale, including the posting of signs.

(2) An owner developer may use a strata lot, that the owner developer owns or rents, as a display lot for the sale of other strata lots in the strata plan.

PART II

SUBDIVISION AND SUBSIDIARY STRATA LAND-REGISTER

Approval of subdivision under Planning Act

5. The provisions relating to the subdivision of land contained in the Planning Act (Cap. 232) and any rules made thereunder shall apply to the subdivision of any building or any lot.

Authorisation of strata subdivision under notification made by Minister under Planning Act

5A. —(1) Where by reason of any notification made by the Minister under section 21(6) of the Planning Act (Cap. 232) —

(a) the strata subdivision of any building or class of buildings as specified in that notification is authorised; and

(b) the approval by the competent authority of a strata subdivision plan for that building or class of buildings is not required under the Planning Act,

then for the purposes of this Act and any regulations made thereunder, where any thing or matter is required to be done in accordance with or to be ascertained from any strata subdivision plan approved or issued by the competent authority, such requirement shall be deemed to be complied with or satisfied if it is done in accordance with or ascertained from building plans approved by the relevant authority.

(2) For the purposes of subsection (1), the building plans approved by the relevant authority —

(a) shall be endorsed with a certificate by a surveyor who is registered under the Land Surveyors Act (Cap. 156) and has in force a practising certificate issued under that Act certifying that the boundaries of all the strata lots which he has delineated on the approved building plans have been endorsed by the proprietor of the development to be correct and in accordance with what was sold or agreed to be sold by the proprietor; and

(b) shall contain such other certifications and particulars as may be required by the Registrar or the Chief Surveyor.

Dealings with subdivided building

6. —(1) Subject to this section and except in the case where under section 23 of the Land Titles Act (Cap. 157) the Registrar has directed that any building may be dealt with in parts under the provisions of the Registration of Deeds Act (Cap. 269), no assurance (except mortgages, charges, reconveyances or discharges of subsisting mortgages or charges, vesting orders issued by the High Court and any assurance made pursuant to a power of sale conferred by any written law) disposing of any part of a subdivided building shall be registered under the Land Titles Act or the Registration of Deeds Act.

(1A) The Registrar or the Registrar of Deeds, as the case may be, shall have the power to refuse to register that assurance or, where the assurance has been registered in contravention of subsection (1), cancel that registration upon the discovery thereof.

[16/87]

(2) An assurance disposing of any part of a subdivided building may be lodged for registration under the provisions of this Act where —

(a) a strata title plan duly certified in accordance with section 10 together with an application for the issue of subsidiary strata certificates of title has been lodged with the Registrar; and

(b) the Registrar has registered the strata title plan and application lodged under paragraph (a) and has issued the subsidiary strata certificates of title applied for in the application.

(3) This section shall not apply to any building or class of buildings specified by the Minister by notification in the *Gazette*.

(4) Where a notification has been made under subsection (3), the Minister may at any time cancel the notification when the registered proprietor of the land on which the building is erected has, with the approval of the Minister, transferred all the estate and interest in such land to the lessees of the registered leasehold estate of the subdivided parts of the building as tenants-in-common in accordance with the terms and conditions of the leases granted in respect of the subdivided parts of the building.

(5) Subject to sections 125, 126 and 127, this section shall not apply to any building where, on 15th April 1976, a flat forming part of that building has been disposed of by the proprietor thereof by a lease registered under the Land Titles Act (Cap. 157) or the Registration of Deeds Act (Cap. 269), and the registered leasehold interest is vested in any person other than the proprietor.

(6) In this section —

"assurance" includes any transaction to be registered under the Land Titles Act;

"charge" includes a charge referred to in section 21 of the Central Provident Fund Act (Cap. 36);

"Registrar of Deeds" means the Registrar of Deeds appointed under the Registration of Deeds Act.

[16/87]

Flats not to be sold unless schedule of strata units is filed with and accepted by Commissioner

7. —(1) Where planning permission has been granted by the relevant authority in respect of any proposed development of land intended for strata subdivision after the completion of any building thereon, the registered proprietor thereof shall not sell any flat in the development (whether erected or in the course of erection) unless a schedule of strata units showing the proposed share values to be allotted to all the flats in the development has been filed with and accepted by the Commissioner.

[16/87]

(2) A schedule of strata units filed by the registered proprietor of any land under subsection (1) shall not be accepted by the Commissioner for filing unless he is satisfied that the proposed share values allotted to all the flats set out in the schedule are allocated in a just and equitable manner.

(3) Where a schedule of strata units has been filed under subsection (1), the Commissioner shall consult with the Registrar before accepting the schedule for filing under this section.

(4) Where a schedule of strata units has been filed under subsection (1), the Commissioner shall within 6 weeks of the filing of the schedule —

(a) notify the registered proprietor in writing of his acceptance of the schedule; or

(b) where he is not satisfied with the allocation of the share values in the schedule, notify the registered proprietor that the schedule has not been accepted and state his objections to the allocation of the share values in the schedule.

(5) Where a schedule of strata units has been rejected by the Commissioner under subsection (4), the registered proprietor shall file an amended schedule with the Commissioner and subsection (4) shall apply to any amended schedule filed under this subsection.

(6) The share value assigned to a flat in a development that has been sold by the proprietor of the development shall not be changed without the consent of the purchaser except that the purchaser's consent is not required for any minor adjustment to the share value which is necessitated by an increase or shortfall in the area of the flat after it has been surveyed on its completion.

(7) Where a schedule of strata units has been filed under this section, the proprietor of the development may make changes to the areas of the flats that have not been sold provided that the aggregate share value of the development is not changed.

(8) The proprietor of a development shall inform the Commissioner of any proposed changes and of any changes to the common property in the proposed subdivided building and file with the Commissioner an amended schedule of strata units which shall take into account the proposed changes before making such changes.

(9) For the purposes of this section, a developer is deemed to have sold a flat —

(a) if, by an agreement in writing, he has agreed to convey, transfer, assign or otherwise dispose of his estate or interest in the flat to another person for valuable consideration or otherwise; or

(b) if, by any deed or instrument, he has conveyed, assigned or otherwise disposed of his estate or interest in the flat.

(9A) Subsection (9) (a) and (b) shall not apply to an agreement in writing or deed or instrument to grant or assign a leasehold term not exceeding 21 years without an option to renew or to purchase.

(10) Every contract for the sale of a flat referred to in a schedule of strata units filed with the Commissioner under subsection (1) shall be deemed to have included therein a term that the registered proprietor of the land has agreed to sell an undivided share in the land on which the building is erected with a value determined in accordance with the proposed share values assigned to each flat shown in the schedule of strata units filed with and accepted by the Commissioner at any time prior to the execution of the contract for sale.

(11) Any person who contravenes subsection (1), (8) or (15) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[21/99]

(12) A schedule of strata units filed with and accepted by the Commissioner prior to 1st December 1987 shall be deemed to have been filed with and accepted by the Commissioner under subsection (1).

[S 309/87]

(13) An amended schedule of strata units shall not be accepted by the Commissioner for filing purposes unless he is satisfied that the share values allotted to all the flats in a building referred to in the schedule are done so in a just and equitable manner.

(14) Subsection (1) shall not apply where a purchaser has entered into a contract to dispose of a new flat in his proposed development project on the land to —

(a) a subsidiary proprietor of a lot in a strata title plan under section 84A;

(b) a registered proprietor of a flat in a development under section 84D, 84E or 84F;

(c) a registered proprietor of a lot or a flat where the owners of all the lots and flats in the development have agreed to sell their lots or flats to the purchaser; or

(d) a registered proprietor of land (other than a lot or flat) who has agreed to sell the land to the purchaser either by itself or together with the registered proprietors of any adjacent land, before the legal completion of the transfer for the lot, flat or land, as the case may be.

[21/99]

(15) Where a purchaser referred to in subsection (14) has been registered as the proprietor of the lots, flats or land referred to in that subsection and has obtained planning permission from the competent authority in respect of any proposed development of the land intended for strata subdivision after the completion of any building thereon, he shall, within 6 months of obtaining the planning permission, file the schedule of strata units with the Commissioner in accordance with subsection (1) and shall not sell any other flat in the development before the share values are accepted by the Commissioner.

[21/99]

(16) Subsections (2) to (10) and (13) shall apply, with the necessary modifications, to any development referred to in subsection (14), including the modification that subsection (6) shall apply to such a development after the Commissioner has accepted the schedule of strata units filed under subsection (15).

[21/99]

Notification of planning condition on land-register, etc.

8. —(1) Where planning permission has been granted by the competent authority for the development of any land subject to the condition that 30% of the floor area of any building in the development must be owned by a single person for a period of 10 years from the date of the latest temporary occupation licence issued before the grant of the certificate of fitness in respect of the development, the competent authority shall notify the Registrar of such planning permission and file with the Registrar the plans delineating the specified flats in any building comprising the aforesaid 30% of the floor area.

[23/82;16/87]

(2) Where the Registrar has received the notice and plans referred to in subsection (1) and the Registrar is satisfied that the plans adequately identify the flats comprised in the said 30% of the floor area of the development, the Registrar shall —

(a) enter the appropriate notification on the relevant folio of the land-register or subsidiary strata land-register; and

(b) have the power to refuse to register any instrument disposing of any interest in any flat in contravention of the condition referred to in subsection (1) when the instrument is presented for registration.

(3) Where the Registrar has discovered that any instrument has been lodged for registration or has been finally registered in contravention of the condition referred to in subsection (1), the Registrar shall serve a notice in writing on the person who appears in the records of the Registrar as the party claiming under the said instrument of the Registrar's intention to cancel the registration of the instrument and any instrument relating to the flats referred to in subsection (1) and any relating entries in the records maintained by the Registrar.

(4) On the expiration of the Registrar's notice under subsection (3), the Registrar shall without giving any further notice cancel the registration of the instruments referred to in subsection (3) and all entries relating thereto.

(5) The registered proprietor may lodge an application with the Registrar in the approved form for the cancellation of any notification made by the Registrar in the land-register or subsidiary strata land-register under this section and the Registrar shall cancel the notification if he is satisfied that the condition referred to in subsection (1) has been fulfilled.

Registration of strata title plan

9. —(1) The strata title plan shall be deemed to be registered under the provisions of this Act when the plan has been signed and sealed by the Registrar and has been marked with the serial number of the strata title plan register.

(2) The Registrar shall prepare and maintain for the purposes of this Act a series of records to be called "the subsidiary strata land-register", and shall issue for each lot shown on the strata title plan a subsidiary strata certificate of title.

(3) Upon registration of a strata title plan, a subsidiary proprietor shall be deemed to be the proprietor of his lot and his share in the common property subject to the encumbrances, if any, registered or notified in the subsidiary strata land-register and on the strata title plan.

(4) Subject to the provisions of this Act, any assurance or other dealing affecting a lot may be registered in the same manner and form and, upon registration, has the same effect as a similar assurance or dealing affecting part of registered land comprised in a subdivision plan approved by the competent authority, and registered under the provisions of the Land Titles Act (Cap. 157).

Strata title plan and other accompanying documents

10. —(1) Every strata title plan shall include an index plan and a storey plan.

(2) Each index plan shall —

(a) delineate the external surface boundaries and boundary marks of the proposed parcel and the position of each subdivided building thereon fixed in relation to the surface boundaries;

(b) specify the Government survey lot number, Mukim or Town Subdivision of the parcel, the surveyed area thereof, and the certificate of title comprising the parcel;

(c) include a vertical section of the subdivided building showing —

(i) the floors and ceilings of each storey; and

(ii) the height of each storey; and

(d) include a legend, as well as the vertical section and dimensions, of each building or parts thereof proposed to be erected within the parcel as a separate tenement or an extension of any completed subdivided building, in accordance with building plans and subdivision plans, if any, approved by the relevant authority.

(3) Each storey plan shall —

(a) delineate, subject to subsections (5) and (6), one or more proposed lots and define the boundaries thereof by reference to floors and walls;

(b) show the number of every storey and every lot included in the plan;

(c) show the approximate floor area of each lot including any accessory lot and the total floor area of a lot which comprises separate parts as well as the lot number and floor number;

(d) delineate the external boundaries of each building or parts thereof proposed to be erected within the parcel as a separate tenement or an extension of any completed subdivided building or buildings in accordance with building plans and subdivision plans, if any, approved by the relevant authority; and

(e) be drawn to scale.

[23/82]

(4) Each strata title plan shall show a legend of —

(a) all common property; and

(b) all accessory lots and specify therein the lots they are made appurtenant to, irrespective of whether the accessory lots are contiguous to these specified lots.

(5) Where an accessory lot consists of a building or parts thereof and is bounded by external walls, floors and ceilings, the boundaries of such accessory lot shall be shown in the strata title plan in accordance with the requirements of subsections (2) and (3).

[23/82]

(6) Where an accessory lot does not consist of a building or parts thereof —

(a) the external boundaries of the accessory lot shall be ascertained from the building plans and the subdivision plans, if any, approved by the relevant authority, and the accessory lot shall be unlimited in its vertical dimensions except to the extent of any projection above, or encroachment below ground level by another part of the parcel; and

(b) the strata title plan shall show a diagram of the accessory lot with similar dimensions as those shown on the approved plans mentioned in paragraph (a).

(7) Each strata title plan shall —

(a) show the share values in whole numbers of each lot including a provisional lot and a number equal to the aggregate share value entitlement of all the lots including provisional lots and, where planning permission for the erection of the buildings comprising the lots was granted on or after 15th April 1976, the share values shown shall be those filed with and accepted by the Commissioner; and

(b) contain such other particulars as may be prescribed by rules made under this Act.

[23/82;16/87]

(8) Unless otherwise stipulated in the strata title plan, the common boundary on any lot with another lot or with the common property shall be the centre of the floor, wall or ceiling, as the case may be.

(9) No plan lodged as a strata title plan shall be registered unless —

(a) the plan has been endorsed with —

(i) a certificate of a surveyor who is registered under the Land Surveyors Act (Cap. 156) and has in force a practising certificate issued under that Act that all buildings and all lots shown in the strata title plan in relation to the external surface boundaries of the parcel are within the parcel and are in compliance with building plans and subdivision plans, if any, issued by the relevant authority; and

(ii) the certificate of the Chief Surveyor or any other officer duly appointed to approve strata title plans on his behalf that such strata title plan has been approved by or on behalf of the Chief Surveyor and a copy thereof has been lodged with the Authority; and

(b) Deleted by Act 30/2003, wef 10/12/2003.

(c) the share value of each proposed lot has been entered in the plan in compliance with section 30.

[24/91]

(10) No share value shall be allotted to an accessory lot.

[23/82]

Share value not to be changed

11. —(1) Except as provided in this section and in sections 25 (3) (b) and 77 or where a transfer of a lot or part thereof is made under section 27 (1) (b), the share value of any lot shown in a strata title plan registered under this Act shall not be altered in any manner on or after the date of registration of the strata title plan.

[16/87]

(2) The Registrar may correct any entry in a strata title plan in respect of the share value of a lot if he is satisfied that there is an error in the entry.

(3) The court may order the share value of a lot shown in a strata title plan to be amended where the court is satisfied that the value was fraudulently assigned to the lot.

(4) Nothing in this section shall prohibit the alteration of the share value of a lot consequent upon the subdivision of that lot into 2 or more lots or the amalgamation of 2 or more lots.

[S 309/87]

Plan of redevelopment

12. —(1) A subsidiary proprietor of a lot or of 2 or more lots who intends to subdivide his lot or amalgamate his lots may lodge a strata title plan for redevelopment for registration with the Registrar after he has obtained the approval of the relevant authority.

[16/87]

(2) Where the subdivision of a lot or the amalgamation of 2 or more lots results in the creation of any additional or new common property, the subsidiary proprietor shall obtain the approval of the management corporation before lodging the strata title plan for redevelopment with the Registrar.

(3) Section 7 shall apply, with the necessary modifications, to a lot intended for strata subdivision.

(4) The Registrar shall not be concerned to inquire whether a subsidiary proprietor has obtained the approval of the relevant authority or the management corporation under subsection (1) or (2).

(5) Every strata title plan of redevelopment shall —

(a) define the boundaries of the new proposed or enlarged lot or lots;

- (b) specify each proposed new lot or enlarged lot by a new number;
- (c) show the approximate floor area of each lot; and
- (d) show a legend of all proposed new or enlarged lots, specifying which of the new lots are accessory lots, and apportioning thereon among the proposed new lots the value entitlement of the former lot or lots.

[23/82]

(6) On registration of the strata title plan for redevelopment, parts of any lot which are capable of forming the common property as provided under this Act shall form part of the common property in relation to all the lots comprised within the same parcel as described in the strata title plan first registered with the Registrar without the need for a resolution made under section 25 directing the management corporation concerned to accept a transfer of such parts of a lot to form part of the common property.

[23/82]

(7) On registration of the strata title plan for redevelopment, the Registrar shall make the appropriate amendment and entry on the relevant registered strata title plan and on the volume and folio of the subsidiary strata land-register comprising the lot or lots shown in the strata title plan for redevelopment in regard to the share value and lot numbers of the lot or lots affected.

(8) Subject to subsections (1) and (5), section 10 other than subsections (1) and (2) of that section, as well as other provisions of this Act relating to a strata title plan and a lot shall apply to the strata title plan for redevelopment when registered and to any lot shown therein.

[16/87]

Common property

13. —(1) On registration of the strata title plan the Registrar shall enter a memorial in the land-register on the volume and folio of the parcel to the effect that a subsidiary strata land-register has been created, and thereupon the common property shall be held by the subsidiary proprietors as tenants-in-common proportional to their respective share value and for the same term and tenure as their respective lots are held by them.

[16/87]

(2) The Registrar on issuing a subsidiary strata certificate of title for a lot shall certify therein the subsidiary proprietor's share in the common property, but no subsidiary strata certificate of title shall be issued for the common property.

(3) No share in the common property shall be disposed of except as appurtenant to the lot of the subsidiary proprietor and any assurance of a lot operates to assure the share in the common property appurtenant to that lot without any express mention in the assurance.

(4) The duplicate certificate of title comprising the parcel shall be deposited with the Registrar after the issue of the relevant subsidiary strata certificates of title.

[16/87]

Powers of mortgagees of flats brought under this Act

14. Where all the flats in a development have been brought under this Act pursuant to section 50, 51 or 52, which were in force immediately prior to 1st December 1987, or pursuant to section 125, 126 or 127 and subsidiary strata certificates of title have been issued for all the flats, the mortgagee whose mortgage was registered in respect of such a flat either under the Land Titles Act (Cap. 157) or the Registration of Deeds Act (Cap. 269) prior to the issue of a subsidiary strata certificate of title for the flat, shall be deemed —

(a) to be the donee of an irrevocable power of attorney granted by the mortgagor in respect of the mortgagor's estate in the undivided share in the common property appurtenant to the lot comprising the mortgaged flat upon the issue of the subsidiary strata certificate of title; and

(b) to have been vested with all rights and powers as if he is the registered proprietor of the estate in the share of the common property appurtenant to the flat mortgaged by the subsidiary proprietor as and when the mortgagee exercises his powers as mortgagee under the registered mortgage of the flat.

[16/87;S309/87]

Accessory lot

15. —(1) No accessory lot or any share, estate or interest therein shall be dealt with independently of the lot to which such accessory lot has been made appurtenant as shown on the relevant registered strata title plan.

(2) Any person who deals with any accessory lot or any share, estate or interest therein independently and not made as appurtenant to the lot which such accessory lot is shown on the relevant registered strata title plan as being appurtenant shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(3) Any assurance made in contravention of subsection (1) shall not be registered under this Act and any registration thereof shall be null and void and shall not pass any estate or interest in the accessory lot.

(4) Where such assurance has been registered, the Registrar on discovery thereof shall cancel the registration, and no person affected by such cancellation shall be entitled to any compensation from the assurance fund.

PART III

RIGHTS AND OBLIGATIONS OF A SUBSIDIARY PROPRIETOR

Easement of support

16. —(1) In respect of each lot there shall be implied —

(a) in favour of the subsidiary proprietor of the lot, and as appurtenant thereto, an easement for the subjacent and lateral support thereof by the common property and by every lot capable of affording support; and

(b) as against the subsidiary proprietor of the lot, and to which the lot shall be subject, an easement for the subjacent and lateral support of the common property and to every other lot capable of enjoying support.

[16/87]

(2) The easement of support created by this section entitles the subsidiary proprietor of the dominant tenement to enter on the servient tenement to replace, renew or restore any support.

[16/87]

Easement of shelter

17. —(1) Every subsidiary proprietor is entitled to have his lot sheltered by all other parts of the subdivided building that are capable of affording shelter.

[16/87]

(2) The right created by this section is an easement to which the aforesaid parts of the subdivided building are subject.

(3) The easement of shelter created by this section entitles the subsidiary proprietor of the dominant tenement to enter on the servient tenement to replace, renew or restore any shelter.

[16/87]

Easements for passage of water, sewerage, drainage and other services

18. In respect of each lot there shall be implied —

(a) in favour of the subsidiary proprietor of the lot, and as appurtenant thereto, easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts to the extent to which those sewers, pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of the lot; and

(b) as against the subsidiary proprietor of the lot, and to which the lot shall be subject, easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone, radio and television services) through or by means of any sewers, pipes, wires, cables or ducts, as appurtenant to the common property and also to every other lot capable of enjoying such easements.

Easements for light over-hanging eaves and other projections

19. —(1) In respect of each lot and the common property, there shall be implied in favour of the subsidiary proprietor of the dominant tenement and against the subsidiary proprietor of the servient tenement —

(a) easement for uninterrupted access and use of light to or for any windows, doors or other apertures existing and enjoyed at the date of registration of the relevant strata title plan; and

(b) the right to maintain and use over-hanging eaves and other projections existing at the date of registration of the relevant strata title plan.

[16/87]

(2) There shall be implied as appurtenant to the common property and subservient to any lot affected —

(a) an easement for the provision of any service through any installation in any lot; and

(b) an easement for support by any lot capable of providing support.

(3) This section shall also extend to a lot for which a subsidiary strata certificate of title has been issued before 15th April 1976.

[16/87]

Ancillary rights

20. All ancillary rights and obligations reasonably necessary to make easements effective shall be implied whenever easements are created or implied by and under this Act.

Waiver of registration of statutory easements

21. The easements implied or created by this Act take effect and are enforceable without any memorial or notification on the folios of the subsidiary strata land-register and section 97 (5) and (6) of the Land Titles Act (Cap. 157) does not apply to such easements.

Creation of easements and restrictions

22. —(1) The subsidiary proprietors may, by unanimous resolution passed at a meeting of the management corporation, direct the corporation —

(a) to execute on their behalf a grant of easement or a restrictive covenant burdening the parcel; and

(b) to accept on their behalf a grant of easement or a restrictive covenant benefiting the parcel.

(2) The management corporation, if it is satisfied that the resolution was duly passed, and that all persons having registered interests in the parcel have consented in writing to the manner of creating those interests in respect of the registered land comprised in the proposed disposition, shall execute the appropriate instrument and that instrument is valid and effective without any execution by any person having an interest in the parcel.

(2A) The receipt of the management corporation for any moneys payable to the management corporation under the instrument mentioned in subsection (2), is a sufficient discharge and exonerates the person taking under the instrument from seeing to the application or being answerable for any loss or misapplication of the moneys expressed to have been so received.

(3) Every instrument creating the easement or restrictive covenant lodged for registration shall be endorsed with or accompanied by a certificate in the prescribed form under the seal of the management corporation that the resolution was duly passed and that all necessary consents were given, and the certificate in favour of a purchaser and the Registrar shall be conclusive evidence of the facts stated therein.

(4) The Registrar shall register the instrument creating the easement or restrictive covenant by noting it on the registered strata title plan.

Dispositions of common property

23. —(1) The subsidiary proprietors may, by unanimous resolution passed at a general meeting of the management corporation, direct the management corporation to dispose of or transfer —

(a) any part of the common property, being a parcel of land or part thereof;

(b) a part of any building; or

(c) any immovable property affixed to the common property.

[16/87]

(2) The management corporation, if it is satisfied that the resolution was duly passed, and that all persons (other than the subsidiary proprietors) having registered interests in the parcel have consented in writing to the release of those interests in respect of the registered land comprised in the proposed transfer, and that the relevant authority and the Registrar have consented in writing to the proposed transfer so far as it affects subdivision and amalgamation of the land comprised therein, shall execute the appropriate instrument.

(2A) The instrument mentioned in subsection (2) shall be valid and effective without execution by any person having an interest in the common property, and the receipt of the management corporation for any moneys payable to the management corporation under the instrument is a sufficient discharge, and

shall exonerate the purchaser from seeing to the application or being answerable for any loss or misapplication of the moneys expressed to have been so received.

[16/87]

(3) Every instrument of such transfer lodged for registration shall be endorsed with or accompanied by a certificate in the approved form under the seal of the management corporation that the resolution was duly passed and that all necessary consents were given, and the certificate in favour of the purchaser and the Registrar shall be conclusive evidence of the facts stated therein.

(4) Upon registration of the transfer by the Registrar the part of the common property transferred shall be free from such subsisting easements created or implied under this Act and the Registrar shall —

- (a) enter a memorial of the transfer on the folio of the land-register comprising the parcel;
- (b) amend the registered strata title plan in such manner as the Registrar may think fit so as to show thereon the part of the common property which has been transferred; and
- (c) issue to the transferee a certificate of title for the land transferred.

[16/87]

Vesting of part of common property in Government for roads, streets, road reserves, road widening, drainage reserves or for any other public use as shown on plans approved by relevant authority

24. —(1) Where any part of land comprised in the common property of a parcel has been demarcated in any plan approved by the relevant authority for roads, streets, road reserves, road widening and drainage reserves or for any other public use, that part of the common property as demarcated for any of the above purposes shall become vested in the Government upon the lodgment of an instrument of vesting in the approved form by the public authority for registration with the Registrar.

(2) The Registrar, if satisfied that the instrument of vesting relates to part of the common property as shown in the plan approved by the relevant authority for any of the purposes mentioned in subsection (1) and that the instrument has been duly executed and certified by the public authority, shall, notwithstanding that any part of a building within one or more lots is erected on, over or under any part of such common property, register the instrument on the relevant folio of the land-register without production of the duplicate instrument.

(2A) Upon registration under subsection (2) the estate or interest in the part of the common property comprised in the instrument of vesting shall vest in the Government freed and discharged from all encumbrances and from any subsisting easements.

(3) On registration of the instrument of vesting, the Registrar shall cancel the registration of any mortgage, charge or lease thereby overreached and make the appropriate entries in the registered strata title plan comprising the common property.

(4) The land thereby vested in the Government shall cease to be subject to the provisions of the Land Titles Act (Cap. 157) and the Registrar shall enter an appropriate notification to that effect on the relevant folio of the land-register, and create a new folio for the balance of the common property which remains vested in the subsidiary proprietors.

Addition to common property

25. —(1) The subsidiary proprietors may by a special resolution at a meeting convened by the management corporation direct the management corporation to accept a transfer —

(a) of any land or part thereof, free from any encumbrances (except those created by statute and subsisting easements) so that such land or part thereof shall form part of the common property in favour of the subsidiary proprietors; or

(b) of any lot, including the undivided share in the common property appurtenant to that lot, free from any encumbrances (except those created by statute and subsisting easements) so that such lot shall form part of the common property in favour of the subsidiary proprietors of the other lots shown in the same registered strata title plan; except that the prior approval in writing of the relevant authority and the Registrar shall be obtained for the transfer of any lot for this purpose.

(2) The transfer lodged for registration shall contain a request to the Registrar that such land or part thereof, or the lot transferred, as the case may be, be included as part of the common property.

(3) Upon registration of such transfer the Registrar shall —

(a) enter a memorial of the transfer on the folio of the land-register and the registered strata title plan comprising the parcel;

- (b) amend the registered strata title plan in such manner as the Registrar may think fit so as to show thereon the transferred land or part thereof or the lot transferred as forming part of the common property;
 - (c) in the case where the lot is transferred, delete the share value of that lot shown on the registered strata title plan and decrease the total number of share value equal to the aggregate share entitlement by amending such aggregate number shown on the registered strata title plan; and
 - (d) upon such amendment being made the Registrar shall notify the Commissioner of the aggregate share entitlement and the consequent share entitlement of each subsidiary proprietor.
- (4) Upon registration of the transfer by the Registrar —
- (a) the transferred land or the transferred lot, as the case may be, shall form part of the common property and the provisions of the Act applicable to common property as varied by this section shall apply to such transferred land or lot;
 - (b) the subsidiary proprietors shall hold the common property (including the transferred land or lot) as tenants-in-common in accordance with their respective share units as determined under subsection (3); and
 - (c) without any further assurance the subsidiary proprietors shall hold the common property in the following manner:
 - (i) where the tenure of the transferred land is similar to that of the common property held by the subsidiary proprietors prior to the date of the registration of the transfer of such land, the subsidiary proprietors shall hold the common property (including the transferred land) for the same term and tenure as tenants-in-common in the manner as provided in paragraph (b);
 - (ii) where the tenure of the transferred land is not similar to that of the common property held by the subsidiary proprietors prior to the date of the registration of the transfer of such land, the subsidiary proprietors shall hold the entire term and tenure transferred to and accepted by the management corporation on behalf of the subsidiary proprietors as tenants-in-common in the manner as provided in paragraph (b);
 - (iii) where a lot is transferred, the term and tenure of that lot which comprises the additional common property shall be held for the same term and tenure as that of the lots held by the subsidiary proprietors prior to the date of the registration of the transfer; and
 - (iv) if there is a subsisting registered mortgage, charge, lease or sub-lease or any other encumbrance on the lot of a subsidiary proprietor, the undivided share or shares in the transferred land or transferred lot forming the additional common property shall be held by the subsidiary proprietor of the said lot subject to the same mortgage, charge, lease or sub-lease or any other such subsisting encumbrance.

[23/82]

Amalgamation of whole of common property comprised in 2 or more parcels

26. —(1) Where there are 2 or more management corporations established upon the registration of separate strata title plans by the Registrar, the subsidiary proprietors being members of these management corporations (referred to in this section as the transferor management corporations) may by their respective special resolutions at the meetings convened by the transferor management corporations direct that for the purpose of amalgamating the common property within the parcels which are of the same tenure and held by them as tenants-in-common in undivided shares, the relevant transferor management corporations shall execute an instrument of transfer of these parcels so that such parcels shall become vested as one parcel in all the subsidiary proprietors as tenants-in-common in so far as these parcels affect the common property.

(1A) Upon registration of the instrument of transfer, such common property shall be amalgamated and held in the shares proportionate to their respective share units subject to the same covenants, conditions and encumbrances, and for the same term and tenure then held by the subsidiary proprietors in respect of their respective lots prior to the date of the registration of the transfer by the Registrar.

(2) Such transfer shall show the undivided proportionate shares to be held by each subsidiary proprietor named therein and shall be executed by the relevant transferor management corporations.

(3) The procedure laid down in section 23 (2), (2A), (3) and (4) shall apply, with the necessary modifications, to the transferor management corporations and the subsidiary proprietors of the parcels to be amalgamated under this section.

(4) Upon the amalgamation of the common property pursuant to the registration of the transfer by the Registrar —

- (a) the transferor management corporations shall be amalgamated into a single management corporation (referred to in this section as the transferee management corporation) which shall be responsible for all matters relating to the management of the subdivided buildings and the common property relating thereto;
- (b) all the members of the transferor management corporations shall be the members of the transferee management corporation;
- (c) all the members of the management councils of the transferor management corporations shall, until a new management council is elected for the transferee management corporation, be deemed to be the members of the management council of the transferee management corporation;
- (d) all the properties of the transferor management corporations shall be deemed to be transferred to and vested in, and all the liabilities of the transferor management corporations shall be transferred to and become the liabilities of, the transferee management corporation; and
- (e) all legal proceedings pending by or against the transferor management corporations may be continued by or against the transferee management corporation.

(5) In this section —

"liabilities" includes duties;

"properties" includes rights and powers of every description.

Application made by subsidiary proprietor to court

27. —(1) Notwithstanding sections 23, 25 and 26, a subsidiary proprietor may make an application to the court for an order to direct the management corporation or management corporations to —

- (a) transfer a part of the common property;
- (b) accept a transfer of any land or part thereof or any lot so that the land or part thereof or lot shall form part of the common property; or
- (c) amalgamate the common property of 2 or more management corporations.

(2) When an application has been made to the court under subsection (1), the court, on being satisfied that it is impracticable to convene a meeting to pass the required resolution and that having regard to the rights and interests of the subsidiary proprietors and the persons having registered interests in the common property as a whole it is just and equitable that —

- (a) the transfer of the part of the common property should be made;
 - (b) any land or part thereof or lot should form part of the common property; or
 - (c) the common property of 2 or more management corporations should be amalgamated,
- may make an order directing the management corporation or management corporations to transfer such part of the common property, accept the transfer of the land or part thereof or lot, or execute an instrument of transfer of 2 or more parcels so that such parcels shall become vested as one parcel in all the subsidiary proprietors as tenants-in-common in so far as these parcels affect the common property, as the case may be, and lodge the transfer with the Registrar.

(3) Every instrument of such transfer or acceptance of a transfer lodged for registration shall be accompanied by a certified true copy of the order of court directing such transfer or acceptance of a transfer and where the approval of the competent authority is required for any subdivision and amalgamation of any land or common property, a true copy of the approval given by the competent authority shall be lodged with such instrument.

[23/82]

(4) Upon the registration of the transfer by the Registrar —

- (a) in the case of a disposition of all or part of the common property, all subsidiary proprietors and other persons having registered interests in the common property shall be bound to accept the terms of the order of court and section 23 (4) shall apply, with the necessary modifications, to such transfer;
- (b) in the case of an addition to the common property, section 25 (3) and (4) shall apply, with the necessary modifications, to such transfer; and
- (c) in the case of the amalgamation of the common property of 2 or more management corporations, section 23 (4) and section 26 (2), (4) and (5) shall apply, with the necessary modifications, to such amalgamation.

Limitation Act not to extend to common property

28. No action shall be brought by any person claiming title by adverse possession to the common property of a parcel or to any accessory lot or any part thereof created under this Act and the

provisions of the Limitation Act (Cap. 163) relating to adverse possession shall not extend to such common property and accessory lot.

Unity of seisin not to affect easements, etc.

29. Unity of seisin in 2 or more lots does not destroy easements or restrictions implied or created by this Part, but on the cessation of such unity they continue in full force and effect as if the seisin had never been united.

Share values

30. —(1) Each lot including a provisional lot (except an accessory lot where no share value shall be allotted) shown in every plan lodged for registration as a strata title plan shall have its share value determined as shown in the strata title plan.

[16/87]

(2) The share value of a lot shall determine —

(a) the voting rights of the subsidiary proprietors;

(b) the quantum of the undivided share of each subsidiary proprietor in the common property; and

(c) the amount of contributions levied by a management corporation on the subsidiary proprietors of all the lots in a subdivided building.

[16/87]

Provisional lots

31. —(1) No assurance of any provisional lot for which a subsidiary strata certificate of title is issued shall be registered under this Act and the Registrar shall enter an appropriate caution on the relevant subsidiary strata certificate of title prohibiting any assurance of the provisional lot comprised therein from being registered.

[23/82]

(2) Where an assurance of any provisional lot has been registered, such registration shall not pass any title or interest in the said provisional lot, and the Registrar shall, on discovery of the registration, cancel the registration, and no person affected by such cancellation shall be entitled to any compensation from the assurance fund.

(3) The subsidiary proprietor of a provisional lot shall be required to lodge the relevant duplicate subsidiary strata certificate of title and an application with the Registrar for the cancellation of the Registrar's caution referred to in subsection (1) immediately after the relevant authority has certified to the effect that all buildings within the provisional lot have been completed to the satisfaction of the relevant authority.

(4) The Registrar, after receipt of the application lodged for cancellation of the Registrar's caution referred to in subsection (1) and being satisfied that all buildings within the provisional lot have been completed to the satisfaction of the relevant authority, shall cancel the caution endorsed on the subsidiary strata certificate of title and make the appropriate deletion of the word "provisional" wherever it appears as relating to that provisional lot in the records maintained by the Registrar, and thereupon that provisional lot shall constitute a lot under this Act.

(5) Where the word "provisional" has been deleted by the Registrar under subsection (4), any part of the lot which is capable of forming part of the common property comprised within the same parcel as shown in the strata title plan which was first registered with the Registrar shall form part of the common property in relation to all the lots comprised within the same parcel as described in the strata title plan registered with the Registrar without the need for a resolution made under section 25 directing the management corporation concerned to accept a transfer of such part of the lot to form part of the common property.

(6) Except as provided in subsections (1), (2) and (3), the provisions of this Act relating to a lot shall apply in all respects to a provisional lot.

(7) For the purposes of this section, "assurance" shall not include any mortgage or charge or any application for vesting made under this Act.

[16/87]

Restrictions on subsidiary proprietor's rights

32. Any term or condition contained in a lease, granted in respect of a lot (whether created before, on or after 15th April 1976) creating a leasehold interest of a term of not less than 21 years computed as from the date of the lodgment of the lease with the Registrar, which seeks to deprive or deny the lessee under the lease of his rights to exercise the powers conferred upon him by this Act as the subsidiary

proprietor of the lot relating to the management of the subdivided building and the common property shall have no effect.

[16/87]

PART IV

MANAGEMENT OF SUBDIVIDED BUILDING

Division 1 — Management Corporations

Constitution of management corporations

33. —(1) The subsidiary proprietors from time to time of the lots in a subdivided building comprised in a strata title plan shall, by virtue of this Act, upon registration of the strata title plan —

(a) constitute a body corporate capable of suing and being sued and having perpetual succession and a common seal; and

(b) be called “The Management Corporation — Strata Title Plan No. ____” (the number to be specified being the registered number of the strata title plan).

[16/87]

(2) The management corporation may —

(a) sue and be sued on any contract made by it;

(b) sue and be sued in respect of any matter affecting the common property;

(c) sue in respect of any loss or damage suffered by a management corporation arising out of a contract or otherwise; and

(d) be sued in respect of any matter connected with the parcel for which the subsidiary proprietors are jointly liable.

(3) In respect of any subdivided building or buildings comprised in a strata title plan, the management corporation concerned shall have the powers, duties and functions conferred or imposed on it by or under this Act, or by the by-laws and, subject to this Act, shall have the control, management and administration of the common property.

(4) The Registrar may upon payment of the prescribed fee issue to a management corporation a certificate stating that the management corporation is a body corporate constituted under this Act on the day specified therein.

(5) Nothing in this section shall be construed as prohibiting a management corporation from adding the name of the subdivided building to its official name.

(6) In this section, “subsidiary proprietors” includes the persons entitled to the land on which the subdivided building is erected pursuant to the termination of the strata subdivision scheme under section 78 or 81.

[16/87]

Duties of proprietor

34. Upon the establishment of the management corporation, the proprietor shall —

(a) forthwith open a bank account in the name of the management corporation and shall pay into the account any surplus moneys in the maintenance fund set up by the proprietor under section 9 of the Buildings and Common Property (Maintenance and Management) Act (Cap. 30) for the maintenance of the subdivided building and the common property prior to the establishment of the management corporation; and

(b) cause to be kept such accounting and other records as will sufficiently explain the transactions and financial position of the management corporation and enable true and fair profit and loss accounts and balance-sheets and any documents required to be attached thereto to be prepared for the period commencing from the date of registration of the strata title plan and ending on a date not earlier than 3 months before the first annual general meeting and shall cause those records to be kept in such manner as to enable them to be conveniently and properly audited.

[16/87]

Contributions payable by subsidiary proprietors

35. —(1) Where the first annual general meeting of a management corporation has not yet been

convened, the subsidiary proprietor of each of the lots in the subdivided building concerned shall, commencing from the date of the registration of the strata title plan, pay to the management corporation any sum which has been approved by the Commissioner as the amount payable for the maintenance of the subdivided building and the common property.

(2) The sum referred to in subsection (1) shall be deemed to be the amount determined by the management corporation as the contributions payable by the subsidiary proprietors to the management fund of the management corporation.

[16/87]

Common seal of management corporation

36. —(1) The common seal of a management corporation shall be kept —

(a) where the management corporation is constituted by one subsidiary proprietor -- by that subsidiary proprietor; or

(b) where the management corporation is constituted by 2 or more subsidiary proprietors — by such subsidiary proprietor or member of the council as the management corporation determines or, in the absence of any such determination, by the secretary of the council.

[16/87]

(2) The common seal of a management corporation shall only be affixed to an instrument or document in the presence of —

(a) where the management corporation is constituted by one or 2 subsidiary proprietors — that subsidiary proprietor or those subsidiary proprietors, as the case may be; or

(b) where the management corporation is constituted by more than 2 subsidiary proprietors — such 2 persons, being subsidiary proprietors or members of the council, as the management corporation determines or, in the absence of any such determination — the secretary and any other member of the council,

who shall sign the instrument to which the seal is affixed.

[16/87]

Meetings of management corporation

37. —(1) Within one month of the expiry of the initial period or within 6 weeks of the receipt of a request in writing made by the subsidiary proprietors of not less than 10% of the total number of lots in the subdivided building concerned, whichever is the earlier, the proprietor, whether or not he is a subsidiary proprietor at the time he does so, shall convene a meeting of the management corporation within that month or the said period of 6 weeks, as the case may be.

[16/87]

(2) The agenda for a meeting convened under subsection (1) shall consist of the following items:

(a) to decide whether insurances effected by the management corporation should be varied or extended;

(b) to determine the amount to be raised for the management fund and the sinking fund;

(c) where there are more than 3 subsidiary proprietors, to determine the number of members of the council and to elect the council;

(d) to decide what matters, if any, shall be determined only by the management corporation in general meeting;

(e) to appoint a managing agent, if the management corporation so desires, and to determine which powers, duties or functions of the management corporation should be delegated to him; and

(f) to receive and, if thought fit, to adopt the audited accounts of the management corporation for the period commencing from the date of registration of the strata title plan and ending on a date not earlier than 3 months before the meeting.

(3) The meeting convened under subsection (1) shall be the first annual general meeting of the management corporation.

(4) The proprietor of the land comprised in a strata title plan shall deliver to the management corporation at its first annual general meeting —

(a) all plans, specifications, certificates (other than certificates of title for the lots), diagrams and other documents obtained or received by him and relating to the parcel or building; and

(b) if they are in his possession or under his control, any notices or other records relating to the subdivided building,

other than any such documents which exclusively evidence rights or obligations of the proprietor and which are not capable of being used for the benefit of the management corporation or any of the subsidiary proprietors, other than the proprietor.

(5) If a meeting of the management corporation is not convened in accordance with subsection (1), the Commissioner may, pursuant to an application made by a subsidiary proprietor or a mortgagee of a lot, by order appoint a person to convene a meeting of the management corporation within such time as may be specified in the order and the meeting convened by that person shall for the purposes of subsection (3) be deemed to be the meeting convened under subsection (1).

(6) An order made under subsection (5) may include such ancillary or consequential provisions as the Commissioner thinks fit.

(7) Notwithstanding the provisions of the Third Schedule, where an order made under subsection (5) so provides —

(a) the person appointed to convene a meeting of the management corporation by the order shall preside at the meeting and, while he so presides, shall be deemed to be the chairman of the management corporation; and

(b) notice of that meeting may be given in the manner specified in the order.

(8) Any person who fails to comply with subsection (1) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day during which the offence continues after conviction.

[16/87]

Annual general meetings

38. —(1) After the first annual general meeting has been held, a general meeting of a management corporation, to be called the annual general meeting, shall be held in each calendar year and not more than 15 months after the holding of the last preceding annual general meeting.

[16/87]

(2) If default is made in holding an annual general meeting the management corporation and every member of the council who is in default shall be guilty of an offence.

[16/87]

Convening of extraordinary general meeting on requisition

39. —(1) The council of a management corporation shall, on receipt by the secretary of the management corporation of a requisition for an extraordinary general meeting signed by —

(a) one or more persons entitled to vote in respect of one or more lots, the share value or the sum of the share value of which is at least 20% of the aggregate share value of all the lots in the subdivided building; or

(b) not less than 25% of the total number of subsidiary proprietors of the lots in the subdivided building,

forthwith proceed to convene an extraordinary general meeting of the management corporation to be held as soon as practicable but in any case not later than 6 weeks after the receipt by the secretary of the requisition.

[16/87]

(2) The requisition shall state the objects of the meeting and shall be signed by the requisitionists and deposited at the registered address of the management corporation, and may consist of several documents in like form each signed by one or more requisitionist.

(3) If the council does not within 14 days after the date of the deposit of the requisition proceed to convene a meeting, the requisitionists, or any one of them representing more than 50% of the total voting rights of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the council, convene a meeting, but any meeting so convened shall not be held after the expiration of 3 months from that date.

(4) Any reasonable expenses incurred by the requisitionists by reason of the failure of the council to convene a meeting shall be paid to the requisitionists by the management corporation.

[16/87]

Voting at general meetings

40. The Third Schedule shall have effect with respect to general meetings of, and voting at the general meetings of, a management corporation except that paragraph 2 (1) thereof shall not apply to the first annual general meeting.

By-laws for regulation of subdivided building

41. —(1) Every subdivided building shown in a strata title plan shall be regulated by by-laws which shall provide for the control, management, administration, use and enjoyment of the lots and the common property.

- (2) The by-laws shall include the by-laws set out in the First Schedule which shall not be amended or revoked by the management corporation.
- (3) A management corporation may, under a special resolution, make by-laws, not inconsistent with the by-laws set out in the First Schedule, for regulating the control, management, administration, use and enjoyment of the subdivided building and the common property.
- (4) Without limiting the operation of any other provision of this Act, the by-laws for the time being in force bind the management corporation and the subsidiary proprietors and any mortgagee in possession (whether by himself or any other person), or lessee or occupier, of a lot or part thereof to the same extent as if the by-laws had been contained in properly executed agreements on the part of —
- (a) the management corporation with each subsidiary proprietor, mortgagee, lessee and occupier of a lot or part thereof, respectively; and
- (b) each subsidiary proprietor, mortgagee, lessee and occupier of a lot or part thereof with the subsidiary proprietor, mortgagee, lessee or occupier of the other lots in the same parcel, to observe and comply with all the by-laws.
- (5) A lease of a lot or part thereof shall be deemed to contain an agreement by the lessee that he will comply with the by-laws for the time being in force.
- (6) The management corporation shall —
- (a) keep a record of the by-laws in force from time to time;
- (b) display a copy of the by-laws in the First Schedule and any other by-laws made by the management corporation on a notice board maintained by the management corporation on the common property;
- (c) on receipt of an application in writing made by a subsidiary proprietor or by a person duly authorised to apply on behalf of a subsidiary proprietor for a copy of the by-laws which are in force, supply to such subsidiary proprietor or duly authorised person at a reasonable cost a copy of the by-laws; and
- (d) on the application of any person who satisfies the management corporation that he has a proper interest in so applying, make the by-laws available for his inspection.
- (7) No by-law shall be capable of operating —
- (a) to prohibit or restrict the devolution of a lot or a transfer, lease, mortgage or other dealing of a lot; or
- (b) to destroy or modify any easement expressly or impliedly created by or under this Act.
- (8) Without limiting the generality of any other provision of this section, a management corporation may —
- (a) with the consent in writing of the subsidiary proprietor of a lot, pursuant to a unanimous resolution, make a by-law in respect of that lot conferring on that subsidiary proprietor the exclusive use and enjoyment of, or special privileges in respect of, the common property or any part thereof upon such terms and conditions (including the proper maintaining and keeping in a state of good and serviceable repair of the common property or that part of the common property, as the case may be, and the payment of money by that subsidiary proprietor to the management corporation) as may be specified in the by-law; and
- (b) pursuant to a unanimous resolution, make a by-law amending, adding to or revoking any by-law made under this subsection.
- (9) Any by-law referred to in subsection (8) shall, while it remains in force, take effect as appurtenant to, and for the benefit of, the lot in respect of which it was made.
- (10) The subsidiary proprietor for the time being of a lot in respect of which a by-law referred to in subsection (8) is in force —
- (a) shall, subject to section 54 (3), be liable to pay the management corporation any moneys referred to in the by-law in accordance with the by-law; and

(b) shall, unless excused by the by-law, be responsible for the performance of the duties of the management corporation under section 48 (1) in respect of the common property, or the part of the common property, to which the by-law relates.

(11) Any moneys payable by a subsidiary proprietor to the management corporation under a by-law referred to in subsection (8) may be recovered as a debt by the management corporation in any court of competent jurisdiction.

(12) A copy of every by-law made by the management corporation and every modification or amendment of any by-law for the time being in force, certified as a true copy under the seal of the management corporation, shall be lodged by the management corporation with the Commissioner within 30 days of the passing of the resolution by the management corporation approving the making of such by-law or any modification or amendment of any existing by-law.

(13) Any by-law, and any modification or amendment of any existing by-law, made by the management corporation shall not come into force until a copy thereof has been lodged with the Commissioner.

(14) The management corporation or the subsidiary proprietor, mortgagee in possession, lessee or occupier of a lot shall be entitled to apply to the court —

(a) for an order to enforce the performance of or restrain the breach of any by-law by; or

(b) to recover damages for any loss or injury to person or property arising out of the breach of any by-law from,

any person bound to comply therewith, the management corporation or the managing agent.

(15) The court may make such order against any such person, the management corporation or the members of its council, or the managing agent, as the court thinks fit.

(16) Any person who commits a breach of any of the by-laws in Part II of the First Schedule or makes default in complying with any of those by-laws, and every subsidiary proprietor who is knowingly a party to the breach or default, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

(17) In this section, "lease" includes a tenancy agreement.

[16/87]

Levies by management corporation

42. —(1) A management corporation may levy the contributions determined by it in accordance with section 48 (1) (*m*) and (*n*) and the contributions referred to in section 48 (1) (*r*) by serving on the subsidiary proprietors notice in writing of the contributions payable by them in respect of their respective lots.

[16/87]

(2) Contributions levied by a management corporation shall be levied in respect of each lot and shall, subject to subsections (3), (5) and (6), be payable by the subsidiary proprietors in shares proportional to the share value of their respective lots.

(3) Where a lot is shown on the strata title plan as a provisional lot, the contributions payable by the subsidiary proprietor of that lot shall, during the period when any building in that lot is being erected or is not yet completed, be reduced by 75%.

(4) For the purposes of subsection (3), a building in a provisional lot shall be deemed to be completed when a temporary occupation licence has been issued by the competent authority for any flat in the building.

(5) Where a lot has been subdivided into 2 or more lots and the management corporation will incur additional expenditure in maintaining the new facilities or common property arising from the subdivision of the first-mentioned lot, the management corporation may levy such additional contributions as may be approved by the Commissioner on the subsidiary proprietor or his successors in title in order to recover the additional expenditure.

[S 309/87]

(6) Where any change of use in respect of a lot has been approved by the competent authority, the management corporation may levy such additional contributions as may be approved by the Commissioner on the subsidiary proprietor of that lot.

[S 309/87]

(7) The Commissioner shall give a subsidiary proprietor an opportunity of being heard before giving his approval for any additional contributions to be levied under subsection (5) or (6).

(8) In respect of any contribution levied under subsection (1), (5) or (6) and the interest thereon, a subsidiary proprietor of a lot shall, subject to section 54 (3), be liable jointly and severally with any person who was liable to pay that contribution and interest when the contribution became due and payable, to pay the contribution and interest to the management corporation.

(8A) A person who has ceased to be a subsidiary proprietor of the lot shall only be liable to pay the contribution which was unpaid at the time he ceased to be a subsidiary proprietor and the interest accruing on the unpaid contribution until such time as it is paid.

(9) Without affecting the liability of the subsidiary proprietor of a lot in respect of any contribution levied under this section, where a mortgagee is in possession (whether by himself or any other person) of a lot, he shall be liable jointly and severally with the subsidiary proprietor of the lot which he is in possession for any contribution levied on that subsidiary proprietor in accordance with this Act but shall not be so liable in respect of any such contribution unless notice in writing of the levy of the contribution has been served on him.

(10) Any contribution levied under this section —

(a) shall become due and payable to the management corporation without any deduction whatsoever in accordance with the decision of the management corporation to make the levy;

(b) if not paid within 30 days when it becomes due and payable, shall bear interest at the rate determined by the management corporation and such interest shall accrue from the expiry of 30 days after the date when the contribution becomes due and payable unless the management corporation determines in general meeting (either generally or in a particular case) that any unpaid contribution shall bear no interest; and

(c) may be recovered, as a debt, by the management corporation in any court of competent jurisdiction.

(10A) Any interest paid under subsection (10) shall form part of the fund to which the contribution belongs.

(11) Where any contribution and interest thereon levied under this section is not paid within 30 days when it becomes due and payable, the management corporation may serve a written demand on a subsidiary proprietor of the lot in respect of which the contribution is levied.

(12) A subsidiary proprietor who fails to pay any contribution or interest due and owing to a management corporation within 14 days from the date of service of the written demand referred to in subsection (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 and to a further fine not exceeding \$100 for every day during which the contribution or interest remains unpaid after conviction.

(12A) The court before which such conviction is had may, in addition to such fine, order the subsidiary proprietor to pay to the management corporation the amount of any contribution together with any interest due thereon or any interest certified by the management corporation to be due from such person at the date of his conviction and such amount may be recovered according to any written law for the time being in force for the recovery of fines.

(13) Any contribution levied by a management corporation under this section shall be deemed to be money payable under a contract for the provision of services and a management corporation may lodge a claim for the payment of such contribution with a Small Claims Tribunal in accordance with the provisions of the Small Claims Tribunals Act (Cap. 308).

(14) For the purposes of this section, “subsidiary proprietor” includes —

(a) a mortgagee in possession and the person for the time being receiving the rent of the lot, whether as agent or trustee or as receiver, or who would receive the rent if the lot were let to a tenant; and

(b) the person whose name is included in the Valuation List referred to in the Property Tax Act (Cap. 254) as the owner of the lot for the purposes of that Act.

[16/87]

Recovery of contribution from sale of lot

43. —(1) Where —

(a) any contribution is levied under section 42; or

(b) an amount is recoverable by the management corporation from the subsidiary proprietor of a lot under section 45,

and such contribution or amount remains unpaid on the expiry of a period of 30 days after the management corporation has served a written demand for the contribution or amount, that contribution

or amount including any interest thereon (if any) shall constitute a charge on the lot in favour of the management corporation upon lodgment of an instrument of charge by the management corporation with and the registration thereof by the Registrar.

[16/87]

(2) Upon registration of the instrument of charge by the Registrar —

(a) the management corporation shall, subject to subsection (3), have the power of sale and all other powers relating or incidental thereto as if such management corporation is a registered mortgagee; and
(b) the contribution or amount due (including interest thereon) shall be subject to all statutory charges of any public authority over the lot and to all encumbrances registered or notified prior to the date of lodgment of that instrument of charge except that in the case where a prior registered mortgagee or chargee has sold the lot in exercise of his power of sale, the registered charge of the estate or interest of the lot when transferred to a purchaser by the mortgagee or chargee shall not be over-reached by the exercise of the power of sale by the mortgagee or chargee of a prior registered mortgage or charge.

(3) The management corporation shall not proceed to sell the lot under subsection (2) (a) unless —

(a) a special resolution has been passed by the management corporation to have the lot sold;
(b) a notice of the intended sale has been published once in one or more daily newspapers approved by the Registrar;

(c) during the period of 6 weeks after the date of such publication no payment has been received for the contribution or amount due including interest thereon and the cost of publication specified in paragraph (b) as well as any other necessary incidental charges; and

(d) there is no legal action pending in court to restrain the management corporation from proceeding with the sale.

(4) Where a transfer of any lot has been made by the management corporation in the exercise of its power of sale as a chargee under subsections (2) and (3) and lodged with the Registrar for registration —

(a) such transfer shall not be accepted for registration unless there has been lodged with the Registrar —

(i) a certified true copy of the special resolution of the management corporation authorising the exercise of its power of sale with the seal of the management corporation affixed thereto in the presence of 2 members of the council of the management corporation;

(ii) a copy of every publication containing the notice referred to in subsection (3) (b); and

(iii) a statutory declaration made by the members of the council of the management corporation referred to in sub-paragraph (i) jointly stating that the contribution and interest due thereon including all necessary incidental charges owing to the management corporation as at the date of the contract for the sale of the lot have not been paid and that there is no legal action pending in court to restrain the management corporation from proceeding with the sale of the lot; and

(b) neither the person who purchased the lot from the management corporation nor the Registrar shall be concerned to inquire into the regularity or validity of the sale or transfer.

(5) Where the management corporation has wrongfully exercised its power of sale without having verified that the contributions and interest thereon subject to the statutory charge are still outstanding, every member of the council of the management corporation who voted in favour of the special resolution which was passed for the purpose of exercising the power of sale shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) Where an instrument of charge has been registered against a lot under this section, the subsidiary proprietor of the lot shall —

(a) upon payment of the amount of the contribution or amount due including interest thereon and any necessary incidental charges to the management corporation before it has exercised its power of sale conferred by this section, be entitled to an instrument of discharge executed and acknowledged by the management corporation as to the receipt of such payment; and

(b) upon registration of the instrument of discharge or, in the event of the management corporation refusing to execute a discharge, an order of court declaring that the lot shall be discharged from the charge, the lot shall be freed from the charge constituted under this section.

(7) For the purpose of registration of a charge, discharge or transfer under this section, the Registrar may dispense with the production of the relevant duplicate subsidiary strata certificate of title.

(8) Notwithstanding section 80 of the Land Titles Act (Cap. 157) and section 15 of the Registration of Deeds Act (Cap. 269), where further contributions and interest thereon are due to the management corporation after the registration of an instrument of charge under this section, the amount of contributions due (including interest thereon) shall rank in priority to any other claims as if the contributions were due at the date of the registration of the charge.

(9) A charge under subsection (2) shall continue in force until all the contributions (including interest thereon) secured by the charge have been paid.

(10) This section shall not affect the rights and powers conferred on the management corporation by sections 42 (7) and 45 to recover the contribution or amount due and all interest thereon including any legal costs and incidental charges necessarily incurred for the recovery of the contribution or amount in respect of any lot as a debt from the subsidiary proprietor of, or his successor in title to, the lot.

[16/87;S309/87]

(11) In this section, “public authority” means the Government, the Collector of Land Revenue, the Comptroller of Property Tax, and any other person, corporation or body, authorised or empowered by any written law to attach, sell or acquire land compulsorily.

Liability of members for debts of management corporation

44. —(1) The payment of any expenditure lawfully incurred by the management corporation in the course of the exercise of any of its powers or functions or the carrying out of its duties or obligations shall, by virtue of this section, be guaranteed by the persons who, for the time being and from time to time, are the members of the management corporation.

(2) The subsidiary proprietor of a lot shall be liable only to pay the amount which he would have to pay if contributions were levied by the management corporation under section 42 to raise the necessary sum for the payment of the expenditure.

[16/87]

Power of management corporation to carry out work

45. —(1) Where a notice has been served on the subsidiary proprietor of a lot by a public authority requiring that subsidiary proprietor to carry out any work on or in relation to that lot and the notice is not complied with, the management corporation may carry out the work.

[16/87]

(2) Where a subsidiary proprietor, mortgagee in possession, lessee or occupier of a lot fails or neglects to carry out any work —

(a) required to be carried out by him under a term or condition of a by-law referred to in section 41 (8);

(b) necessary to remedy a breach of the duty imposed on him by section 57 (a); or

(c) to rectify any defect in any water pipe, sewer pipe within his lot or any cracks in the wall or floor within his lot,

the management corporation may carry out that work.

(3) Where the management corporation carries out any work on or in relation to a lot or common property under subsection (1) or (2), it may recover the cost of so doing, as a debt —

(a) from the subsidiary proprietor, mortgagee in possession, lessee or occupier referred to in subsection (1) or (2); or

(b) where the work is carried out —

(i) under subsection (1) or (2) (b), from any person who, after the work is carried out, becomes the subsidiary proprietor of the lot on or in relation to which the work was carried out; or

(ii) under subsection (2) (a), from any person who, after the work is carried out, becomes the subsidiary proprietor of the lot in respect of which the by-law referred to in subsection (2) (a) was made.

(3A) Where an order made under Part VI has not been complied with, the management corporation may carry out any work specified in the order and recover from the person against whom the order was made the cost of so doing as a debt in a court of competent jurisdiction.

[21/99]

(4) Where —

(a) any part of a building comprised in a lot contains any structural defect which affects or is likely to affect the support or shelter provided by that lot for another lot in that building or the common property; or

(b) any defect occurs in any pipes, wires, cables or ducts referred to in section 57 (a) (ii) within a lot,

and the defect is not due to any breach of the duty imposed on any person by section 57 (a), the management corporation shall carry out such work as is necessary to rectify the defect and may recover the cost of such work from any person who has a duty to remedy the defect as a debt in any court of competent jurisdiction.

[21/99]

(5) Where the management corporation incurs any expenditure or performs any repairs, works or acts that it is required or authorised by this Part or by any other written law to perform (whether or not the expenditure was incurred or the repairs, works or acts were performed consequent upon the service on it by any Government or statutory authority of any notice or order) and the expenditure or the repairs, works or acts were rendered necessary by reason of any wilful or negligent act or omission on the part of, or breach of any provision of its by-laws by, any person or his tenant, lessee, licensee or invitee, the amount of that expenditure expended by it in performing the repairs, works or acts shall be recoverable by it from that person as a debt in an action in any court of competent jurisdiction.

[16/87]

Change of management corporation's address

46. —(1) A management corporation may, in general meeting, decide that the address, as shown on the records maintained by the Registrar, for the service of notices on the management corporation shall be changed.

[16/87]

(2) Where a management corporation has, under subsection (1), decided that the address for the service of notices on it shall be changed, the management corporation shall forthwith notify the Registrar and the Commissioner of the change and the Registrar shall amend the registered strata title plan accordingly.

[16/87]

Agreement for payment to subsidiary proprietor of consideration on transfer or lease of common property

47. A management corporation may, pursuant to a unanimous resolution, make an agreement with a subsidiary proprietor with respect to the payment to him of the whole or any part of the consideration under any transaction proposed to be entered into by the management corporation under Part III or under a by-law referred to in section 41 (8).

[16/87]

Duties of management corporation

48. —(1) A management corporation shall, for the purposes of the subdivided building concerned —

(a) control, manage and administer the common property for the benefit of all the subsidiary proprietors;

(b) properly maintain and keep it in a state of good and serviceable repair —

(i) the common property; and

(ii) any property vested in the management corporation;

(c) where necessary, renew or replace any fixtures or fittings comprised in the common property and any property vested in the management corporation;

(d) when so directed by a special resolution, install or provide additional facilities or make improvements to the common property for the benefit of the subsidiary proprietors;

(e) effect insurance in accordance with this Act;

(f) comply with any notice or order made by any competent authority, public authority or statutory authority requiring the abatement of any nuisance on the common property or ordering repairs or other work to be done in respect of the common property or any building or other improvement on the parcel;

(g) comply with any such notice or order as is referred to in paragraph (f) given or made in respect of any of the lots, if the subsidiary proprietor fails to do so within a reasonable time;

(h) pay the rent, if any, on the land on which the subdivided building is erected;

(i) cause proper records to be kept of notices given to the management corporation under this Act or any written law or of any orders made by a court and served on the management corporation;

(j) cause proper books of account to be kept in respect of moneys received or expended by the management corporation showing the items in respect of which the moneys were received or expended;

- (k) cause to be prepared, from the books referred to in paragraph (j), a proper statement of accounts of the management corporation in respect of each period commencing on the date of registration of the strata title plan or the date up to which the last previous such statement was prepared and ending on a date not earlier than 3 months before each annual general meeting;
- (l) convene annual general meetings in accordance with the Third Schedule;
- (m) from time to time determine in general meeting the amounts necessary in its opinion to be raised by way of contributions for the purpose of meeting its actual or expected liabilities —
 - (i) incurred or to be incurred under paragraph (a), (b), (c) or (d);
 - (ii) for the payment of insurance premiums; and
 - (iii) for any other expenditure of the management corporation;
- (n) from time to time determine in general meeting the amounts necessary in its opinion to be raised by way of contributions for the purpose of meeting its actual or expected liabilities —
 - (i) for painting or repainting any part of the common property which is a building or other structure;
 - (ii) for the renewal or replacement of any electrical and mechanical installations existing for common use or purposes;
 - (iii) for major repairs and improvements to, and maintenance of, the common property and boundary walls; and
 - (iv) for any other expenditure approved by the management corporation in general meeting;
- (o) upon determining the amounts referred to in paragraph (m), establish a management fund into which shall be paid those amounts, the proceeds of the sale or disposal of any personal property of the management corporation and any income received by it and any amount paid to the management corporation by way of discharge of insurance claims;
- (p) upon determining the amounts referred to in paragraph (n), establish a sinking fund into which shall be paid those amounts and any amount paid to the management corporation by way of discharge of insurance claims unless the latter amount has been paid into the management fund;
- (q) from time to time, levy, in accordance with section 42, on each person liable therefor a contribution to raise the amounts referred to in paragraphs (m) and (n);
- (r) if the management corporation —
 - (i) becomes liable to pay any moneys that it is unable to pay forthwith; and
 - (ii) is not required, under paragraph (q), to levy contributions to meet the liability, forthwith levy, in accordance with section 42, contributions to raise those moneys; and
- (s) implement the decisions of the management corporation.

[16/87]

- (2) A management corporation shall not disburse any moneys —
 - (a) from its management fund, otherwise than for the purpose of meeting its liabilities referred to in subsection (1) (m) or (n);
 - (b) from its sinking fund, otherwise than for the purpose of meeting its liabilities referred to in subsection (1) (n); and
 - (c) from its management fund or sinking fund otherwise than for the purpose of carrying out its powers, duties and functions under this Act or the by-laws.
- (3) A determination made by a management corporation under subsection (1) (m) or (n) may specify that the amounts to be raised for the purposes referred to in those paragraphs shall be raised by such regular periodic contributions as may be specified in the determination.

[16/87]

Power of entry

- 49.** —(1) For the purpose of carrying out —
- (a) any work under section 45 (1), (2), (4) or (5);
 - (b) any work required to be carried out by a management corporation —
 - (i) by a notice served on it by a public authority or statutory board; or
 - (ii) by an order of the Commissioner;
 - (c) any work referred to in section 48 (1) (b), (c) or (d);
 - (d) any work necessary to repair or renew any pipes, wires, cables or ducts referred to in section 57 (a) (ii); or

(e) any investigation or work required to be carried out by a management corporation under any order made by a Board under section 103, the management corporation may, by its employees or agents, enter upon any lot or part of the parcel for the purpose of investigating or carrying out the work in the case of an emergency, at any time, or, in any other case, at any reasonable time after giving notice to any occupier of that lot or part of the parcel.

[16/87;21/99]

(2) A person who obstructs or hinders a management corporation in the exercise of its power under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

[16/87]

Miscellaneous powers of management corporation

50. A management corporation may —

- (a) subject to the regulations made under this Act, invest any moneys in its management fund and in its sinking fund in any manner permitted by law for the investment of trust funds;
- (b) borrow moneys and secure the repayment thereof and of any interest in such manner as may be agreed upon by the management corporation and the lender, otherwise than by charging the repayment on the common property;
- (c) enter into an agreement with a subsidiary proprietor or occupier of a lot for the provision of amenities or services by it to the lot or to the subsidiary proprietor or occupier thereof;
- (d) purchase, hire or otherwise acquire personal property for use by the subsidiary proprietors in connection with their enjoyment of the common property; and
- (e) do all things reasonably necessary for the performance of its duties under this Part and for the enforcement of the by-laws set out in the First Schedule.

[16/87]

Statutory restrictions on powers of management corporation

51. —(1) Notwithstanding any other provision of this Act, a management corporation shall not, during the initial period —

- (a) amend, add to or revoke the by-laws in such a manner that a right is conferred or an obligation is imposed on one or more, but not all, subsidiary proprietors or in respect of one or more, but not all, lots;
 - (b) alter any common property forming part of the subdivided building or erect any structure on the common property;
 - (c) grant an easement or a restrictive covenant burdening the parcel;
 - (d) execute a transfer of any part of the common property under section 23 or confer on any person the exclusive right to use and enjoy the common property;
 - (e) make any contract which confers upon any person the right to use, occupy, control or manage any part of the common property for a period extending beyond the expiration of the initial period;
 - (f) borrow moneys or give securities; or
 - (g) appoint a managing agent to hold office as such for a period extending beyond the expiration of the initial period,
- unless the doing of that thing is authorised by an order made under section 52.

[16/87]

(2) Any contract for the supply of services relating to the maintenance of a subdivided building made by a management corporation during the initial period shall be deemed to have contained a provision therein that the contract may be terminated forthwith by notice in writing given by the management corporation to the other party thereto without payment of any damage, fee or other compensation.

(3) Without affecting any other remedy available against the proprietor, if a management corporation contravenes subsection (1) —

- (a) the proprietor shall be liable for any loss suffered by the management corporation or any subsidiary proprietor as a result of the contravention; and
- (b) the management corporation or any subsidiary proprietor may recover from the proprietor, as damages for breach of statutory duty, any loss suffered by it or him, unless —
 - (i) the contravention occurred without the knowledge of the proprietor;

- (ii) the proprietor was not in a position to influence the conduct of the management corporation in relation to the contravention; and
- (iii) the proprietor, being in such a position, used all due diligence to prevent the contravention.

[16/87]

Commissioner's power to authorise certain acts during initial period

52. —(1) The Commissioner may, on an application made by a management corporation, make an order authorising the doing of anything referred to in section 51.

[16/87]

(2) Notice of an application under subsection (1) shall be served, in accordance with the regulations made under this Act, on —

(a) the subsidiary proprietor of every lot in the subdivided building concerned, unless he is the applicant;

(b) the registered mortgagee of every such lot; and

(c) such other persons as the Commissioner may direct.

(3) The applicant and any person referred to in subsection (2) (whether or not he has been served with a notice of the application) shall be entitled to appear and be heard on the hearing of the application.

(4) The Commissioner shall not make an order under this section unless he is satisfied that the order will serve the interests of the subsidiary proprietors or those persons having equitable interests in the lots.

[16/87]

Strata roll

53. —(1) A management corporation shall prepare and maintain a strata roll in accordance with this section.

(2) The strata roll shall be kept in the form of a book (either bound or loose-leaf) which shall contain one or more pages in respect of each lot in the subdivided building.

(3) The management corporation shall record the following information on a page of the strata roll relating to the lot to which the information relates:

(a) the share value of the lot, as shown on the schedule of strata units filed with the Commissioner under section 7;

(b) the name and address of the subsidiary proprietor, as shown on the folio of the subsidiary strata land-register comprising the lot upon registration of the strata title plan and the name of and address for the service of the notices on the subsidiary proprietor of that lot as shown in notices given to the management corporation under section 59 (2) or (3);

(c) the name of any mortgagee of the lot notice of whose mortgage has been given to the management corporation under section 59 (4), the address for the service of notices on him as shown in that notice and any other mortgages which are specified in that notice as having priority over his mortgage;

(d) the name of the representative of any company which is the subsidiary proprietor or mortgagee of the lot as shown in notices given to the management corporation for the purposes of section 59 (10);

(e) the discharge, transfer, assignment or sub-mortgage of any mortgage referred to in paragraph (c), as shown in a notice given to the management corporation under section 59 (5) or (6) and, except in the case of a discharge, the address for the service of notices on the transferee, assignee or sub-mortgagee as shown in that notice;

(f) the date of entry into possession of the lot by a mortgagee as shown in a notice given to the management corporation under section 59 (7); and

(g) the address for the service of notices on any person as shown in a notice given to the management corporation under section 59 (1).

(4) The management corporation shall record and maintain in the strata roll a copy of the by-laws for the time being in force with respect to the subdivided building.

Supply of information and certificates by management corporation

54. —(1) A management corporation shall, upon application made to it in writing in respect of a lot the subject of the subdivided building concerned by a subsidiary proprietor or mortgagee or prospective purchaser or mortgagee of that lot or by a person authorised in writing by such a subsidiary proprietor or mortgagee and on payment of the prescribed fee, do any one or more of the following things as are required of it in the application:

- (a) inform the applicant of the name and address of the chairman, secretary and treasurer of the management corporation and of any person who has been appointed under section 68 as managing agent;
- (b) make available for inspection by the applicant or his agent —
 - (i) the strata roll;
 - (ii) the notices and orders referred to in section 48 (1) (i);
 - (iii) the plans, specifications, certificates, diagrams and other documents delivered under section 37 (4);
 - (iv) the minutes of general meetings of the management corporation and of the council;
 - (v) the books of account of the management corporation;
 - (vi) a copy of the statement of accounts of the management corporation last prepared by the management corporation in accordance with section 48 (1) (k);
 - (vii) every current policy of insurance effected by the management corporation and the receipt for the premium last paid in respect of each such policy; and
 - (viii) any other record or document in the custody or under the control of the management corporation, at such time and place as may be agreed upon by the applicant or his agent and the management corporation and, failing agreement, at the subdivided building at a time and on a date fixed by the management corporation under subsection (2);
- (c) certify, as at the date of the certificate, in respect of the lot in respect of which the application is made —
 - (i) the amount of any regular periodic contributions determined by the management corporation under section 48 (1) (m) and (n) and the periods in respect of which those contributions are payable;
 - (ii) whether there is any amount unpaid of any contribution determined under section 48 (1) (m) and (n) and, if so, the amount thereof and the date on which any such contribution was levied;
 - (iii) whether there is any amount unpaid of any contribution levied under section 42 and, if so, the amount thereof and the date on which it was levied;
 - (iv) whether there is any amount recoverable from the subsidiary proprietor of that lot under section 45 and, if so, the amount thereof;
 - (v) any interest payable under section 42 (9) (b) in respect of any unpaid contribution referred to in that subsection; and
 - (vi) whether the management corporation has received a copy of any application or order of the Board made under section 84A.

[16/87;21/99]

(2) Where an applicant and a management corporation fail to reach an agreement referred to in subsection (1) (b) within 7 days after the receipt of the application by the management corporation, the management corporation shall forthwith send by post to the applicant a notice fixing a time, specified in the notice, between 9 a.m. and 6 p.m. on a date so specified, being a date not later than 21 days after the receipt of the application by the management corporation for the making of the inspection referred to in that subsection.

(3) In favour of a donee of, or a person taking for valuable consideration, an estate or interest in any lot, a certificate given under subsection (1) (c) by a management corporation in respect of that lot shall be conclusive evidence, as at the date of the certificate, of the matters stated therein.

(4) A management corporation which fails to provide the information referred to in subsection (1) (a) and a certificate referred to in subsection (1) (c) within 14 days after receipt by it of the application for the information or the certificate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(5) A person entitled to inspect a document made available under subsection (1) (b) may take extracts from, or make a copy of, the document but may not, without the consent of the management corporation, remove the document from the custody of the management corporation for the purpose of inspecting the document, taking extracts therefrom or making a copy thereof.

[16/87]

Management corporation to display notice, etc.

55. The management corporation shall —

- (a) display at a conspicuous place within the common property a notice showing the name of the management corporation and its address for the service of notices; and

(b) cause to be constructed and maintained at or near the street alignment of the parcel a receptacle suitable for the receipt of mail or other documents with the name of the management corporation clearly shown thereon.

[16/87]

Accounts of management corporation to be audited

56. —(1) At least once in each year the accounts of a management corporation shall be examined by an auditor who shall state in his report whether the accounts are in his opinion properly drawn up so as to give a true and fair view of the income and expenditure of the management corporation and of the management corporation's affairs.

[16/87]

(2) The auditor shall be appointed at each annual general meeting of the management corporation and shall hold office until the conclusion of the next annual general meeting of the management corporation.

(3) At any time before the first annual general meeting of a management corporation, the council of the management corporation shall appoint the auditor of the management corporation and any auditor so appointed shall hold office until the conclusion of the first annual general meeting.

(4) No person shall be appointed as an auditor of a management corporation unless he is an approved company auditor under the Companies Act (Cap. 50).

(5) A management corporation shall permit the Commissioner or any person authorised by him to act on his behalf, at all reasonable times, full and free access to its accounting and other records and permit the Commissioner or such person to make copies of or make extracts from any such accounting or other records.

(6) The Commissioner may exempt any management corporation of a subdivided building which has not more than 10 lots from the requirements of this section on such terms and conditions as the Commissioner may determine.

(7) This section shall not apply to a management corporation —

(a) of a subdivided building with not more than 4 lots; or

(b) in respect of a financial year if during the entire duration of that financial year there are not more than 4 subsidiary proprietors.

[16/87]

Division 2 — Subsidiary Proprietors and other Occupiers of Lots

Duties of subsidiary proprietors and other occupiers of lots

57. A subsidiary proprietor, mortgagee in possession (whether by himself or any other person), lessee or occupier of a lot shall not —

(a) do anything or permit anything to be done on or in relation to that lot so that —

(i) any support or shelter provided by that lot for another lot or common property is interfered with; or

(ii) the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being in the lot is interfered with;

(b) use or enjoy that lot, or permit that lot to be used or enjoyed, in such a manner or for such a purpose as to cause a nuisance or hazard to the occupier of any other lot (whether that person is a subsidiary proprietor or not); or

(c) use or enjoy the common property in such a manner or for such a purpose as to interfere unreasonably with the use or enjoyment of the common property by the occupier of any other lot (whether that person is a subsidiary proprietor or not) or by any other person entitled to the use and enjoyment of the common property.

Power for individuals to act for companies which are subsidiary proprietors and mortgagees of lots

58. —(1) A company may, and shall be deemed always to have been able to, authorise an individual to exercise or perform on its behalf any power, duty or function conferred by this Act on the company as subsidiary proprietor or mortgagee of a lot and may revoke the authority of any individual so authorised.

[16/87]

(2) Where an individual exercises or performs a power, duty or function that he is authorised by a subsidiary proprietor or mortgagee of a lot, under subsection (1) to exercise or perform, the power, duty or function shall be deemed to be exercised or performed by the subsidiary proprietor or mortgagee, as the case may be, of the lot.

(3) Nothing in subsection (1) or (2) shall affect any liability or obligation imposed under this Act on a corporation which is a subsidiary proprietor or mortgagee of a lot.

(4) A document under the seal of a subsidiary proprietor which is a company purporting to be an authorisation or a revocation of such an authorisation under subsection (1) is admissible in evidence and shall, unless the contrary is proved, be deemed to be such an authorisation or revocation, as the case may be.

[16/87]

Notices to be given by subsidiary proprietors and mortgagees

59. —(1) A subsidiary proprietor or any person who, under this section, has given to the management corporation notice of an address for the service of notices on him shall give notice in writing to the management corporation of any change of address for service of notices on him.

[16/87]

(2) Upon the delivery of a transfer of an estate or interest in a lot pursuant to completion of a sale of that lot by its registered subsidiary proprietor to the purchaser or his nominee, or by way of gift to a donee, the registered subsidiary proprietor shall within 10 days thereof give to the management corporation written notice of the transfer which shall identify the lot and —

(a) specify the name of the transferee in full and an address within Singapore for service of notices on the transferee and the date of delivery of the transfer; and

(b) bear a certification by the transferee or his solicitor of the accuracy of the information contained in the notice.

(3) Where the subsidiary proprietor of a lot fails to comply with a notice given by the management corporation under subsection (8) requiring him to give a notice under subsection (2), the transferee under the transfer may give to the management corporation written notice of the transfer which shall identify the lot and specify the name of the transferee in full and an address within Singapore for service of notices on the transferee and the date upon which the transfer was executed.

(4) After the delivery to a mortgagee of an executed mortgage of a lot, the mortgagee may give to the management corporation written notice of the mortgage which shall identify the lot and —

(a) specify the name of the mortgagee in full and an address within Singapore for the service of notices on the mortgagee and the date on which the mortgage was so delivered;

(b) specify any mortgages of the lot which have priority over the mortgage referred to in the notice; and

(c) bear written confirmation by the mortgagor of the accuracy of the information contained in the notice.

(5) After the delivery to a mortgagor of a discharge of a mortgage of a lot or a discharge of a sub-mortgage of a mortgage of a lot, the mortgagor may give to the management corporation written notice of the discharge which shall identify the lot and the mortgage that has been discharged and —

(a) specify the date on which the discharge was so delivered; and

(b) bear written confirmation by the mortgagee of the discharge of the mortgage.

(6) After the delivery by a mortgagee of a dealing, being a transfer or sub-mortgage of a lot, the transferee or sub-mortgagee may give to the management corporation written notice of the dealing which shall identify the lot and —

(a) specify the name of the transferee or sub-mortgagee in full and an address within Singapore for service of notices on the transferee or sub-mortgagee and the date on which the transfer or sub-mortgage was so delivered; and

(b) bear written confirmation by the transferor or sub-mortgagor of the information contained in the notice.

(7) After the entry into possession of a lot by a mortgagee, the mortgagee shall give to the management corporation written notice which shall identify the lot and specify the date on which he entered into possession.

(8) Where a management corporation has reason to believe that a person is required under this section to give a notice to it and the management corporation has not received that notice, the management corporation may serve a notice on that person specifying the capacity in which it believes he is obliged to give the notice and requiring him —

- (a) to state within 14 days whether or not he is a person obliged to give a notice in that capacity; and
- (b) if he is such a person, to give that notice.

(9) Where a management corporation has served a notice under subsection (8) on a person whom it believes to be a person entitled to give a notice to the management corporation under this section and that person has not complied with the first-mentioned notice, that person shall not be entitled to cast a vote at any general meeting of the management corporation until he has complied with the first-mentioned notice.

(10) A vote cast at a general meeting of a management corporation by or on behalf of a subsidiary proprietor who is a company shall have no effect unless the management corporation has received a notice in writing specifying the representative of that subsidiary proprietor.

(11) A notice referred to in subsection (10) may be included in any other notice that the subsidiary proprietor to which it relates or any other person is entitled under this section to give to the management corporation.

[16/87]

Division 3 — Council

Council of management corporation

60. —(1) Subject to this section, every management corporation shall have a council which shall consist of such number of members as may be determined by the management corporation in general meeting but the total number of members shall not exceed 14.

[16/87]

(2) The members of the council shall be elected at each annual general meeting.

(3) Where —

- (a) the first annual general meeting has not yet been held; or
- (b) there are not more than 3 subsidiary proprietors,

the council shall consist of each subsidiary proprietor, if any, who is an individual and the nominee of each subsidiary proprietor, if any, who is a company.

(4) The members of the council shall retire from office at the conclusion of the next annual general meeting of the management corporation and a retiring member of the council shall be eligible for re-election.

(5) A person shall not be eligible for election as a member of the council unless he is —

- (a) an individual who is a subsidiary proprietor;
- (b) an individual who is nominated for election by a subsidiary proprietor who is a company; or
- (c) a member of the immediate family of a subsidiary proprietor who is nominated for election by that subsidiary proprietor who is not a candidate for election.

(6) A person who is a co-subsiary proprietor of a lot may not be a candidate for election as a member of the council if another co-subsiary proprietor of that lot is a candidate or has nominated another person for election.

(7) A subsidiary proprietor who owns 2 or more lots in a subdivided building and is a candidate or has nominated an individual as a candidate for election as a member of a council shall not be entitled to nominate any other individual for election as a member of a council.

(8) Where there is no council of a management corporation, the subdivided building shall be administered by the management corporation but nothing in this subsection shall prevent a managing agent appointed under this Act from exercising or performing any powers, duties or functions conferred or imposed upon him.

(9) The Second Schedule shall have effect with respect to the proceedings of the council.

[16/87]

Vacation of office of member of council

61. —(1) A person who is a member of a council shall vacate his office as such a member —

- (a) if, where he was a subsidiary proprietor at the time of his appointment or election, he ceases to be a subsidiary proprietor;
 - (b) if, where he was the nominee of a subsidiary proprietor, the subsidiary proprietor who nominated him —
 - (i) ceases to be a subsidiary proprietor; or
 - (ii) notifies the management corporation in writing that his office as a member of the council is vacated;
 - (c) if he fails to attend 3 consecutive meetings of the council;
 - (d) upon the receipt by the management corporation from him of notice in writing of his resignation as a member of the council;
 - (e) upon the election of the members of the council at the next annual general meeting following his election as a member of the council;
 - (f) where he is a member under section 60 (3), upon the election of the members of the council at a general meeting; or
 - (g) if the management corporation by ordinary resolution removes him from his office.
- (2) Upon the occurrence of a vacancy in the office of a member of a council, otherwise than by reason of subsection (1) (e) or (f), the council may appoint a subsidiary proprietor or the nominee of a subsidiary proprietor who is a company as a member of the council to fill the vacancy, and any person so appointed shall hold office for the balance of his predecessor's term of office.

[16/87]

Chairman, secretary and treasurer of council

62. —(1) Where the chairman, the secretary and the treasurer of the council have not been appointed by the management corporation at its annual general meeting, the members of the council shall, at the first meeting of the council after they assume office as such members, appoint the chairman, secretary and treasurer of the council.

[16/87]

- (2) A person —
- (a) shall not be appointed to an office referred to in subsection (1) unless he is a member of the council; and
 - (b) may be appointed to one or more of those offices.
- (3) A person appointed to an office referred to in subsection (1) shall hold office until —
- (a) he ceases to be a member of the council;
 - (b) the receipt by the management corporation from him of a notice in writing of his resignation from that office; or
 - (c) another person is appointed by the council or by the management corporation in general meeting to hold that office,
- whichever first happens.
- (4) Notwithstanding anything in this Act, a person appointed to an office referred to in subsection (1) shall not resign or vacate his office until another person is appointed by the council or by the management corporation in general meeting to hold that office and any purported resignation or vacation of office in breach of this subsection shall be deemed to be invalid.
- (5) Subsection (4) shall not apply where a member of the council is required to resign or vacate his office —
- (a) if, where he was a subsidiary proprietor at the time of his appointment or election, he ceases to be a subsidiary proprietor;
 - (b) if, where he was the nominee of a subsidiary proprietor who is a company, the subsidiary proprietor who nominated him ceases to be a subsidiary proprietor.
- (6) A person shall not exercise or perform any of the powers, duties or functions of the management corporation or the treasurer of the management corporation, being powers, duties or functions relating to the receipt or expenditure of, or accounting for, moneys, or the keeping of the books of account, of the management corporation, unless he is —
- (a) a member of the management corporation or of the council and is the treasurer of the management corporation or of the council;
 - (b) a managing agent who is empowered to exercise or perform those powers, duties or functions; or

(c) a person with whom the treasurer of the management corporation is required by an order of the council to exercise or perform jointly those powers, duties or functions, and who is enabling the treasurer to comply with the order.

(7) The treasurer of a management corporation may delegate the exercise or performance of any of his powers (other than this power of delegation), duties or functions as treasurer, the delegation of which is specifically approved by the council of the management corporation, to another member of the council so approved, subject to such limitations as to time or otherwise as are so approved.

(7A) While a delegate is acting in accordance with the terms of a delegation under subsection (7), he shall be deemed to be the treasurer of the management corporation.

(8) The council of a management corporation may, by a notice in writing served on the treasurer of the management corporation, order that he shall not exercise or perform any of his powers, duties or functions that are specified in the notice, unless he does so jointly with another person so specified.

(9) Any person who contravenes subsection (6) or fails to comply with the notice of a council issued under subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day during which the offence continues after conviction.

[16/87]

Council's decisions to be decisions of management corporation

63. —(1) Subject to the provisions of this Act, the decision of a council on any matter, other than a restricted matter, shall be the decision of the management corporation.

[16/87]

(2) Notwithstanding that a council holds office, the management corporation may in general meeting continue to exercise or perform all or any of the powers, duties and functions conferred or imposed on the management corporation by this Act or the by-laws.

(3) A council shall not make a decision on any matter if, before the decision is made, notice in writing has been given to the secretary of the council by subsidiary proprietors who altogether own not less than one-third of the lots in the subdivided building concerned that the making of the decision is opposed by those subsidiary proprietors, and any decision, if made by the council, shall have no force or effect.

(4) For the purposes of subsection (1), “restricted matter”, in relation to a council, means —

(a) any matter a decision on which may, in accordance with any provision of this Act or the by-laws, only be made by the management corporation pursuant to a unanimous resolution or a special resolution or in general meeting of the management corporation; and

(b) any matter referred to in section 64 and specified in a resolution of that management corporation passed for the purposes of that section.

[16/87]

Restrictions imposed on council by management corporation

64. A management corporation may in general meeting decide what matters or class of matters, if any, shall be determined only by the management corporation in general meeting.

[16/87]

Records, etc., of management corporation

65. —(1) A person who has possession or control of —

(a) any records, books of account or keys belonging to a management corporation;

(b) the strata roll kept by a management corporation; or

(c) any other property of a management corporation, shall, within 7 days after service on him of notice of a resolution of the council requiring him to do so, deliver those records, books of account and keys and that strata roll and other property to a member of the council specified in the notice.

[16/87]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

[16/87]

Disclosure of interests in contracts, property, officers, etc.

66. —(1) Subject to this section, every member of a council who is in any way, directly or indirectly, interested in a contract or proposed contract with the management corporation shall as soon as

practicable after the relevant facts have come to his knowledge declare the nature of his interest at a meeting of the council.

[16/87]

(2) The requirements of subsection (1) shall not apply in any case where the interest of the member of a council consists only of being a member or creditor of a company which is interested in a contract or proposed contract with the management corporation if the interest of the member may properly be regarded as not being a material interest.

(3) For the purposes of subsection (1), a general notice given to the members of a council by a member to the effect that he is an officer or member of a specified company or a member of a specified firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made if it specifies the nature and extent of his interest in that company or firm and his interest is not different in nature or greater in extent than the nature and extent so specified in the general notice at the time any contract is so made.

(3A) No such notice shall be of effect unless —

(a) it is given at a meeting of the council; or

(b) the member takes reasonable steps to ensure that it is brought up and read at the next meeting of the council after it is given.

(4) Every member of a council who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with his duties or interests as a member of the council shall declare at a meeting of the council the fact and the nature, character and extent of the conflict.

(5) The declaration shall be made at the first meeting of the council held —

(a) after he becomes a member of the council; or

(b) (if already a member of the council), after he commenced to hold the office or to possess the property,
as the case requires.

(6) The secretary of the council shall record every declaration under this section in the minutes of the meeting at which it was made.

(7) For the purposes of this section, an interest of a family member of a member of the council shall be treated as an interest of the member.

(8) Except as provided in subsection (3), this section shall be in addition to and not in derogation of the operation of any rule of law restricting a member of a council from having any interest in contracts with the management corporation or from holding offices or possessing properties involving duties or interests in conflict with his duties or interests as a member of a council.

(9) Any member of a council who fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months.

[16/87]

Duty and liability of council members and officers

67. —(1) A member of a council shall at all times act honestly and use reasonable diligence in the discharge of the duties of his office.

[16/87]

(2) A member of a council, or an officer or agent or a managing agent of a management corporation, shall not use his position as a member of the council or as an officer, agent or managing agent of the management corporation to gain, directly or indirectly, an advantage for himself or for any other person or to cause detriment to the management corporation.

(3) Any person who commits a breach of any of the provisions of this section shall —

(a) be liable to the management corporation for any profit made by him or for any damage suffered by the management corporation as a result of the breach of any of those provisions; and

(b) be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months.

(4) This section is in addition to and not in derogation of any other written law or rule of law relating to the duty or liability of members of a council.

(5) In this section —

"agent" includes a banker, solicitor or auditor of the management corporation and any person who at any time has been a banker, solicitor or auditor of the management corporation;

"officer" includes a person who at any time has been an officer of a management corporation.

[16/87]

Division 4 — Managing Agents

Managing agent

68. —(1) Subject to subsection (4), a management corporation may, by a resolution passed at a general meeting, appoint a managing agent and may, by instrument in writing, delegate to him —

(a) all of its powers, duties and functions;

(b) any one or more of its powers, duties and functions specified in the instrument; or

(c) all of its powers, duties and functions except those specified in the instrument.

(1A) Any managing agent appointed under subsection (1) shall hold office until the conclusion of the next annual general meeting.

(1B) A managing agent who is in any way, directly or indirectly, related to a subsidiary proprietor of a lot in the subdivided building concerned shall, prior to his appointment, declare the nature of his relationship at the annual general meeting

[16/87]

(2) A managing agent who retires from office shall be eligible for reappointment.

(3) Any managing agent appointed by a management corporation may at any time be removed from office by a resolution of the management corporation passed at a general meeting of which notice has been given for that purpose.

(4) A management corporation shall not under subsection (1) delegate to a managing agent its power to make —

(a) a delegation under that subsection; or

(b) a decision on a matter which may be determined only by the management corporation in a general meeting.

(5) A power, duty or function, the exercise or performance of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised from time to time in accordance with the delegation.

(6) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise or performance of all or any of the powers, duties or functions, or as to time or circumstances, as may be specified in the instrument of delegation.

(7) Notwithstanding any delegation made under subsection (1), a management corporation may continue to exercise or perform all or any of the delegated powers, duties or functions.

(8) Any act or thing done or suffered by a managing agent while acting in the exercise of a delegation under subsection (1) shall have the same force and effect as if it had been done or suffered by the management corporation and shall be deemed to have been done or suffered by the management corporation.

(9) Where a resolution of the management corporation so provides, a managing agent shall have and may exercise and perform all the powers, duties and functions of the chairman, secretary or treasurer of the management corporation and the council or such of those powers, duties and functions as may be specified in the resolution.

(10) The fees and expenses of a managing agent shall be fixed by the management corporation in a general meeting or, if so authorised by the subsidiary proprietors at the last preceding general meeting, by the council of the management corporation.

[16/87]

Delegated duty and liability of managing agent

69. Where —

(a) a contravention by a management corporation of a provision of this Act that imposes a duty on the management corporation is an offence under this Act; and

(b) the performance of the duty has been delegated to a managing agent,

the provision shall, while the delegation remains in force, be construed as if a reference therein to the management corporation were a reference to the managing agent.

[16/87]

Division 5 — Insurance

Interpretation of this Division

70. In this Division —

"damage policy" , in relation to a subdivided building, means a contract of insurance providing, in the event of the subdivided building being destroyed or damaged by fire, lightning, explosion or any other occurrence specified in the policy —

(a) for —

(i) the rebuilding of the subdivided building or its replacement by a similar building in the event of its destruction; and

(ii) the repair of damage to, or the restoration of the damaged portion of, the subdivided building in the event of its being damaged but not destroyed,

so that, in the case of destruction, every part of the rebuilt building or the replacement building and, in the case of damage, the repaired or restored portion, is in a condition no worse nor less extensive than that part or portion or its condition when that part or portion was new; and

(b) for the payment of expenses incurred in the removal of debris and the remuneration of architects and other persons whose services are necessary as an incident to the rebuilding, replacement, repair or restoration;

"subdivided building" includes —

(a) subsidiary proprietors' improvements and subsidiary proprietors' fixtures forming part of the subdivided building other than paint, wallpaper and temporary wall, floor and ceiling coverings;

(b) a building consisting entirely of common property; and

(c) anything prescribed as forming part of a building for the purposes of this definition,

but does not include —

(i) fixtures removable by a lessee at the expiration of a tenancy; or

(ii) anything prescribed as not forming part of a subdivided building for the purposes of this definition.

[16/87]

Insurance of subdivided buildings

71. —(1) Unless otherwise directed by a resolution which has been approved in writing by all the subsidiary proprietors entitled to vote at a general meeting of a management corporation, the management corporation shall insure the subdivided building and keep the building insured under a damage policy.

[16/87]

(2) A damage policy may provide that, instead of the work and the payments specified in the definition of "damage policy" in section 70 being carried out or made upon the occurrence of any of the events specified in that definition, the liability of the insurer shall, upon the occurrence of any such event, be limited to an amount specified in the policy that is not less than an amount calculated in the prescribed manner.

[16/87]

Further insurance by management corporation

72. —(1) In addition to insurance effected by a management corporation under section 71, the management corporation shall effect insurance —

(a) in respect of any occurrence against which it is required by law to insure, including any insurance required to be effected by reason of the provisions of the Workmen's Compensation Act (Cap. 354);

(b) in respect of damage to property, death or bodily injury occurring upon the common property for which the management corporation could become liable in damages; and

(c) against the possibility of the subsidiary proprietors becoming jointly liable by reason of a claim arising in respect of any other occurrence against which the management corporation pursuant to a special resolution decides to insure.

(2) Insurance effected under subsection (1) (b) shall be for a cover of such amount as the management corporation determines that is not less than an amount prescribed by the regulations.

(3) A management corporation may insure any property which it is not required to insure under this Act and in which it has an insurable interest.

(4) For the purposes of a policy of insurance effected under subsection (1) (b), the common property shall be deemed to be vested in the management corporation.

(5) Regulations made under this Act may vary the amount of minimum cover required by subsection (2) for insurance effected under subsection (1) (b).

(6) A subsidiary proprietor may bring against the management corporation of which the subsidiary proprietor is a member any action that the subsidiary proprietor may have brought against the management corporation if the subsidiary proprietor had not been a member of the management corporation.

(7) Where an insurer of a management corporation admits a claim by the management corporation based on an act or omission by a subsidiary proprietor who is a member of the management corporation, the insurer shall not have a right of subrogation in relation to the subsidiary proprietor based on that act or omission unless it was proved that the act or omission is wilful.

[16/87]

Insurance by subsidiary proprietor

73. —(1) Nothing in this Part shall limit or affect any right of a subsidiary proprietor to effect insurance.

[16/87]

(2) Insurance effected by a subsidiary proprietor shall not affect, and shall not be taken into consideration in determining, the amount payable to a management corporation under a contract of insurance entered into between it and an insurer under this Part, notwithstanding anything in that contract of insurance.

[16/87]

Insurance of mortgaged lot

74. —(1) A contract of insurance may be entered into by a subsidiary proprietor in respect of damage to his lot in a sum equal to the amount secured at the date of the contract by mortgages of and charges affecting his lot and where such a contract is in force —

(a) subject to the terms and conditions of the contract —

(i) any payment to be made under that contract by the insurer in respect of damage shall be made to the mortgagees and chargees whose interests are noted thereon in order of their respective priorities; and

(ii) the amount of the payment shall be the amount stated in the contract, the amount of the loss, or an amount sufficient at the date of the loss, to discharge mortgages of and charges affecting the lot, whichever is the least amount;

(b) where the amount so paid by the insurer equals the amount necessary to discharge a mortgage of the lot, the insurer shall be entitled to an assignment of the mortgage; and

(c) where the amount so paid by the insurer is less than the amount necessary to discharge a mortgage of the lot, the insurer shall be entitled to a sub-mortgage of that mortgage to secure the amount so paid on terms and conditions agreed upon as provided in subsection (2) or, failing agreement, on the same terms and conditions as those contained in the mortgage.

[16/87]

(2) For the purposes of subsection (1) (c), any insurer and mortgagee may at any time, whether before or after a contract of insurance referred to in subsection (1) has been entered into by a subsidiary proprietor, agree upon the terms and conditions of the sub-mortgage.

(3) A contract of insurance entered into as referred to in subsection (1) shall not be liable to be brought into contribution with any other such contract of insurance except another such contract of insurance which —

(a) is in respect of damage to the same lot; and

(b) relates to the same debt,

as that referred to in the contract of insurance first-mentioned in this subsection.

[16/87]

Rebuilding

75. Subject to any order made under section 77 or 78, where a management corporation receives payment of moneys from an insurer in respect of destruction of or damage to a subdivided building, those moneys shall forthwith be applied by the management corporation in rebuilding, replacing, repairing or restoring the subdivided building, as the case may require.

[16/87]

Insurable interest of management corporation

76. A management corporation shall be deemed to have an insurable interest in the subject-matter of any contract of insurance entered into by it under this Act.

[16/87]

PART V

VARIATION OR TERMINATION OF STRATA SUBDIVISION SCHEME

Variation of strata subdivision scheme consequent upon damage to or destruction of subdivided building

77. —(1) Where a subdivided building is damaged or destroyed —

- (a) any subsidiary proprietor of a lot in the subdivided building;
- (b) where such a lot is subject to a mortgage or charge — the mortgagee or chargee; or
- (c) the management corporation,

may make an application to the court for an order under subsection (4).

(2) Notice of an application under subsection (1) shall be served, in accordance with the Rules of Court, on —

- (a) every person referred to in subsection (1), other than the applicant;
- (b) the Commissioner;
- (c) the Registrar;
- (d) any person having a reversionary estate or interest in a lot in the subdivided building concerned; and
- (e) such other persons as the court may direct.

(3) The applicant and any person referred to in subsection (2) (whether or not he has been served with a notice of the application) shall be entitled to appear and be heard on the hearing of the application.

(4) The court may, on an application made under subsection (1), make an order to settle a scheme for the reinstatement or continued use of the subdivided building in whole or in part.

(5) An order made under subsection (4) shall take effect on such day as may be specified in the order.

(6) Without limiting the generality of subsection (4), an order made under that subsection may include directions for or with respect to any one or more of the following matters:

- (a) the substitution for the existing schedule of strata units of a new schedule of strata units;
- (b) the reinstatement in whole or in part of the building;
- (c) the transfer or vesting of the interests of subsidiary proprietors of lots which have been wholly or partly destroyed to or in the management corporation free from mortgages and charges;
- (d) the application of any insurance moneys received by the management corporation in respect of the damage to or destruction of the subdivided building;
- (e) the payment of moneys to or by the management corporation or the subsidiary proprietors or any one or more of them; and
- (f) any matter in respect of which it is, in the opinion of the court, just and equitable, in the circumstances of the case, to make provision in the order.

(7) An order made under subsection (4) shall have effect according to its tenor.

(8) Where the court is of the opinion that an order should not be made under subsection (4), it may, upon application made by any person entitled to appear and be heard on the hearing of the application made under subsection (1) or of its own motion, direct that the application be treated as an application for an order under section 78.

(9) Where the court makes a direction under subsection (8) —

- (a) the application, the subject of the direction, shall be deemed to be made under section 78 by a person entitled to make the application; and
 - (b) the applicant under subsection (1), as well as any other person entitled to appear and be heard under section 78, is entitled to appear and be heard on the hearing of the application.
- (10) The court may, from time to time, vary any order made under subsection (4) on the application of any person entitled to appear and be heard on the hearing of the application for that order.

[16/87]

Termination of strata subdivision scheme by court

78. —(1) An application to the court for an order for the termination of the strata subdivision of a subdivided building and the cancellation of the strata title plan registered under this Act may be made by —

- (a) any subsidiary proprietor of a lot in the subdivided building;
 - (b) where such a lot is subject to a mortgage or a charge — the mortgagee or chargee; or
 - (c) the management corporation.
- (1A) The court on being satisfied that it is just and equitable that the strata subdivision of a subdivided building be terminated may make an order to that effect after having considered —
- (a) the scheme and intent of this Act;
 - (b) the probability of unfairness to one or more subsidiary proprietors if termination of subdivision is not ordered; and
 - (c) the rights and interests of the subsidiary proprietors as a whole.

[16/87]

(2) Notice of an application under subsection (1) shall be served, in accordance with the Rules of Court, on —

- (a) every person referred to in subsection (1), other than the applicant;
 - (b) the Commissioner;
 - (c) the Registrar;
 - (d) any person having a reversionary estate or interest in a lot in the subdivided building; and
 - (e) such other persons (including creditors of the management corporation) as the court may direct.
- (3) The applicant and any person referred to in subsection (2) (whether or not he has been served with a notice of the application) shall be entitled to appear and be heard on the hearing of the application.
- (4) An order made under subsection (1) shall take effect on such day as may be specified in the order.
- (5) An order made under subsection (1) shall include directions for or with respect to the following matters:
- (a) the sale or disposition of any property of the management corporation;
 - (b) the discharge of the liabilities of the management corporation;
 - (c) the persons liable to contribute moneys required for the discharge of the liabilities of the management corporation and the proportionate liability of each such person;
 - (d) the distribution of the assets of the management corporation and the proportionate entitlement of each person under that distribution;
 - (e) the administration, powers, duties and functions of the management corporation;
 - (f) the voting power at meetings of the management corporation of persons referred to in paragraph (c) or (d);
 - (g) any matter in respect of which it is, in the opinion of the court, just and equitable, in the circumstances of the case, to make provision in the order; and
 - (h) the winding up of the management corporation (including the appointment, powers, duties and functions of any person to carry out the winding up).
- (6) Upon an order under this section taking effect —
- (a) the persons, who immediately before the order took effect, were subsidiary proprietors of the lots the subject of the strata title plan concerned shall cease to be subsidiary proprietors of those lots and shall be entitled to the parcel as tenants-in-common in the shares proportional to their respective share values and for the same term and tenure as their respective lots were held by them prior to the date the order took effect;
 - (b) any subsisting encumbrance registered against any of the lots referred to in paragraph (a) shall be an encumbrance on the share of the subsidiary proprietor concerned in the registered land comprising the parcel, and a memorial or notification of the encumbrance entered in the volume and folio of the

land comprising the registered land shall bear the same date as the date of registration of that encumbrance against the lot;

(c) all statutory easements implied under this Act shall cease to affect the registered land comprising the parcel or any part thereof; and

(d) the former subsidiary proprietors shall have the power to transfer their interests and estates in the parcel or any part thereof.

(7) The provisions of an order made under this section shall have effect notwithstanding any provision of this Act, other than this section.

(8) An order made under subsection (1) shall have effect according to its tenor.

(9) Where the court is of the opinion that an order should not be made under subsection (1), it may, upon application made by any person entitled to appear and be heard on the hearing of the application made under subsection (1) or of its own motion, direct that the application be treated as an application for an order under section 77.

(9A) Where the court makes a direction under subsection (9) —

(a) the application the subject of the direction shall be deemed to be an application made under section 77 by a person entitled to make the application; and

(b) the applicant under subsection (1), as well as any other person entitled to appear and be heard under section 77, is entitled to appear and be heard on the hearing of the application.

(10) The court may, from time to time, vary any order made under subsection (1) on the application of any person who was entitled to appear and be heard on the hearing of the application for that order.

[16/87]

(11) No application shall be made under this section where the only reason for the application by the subsidiary proprietors for the sale of all the lots and common property in a strata title plan is that they —

(a) have not been able to satisfy the requirement under section 84A (1);

(b) have been able to satisfy the requirement under section 84A (1) but have not made an application to a Board under section 84A (1); or

(c) have been able to satisfy the requirement under section 84A (1) but their application for an order under section 84A has been refused by a Board.

[21/99]

Interchangeability of notices

79. Any notice served under section 77 or 78 shall, where it relates to an application which is required to be treated as an application under another of those sections, be deemed to be a notice served under that other section.

[16/87]

Consequences of making an order under section 77 or 78

80. —(1) Upon receipt of a certified or office copy of the minute of an order made under section 77 or 78, the Registrar shall make appropriate entries in the subsidiary strata land-register of the effect of the order.

[16/87]

(2) Where, pursuant to the receipt of a certified or office copy of the minute of an order made under section 78, the Registrar has made entries in accordance with subsection (1), the Registrar shall, as soon as practicable after making the entries, cancel each folio of the subsidiary strata land-register which evidences title to a lot the subject of the strata title plan.

[16/87]

Termination of strata subdivision scheme by management corporation

81. —(1) A management corporation of a subdivided building shown on a strata title plan may by a resolution which has been voted in favour by all the persons entitled to vote at a general meeting of a management corporation resolve that the strata subdivision of the building be terminated.

[16/87]

(2) A management corporation shall —

(a) within 14 days after the passing of a resolution referred to in subsection (1), lodge a certified copy of the resolution with the Registrar; and

(b) within 30 days after the passing of the resolution, give notice of the resolution in one or more newspapers circulating in Singapore.

(3) If a management corporation fails to comply with subsection (2), the management corporation and every officer of the management corporation who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

(4) On receipt of a resolution referred to in subsection (1), the Registrar shall enter a notification of the cancellation of the strata subdivision of the building and a memorial of the vesting of the parcel in the subsidiary proprietors as tenants-in-common in the registered strata title plan and in the volume and folio of the land-register comprising the parcel.

(5) Upon the entry of that memorial —

(a) each subsidiary proprietor shall cease to be a subsidiary proprietor of the lot, and shall be entitled to the parcel as a tenant-in-common with the other subsidiary proprietors in the shares proportional to his share value and for the same term and tenure held by him in respect of his lot;

(b) any subsisting encumbrance registered against a lot shall be an encumbrance on the share of the subsidiary proprietor concerned in the registered land comprising the parcel, and a memorial or notification of the encumbrance entered in the volume and folio of the land-register comprising that registered land shall bear the same date as the date of registration of that encumbrance against his lot; and

(c) all statutory easements implied under this Act shall cease to affect the registered land comprising the parcel or any part thereof.

(6) The former subsidiary proprietors may by unanimous resolution direct the management corporation to transfer the parcel or any part thereof.

(7) The management corporation, if it is satisfied that the resolution was duly passed and that all persons having registered interests in the parcel have consented in writing to the release of their respective interests in the registered land comprising the parcel or any part thereof, intended to be transferred, shall execute the appropriate transfer.

(7A) The transfer under subsection (7) shall be valid and effective without execution by any person having a registered interest in the parcel, and the receipt of the management corporation for any moneys payable to the management corporation under the transfer shall be a sufficient discharge, and shall exonerate the person taking under the transfer from seeing to the application, or being answerable for any loss or misapplication, of the moneys expressed to have been so received.

(8) A transfer under subsection (7) shall not be accepted for registration unless accompanied by a certificate in the prescribed form under the seal of the management corporation that the resolution was duly passed and that all necessary consents were given, in favour of a purchaser of the parcel and in favour of the Registrar, and such a certificate shall be conclusive evidence of the facts stated therein.

(9) When registered land or any part thereof is transferred by a former subsidiary proprietor or the management corporation after a notice of a resolution referred to in subsection (1) has been lodged with the Registrar —

(a) the former subsidiary proprietor, if he is the transferor, shall surrender to the Registrar his duplicate subsidiary strata certificate of title relating to his lot;

(b) the management corporation, if it is transferring the land on behalf of all the former subsidiary proprietors, shall surrender to the Registrar on behalf of all the former subsidiary proprietors their duplicate subsidiary strata certificates of title; and

(c) the Registrar, on receipt of the duplicate subsidiary strata certificate or certificates of title comprising the lot or lots, as the case may be, shall cancel the relevant folios of the subsidiary strata land-register, and registration of the transfer shall be effected by the Registrar issuing a certificate of title for the undivided share in the registered land or for the whole of the registered land transferred to the transferee, as the case may be.

(10) Notwithstanding the termination of a strata subdivision under this section, the relevant record of the subsidiary strata land-register may be used in evidence as a record of matters relating to the subdivision before its termination so long as the management corporation continues in existence.

(11) Where a transfer of the parcel made under subsection (7) has been lodged with and registered by the Registrar, the management corporation shall continue in existence for the purpose of winding up its affairs.

(12) Until a liquidator has been appointed by the management corporation for the purpose of carrying out the winding up of the management corporation, the council of the management corporation shall continue to perform the management corporation's business for the purpose of winding up its affairs.

(13) On a management corporation being wound up —

(a) every former subsidiary proprietor shall be liable to contribute to the assets of the management corporation to an amount sufficient for the payment of its debts and liabilities and the costs, charges and expenses of the winding up; and

(b) the assets of the management corporation, if any, shall be distributed among the former subsidiary proprietors,

in the same proportion as the proportion of contributions which such former subsidiary proprietors would have been liable for in accordance with section 42 (2).

[16/87]

Liquidators

82. —(1) Where a management corporation resolves that the strata subdivision of a building be terminated, it shall forthwith in general meeting appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the management corporation and may fix the remuneration to be paid to him or them.

[16/87]

(2) Where a liquidator has not been appointed for a management corporation under this section, the court may, on the application of a former subsidiary proprietor, a former mortgagee or a creditor of the management corporation, appoint a liquidator for the management corporation.

(3) On the appointment of a liquidator all the powers of the council of the management corporation shall cease and the liquidator shall have the power to carry on the management corporation's business for the purpose of winding up its affairs.

(4) The management corporation may in general meeting convened by any former subsidiary proprietor by special resolution of which special notice has been given to all the former subsidiary proprietors, former mortgagees, the creditors and the liquidators, remove any liquidator but no such resolution shall be effective to remove a liquidator if the court on the application of the liquidator or a creditor or a former mortgagee has ordered that the liquidator be not removed.

(5) If a vacancy occurs by death, resignation, removal or otherwise in the office of a liquidator the management corporation in general meeting shall forthwith fill the vacancy by the appointment of a liquidator and fix the remuneration to be paid to him, and for that purpose a general meeting may be convened by any former subsidiary proprietor, or if there were more liquidators than one by the continuing liquidators.

(6) The meeting shall be held in the manner provided by this Act or in such manner as is on application by any former subsidiary proprietor or by the continuing liquidators determined by the court.

(7) The court may, on the application of a former subsidiary proprietor, a former mortgagee or the liquidator and on being satisfied that the affairs of the management corporation have been wound up, make an order that the liquidator be released and that the management corporation be dissolved and on the expiry of 3 months of the lodging of such order with the Registrar and the Commissioner, the management corporation shall be dissolved.

(8) Notwithstanding subsection (7), the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the management corporation is to take effect for such time as the court thinks fit.

(9) The person on whose application an order of the court under this section is made shall, within 21 days after the making of the order, lodge with the Registrar and with the Commissioner an office copy of the order, and if he fails to do so he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

[16/87]

Qualifications of liquidator

83. No person shall be appointed as a liquidator of a management corporation unless he is an approved company auditor under the Companies Act (Cap. 50).

[16/87]

Interpretation of sections 81 and 82

84. For the purposes of sections 81 and 82 —

"former mortgagee" means a person who, or a body which, immediately before the subdivision of a subdivided building is terminated under this Part, was the registered mortgagee of a lot, forming part of the subdivided building;

"former subsidiary proprietor" means a person who, or a body which, immediately before the subdivision of a subdivided building is terminated under this Part, was the subsidiary proprietor of a lot, forming part of the subdivided building.

[16/87]

PART VA

COLLECTIVE SALE OF PROPERTY

Application for collective sale of parcel by majority of subsidiary proprietors who have made conditional sale and purchase agreement

84A. —(1) An application to a Board for an order for the sale of all the lots and common property in a strata title plan may be made by —

(a) the subsidiary proprietors of the lots with not less than 90% of the share values where less than 10 years have passed since the date of the issue of the latest Temporary Occupation Permit on completion of any building comprised in the strata title plan or, if no Temporary Occupation Permit was issued, the date of the issue of the latest Certificate of Statutory Completion for any building comprised in the strata title plan, whichever is the later; or

(b) the subsidiary proprietors of the lots with not less than 80% of the share values where 10 years or more have passed since the date of the issue of the latest Temporary Occupation Permit on completion of any building comprised in the strata title plan or, if no Temporary Occupation Permit was issued, the date of the issue of the latest Certificate of Statutory Completion for any building comprised in the strata title plan, whichever is the later,

who have agreed in writing to sell all the lots and common property in the strata title plan to a purchaser under a sale and purchase agreement which specifies the proposed method of distributing the sale proceeds to all the subsidiary proprietors (whether in cash or kind or both), subject to an order being made under subsection (6) or (7).

[21/99]

(2) The subsidiary proprietors referred to in subsection (1) shall appoint not more than 3 persons from among themselves to act jointly as their authorised representatives in connection with any application made under that subsection.

[21/99]

(3) No application may be made under subsection (1) by the subsidiary proprietors referred to in that subsection unless they have complied with the requirements specified in the Fourth Schedule and provided an undertaking to pay the costs of the Board under subsection (5).

[21/99]

(4) A subsidiary proprietor of any lot in the strata title plan who has not agreed in writing to the sale referred to in subsection (1) and any mortgagee, chargee or other person (other than a lessee) with an estate or interest in land and whose interest is notified on the land-register for that lot may each file an objection with a Board stating the grounds for the objection within 21 days of the date of the notice served pursuant to the Fourth Schedule or such further period as the Board may allow.

[21/99]

(5) The Board shall have power —

(a) to mediate in any matter arising from an application made under subsection (1); and

(b) to call for a valuation report or other report and to require the subsidiary proprietors referred to in subsection (1) to pay for the costs.

[21/99]

(6) Where an application has been made under subsection (1) and no objection has been filed under subsection (4), the Board shall, subject to subsection (9), approve the application and order that the lots and common property in the strata title plan be sold.

[21/99]

(7) Where one or more objections have been filed under subsection (4), the Board shall, subject to subsection (9), after mediation, if any, approve the application made under subsection (1) and order that the lots and common property in the strata title plan be sold unless, having regard to the objections, the Board is satisfied that —

- (a) any objector, being a subsidiary proprietor, will incur a financial loss; or
- (b) the proceeds of sale for any lot to be received by any objector, being a subsidiary proprietor, mortgagee or chargee, are insufficient to redeem any mortgage or charge in respect of the lot.

[21/99]

(8) For the purposes of subsection (7) (a), a subsidiary proprietor —

- (a) shall be taken to have incurred a financial loss if the proceeds of sale for his lot, after any deduction allowed by the Board, are less than the price he paid for his lot;
- (b) shall not be taken to have incurred a financial loss by reason only that his net gain from the sale of his lot will be less than the other subsidiary proprietors.

[21/99]

(9) The Board shall not approve an application made under subsection (1) if the Board is satisfied that —

- (a) the transaction is not in good faith after taking into account only the following factors:
 - (i) the sale price for the lots and the common property in the strata title plan;
 - (ii) the method of distributing the proceeds of sale; and
 - (iii) the relationship of the purchaser to any of the subsidiary proprietors; or
- (b) the sale and purchase agreement would require any subsidiary proprietor who has not agreed in writing to the sale to be a party to any arrangement for the development of the lots and the common property in the strata title plan.

[21/99]

(10) Where no objection has been filed under subsection (4), the determination under subsection (9) shall be made by the Board on the basis of the facts available to the Board.

[21/99]

(11) The Board may make all such other orders and give such directions as may be necessary or expedient to give effect to any order made under subsection (6) or (7).

[21/99]

(12) The Board may, at any time it thinks fit, extend, vary, revoke or discharge any order made under this section, and may vary any term or condition upon or subject to which any such order has been made.

[21/99]

(13) A notice sent by registered post under the Fourth Schedule shall be deemed to be duly served on the person to whom it is addressed 2 days after the day on which the notice was posted, notwithstanding the fact that the letter may be returned by the post office as undelivered.

[21/99]

(14) The Minister may, by order published in the *Gazette*, amend or add to the Fourth Schedule.

[21/99]

(15) For the purposes of this section, “subsidiary proprietor” includes a successor in title.

[21/99]

Effect of order of Board

84B. —(1) Where a Board has made an order under section 84A (6), (7) or (11) —

- (a) the order shall bind all the subsidiary proprietors of the lots in the strata title plan, their successors in title and assigns and any mortgagee, chargee or other person with an estate or interest in land;
- (b) the subsidiary proprietors of the lots shall sell the lots and common property in accordance with the sale and purchase agreement; and
- (c) a lease affecting any of the lots in the strata title plan (other than a lease held by a subsidiary proprietor) shall, if there is no earlier agreed date, determine on the date on which vacant possession is to be given to the purchaser of the lots and common property.

[21/99]

(2) Nothing in subsection (1) (c) shall prejudice the rights of any lessee of a subsidiary proprietor to compensation from the subsidiary proprietor.

[21/99]

(3) A subsidiary proprietor of a lot who has not agreed in writing to a sale under section 84A or any lessee of the lot may, at any time after an application has been made under section 84A (1) and before the Board has approved the application for sale, apply to the Board to determine the amount of compensation payable to the lessee.

[21/99]

(4) The subsidiary proprietors of the lots who have not agreed in writing to the sale under section 84A and any mortgagee, chargee or other person with an estate or interest in those lots shall, for the purposes of the sale of the lots and common property, produce the certificates of title for the lots to the person having conduct of the sale, the representatives appointed under section 84A (2) or to their solicitors.

[21/99]

Power of Board to appoint person to act for certain subsidiary proprietor

84C. —(1) Where a Board has made an order under section 84A (6), (7) or (11), the Board may, on application by the representatives of the subsidiary proprietors appointed under section 84A (2), appoint any person to deal with all matters in connection with the sale of any lot —

(a) where the subsidiary proprietor of the lot has died and no personal representative has been appointed; or

(b) in such other case as the Board thinks fit.

[21/99]

(2) The Board may authorise the person appointed under subsection (1) to act for the subsidiary proprietor concerned in all aspects of the sale, including the redemption of mortgages and charges, the execution of the transfer, the receipt of moneys, the settlement of encumbrances on the lot, applying for a replacement or subsidiary certificate of title, giving valid receipts thereof and as soon as practicable paying the remaining moneys into court under section 62 of the Trustees Act (Cap. 337).

[21/99]

(3) The execution of any instrument in respect of any lot by the person appointed under subsection (1) shall have the same force and validity as if it had been executed by the subsidiary proprietor in whom the lot is vested.

[21/99]

(4) When the transfers of the lots in the strata title plan are lodged for registration under this Act, the authorised representatives or the solicitor acting for the subsidiary proprietors or the person appointed under subsection (1) shall certify in such form as the Registrar may approve that the provisions of section 84A have been complied with; and the certificate in favour of the purchaser of the lots and common property and the Registrar shall be conclusive evidence of the facts stated therein.

[21/99]

Application for collective sale of parcel not registered under this Act by majority of proprietors where proprietors of flats own land

84D. —(1) This section shall apply where there are subsisting leases of flats in a development registered under the Registration of Deeds Act (Cap. 269) or the Land Titles Act (Cap. 157) and the proprietors of the flats own the land comprised in the development.

[21/99]

(2) An application to a Board for an order for the sale of all the flats and the land in a development to which this section applies may be made by —

(a) the proprietors of the flats who own not less than 90% share of the land where less than 10 years have passed since the date of the issue of the latest Temporary Occupation Permit on completion of any building comprised in the development or, if no Temporary Occupation Permit was issued, the date of the issue of the latest Certificate of Statutory Completion for any building comprised in the development, whichever is the later; or

(b) the proprietors of the flats who own not less than 80% share of the land where 10 years or more have passed since the date of the issue of the latest Temporary Occupation Permit on completion of any building comprised in the development or, if no Temporary Occupation Permit was issued, the date of the issue of the latest Certificate of Statutory Completion for any building comprised in the development, whichever is the later,

who have agreed in writing to sell all the flats and the land in the development to a purchaser under a sale and purchase agreement which specifies the proposed method of distributing the sale proceeds to

all the proprietors of the flats (whether in cash or kind or both), subject to an order being made under subsection (4) or (5).

[21/99]

(3) A proprietor of any flat in the development who has not agreed in writing to the sale referred to in subsection (2) and any mortgagee, chargee or other person (other than a lessee) with an estate or interest in the flat and whose interest is notified on the land-register for that flat may each file an objection with a Board stating the grounds for the objection within 21 days of the date of the notice served pursuant to the Fourth Schedule or such further period as the Board may allow.

[21/99]

(4) Where an application has been made under subsection (2) and no objection has been filed under subsection (3), the Board shall, subject to subsection (7), approve the application and order that the flats and the land in the development be sold.

[21/99]

(5) Where one or more objections have been filed under subsection (3), the Board shall, subject to subsection (7), after mediation, if any, approve the application made under subsection (2) and order that the flats and the land in the development be sold unless, having regard to the objections, the Board is satisfied that —

(a) any objector, being a proprietor, will incur a financial loss; or

(b) the proceeds of sale for any flat to be received by any objector, being a proprietor, mortgagee or chargee, are insufficient to redeem any mortgage or charge in respect of the flat.

[21/99]

(6) For the purposes of subsection (5) (a), a proprietor —

(a) shall be taken to have incurred a financial loss if the proceeds of sale for his flat, after any deduction allowed by the Board, are less than the price he paid for his flat;

(b) shall not be taken to have incurred a financial loss by reason only that his net gain from the sale of his flat will be less than the other proprietors.

[21/99]

(7) The Board shall not approve an application made under subsection (2) if the Board is satisfied that —

(a) the transaction is not in good faith after taking into account only the following factors:

(i) the sale price for the flats and the land in the development;

(ii) the method of distributing the proceeds of sale; and

(iii) the relationship of the purchaser to any of the proprietors; or

(b) the sale and purchase agreement would require any proprietor who has not agreed in writing to the sale to be a party to any arrangement for the development of the flats and the land in the development.

[21/99]

(8) Where no objection has been filed under subsection (3), the determination under subsection (7) shall be made by the Board on the basis of the facts available to the Board.

[21/99]

(9) Sections 84A (2), (3), (5), (11), (12) and (13), 84B and 84C shall apply, with the necessary modifications, to any application or order made under this section.

[21/99]

(10) For the purposes of this section —

"development" means any parcel of land with one or more buildings where the parcel is owned by the proprietors of the flats;

"proprietor" includes a successor in title.

[21/99]

Application for collective sale where proprietors of flats own leasehold estate of at least 999 years or other estate in flats not registered under this Act but do not own land

84E. —(1) This section shall apply where there are subsisting leases of flats in a development registered under the Registration of Deeds Act (Cap. 269) or the Land Titles Act (Cap. 157) for a leasehold estate of 999 years or more or for such other estate as the Minister may, by notification in the *Gazette*, specify and where the proprietors of the flats do not own the land comprised in the development.

[21/99]

(2) The proprietors of 25% of the flats to which this section applies may apply to the Registrar for notional shares in the land to be assigned to each of the flats based on the method used by the Commissioner for the allocation of share values.

(3) An application to a Board for an order for the sale of all the flats and the land in a development to which this section applies may be made by —

(a) the proprietors of the flats who own not less than 90% notional share of the land where less than 10 years have passed since the date of the issue of the latest Temporary Occupation Permit on completion of any building comprised in the development or, if no Temporary Occupation Permit was issued, the date of the issue of the latest Certificate of Statutory Completion for any building comprised in the development, whichever is the later; or

(b) the proprietors of the flats who own not less than 80% notional share of the land where 10 years or more have passed since the date of the issue of the latest Temporary Occupation Permit on completion of any building comprised in the development or, if no Temporary Occupation Permit was issued, the date of the issue of the latest Certificate of Statutory Completion for any building comprised in the development, whichever is the later,

who have agreed in writing to sell all the flats in the development to a purchaser under a sale and purchase agreement which specifies the proposed method of distributing the sale proceeds to all the proprietors of the flats (whether in cash or kind or both), subject to an order being made under subsection (6) or (7).

[21/99]

(4) The proprietors of the flats referred to in subsection (3) shall also serve a copy of the notice to be served pursuant to the Fourth Schedule on the proprietor of the land and every mortgagee, chargee or other person with an estate or interest in the land and whose interest is notified on the land-register for that land.

[21/99]

(5) A proprietor of any flat in the development who has not agreed in writing to the sale referred to in subsection (3) and any mortgagee, chargee or other person (other than a lessee) with an estate or interest in the flat and whose interest is notified on the land-register for that flat may each file an objection with a Board stating the grounds for the objection within 21 days of the date of the notice served pursuant to the Fourth Schedule or such further period as the Board may allow.

[21/99]

(6) Where an application has been made under subsection (3) and no objection has been filed under subsection (5), the Board shall, subject to subsection (9), approve the application and order that the flats and the land in the development be sold.

[21/99]

(7) Where one or more objections have been filed under subsection (5), the Board shall, subject to subsection (9), after mediation, if any, approve the application made under subsection (3) and order that the flats and the land in the development be sold unless, having regard to the objections, the Board is satisfied that —

(a) any objector, being a proprietor, will incur a financial loss; or

(b) the proceeds of sale for any flat to be received by any objector, being a proprietor, mortgagee or chargee, are insufficient to redeem any mortgage or charge in respect of the flat.

[21/99]

(8) For the purposes of subsection (7) (a), a proprietor —

(a) shall be taken to have incurred a financial loss if the proceeds of sale for his flat, after any deduction allowed by the Board, are less than the price he paid for his flat;

(b) shall not be taken to have incurred a financial loss by reason only that his net gain from the sale of his flat will be less than the other proprietors.

[21/99]

(9) The Board shall not approve an application made under subsection (3) if the Board is satisfied that —

(a) the transaction is not in good faith after taking into account only the following factors:

(i) the sale price for the flats and the land in the development;

(ii) the method of distributing the proceeds of sale; and

(iii) the relationship of the purchaser to any of the proprietors; or

(b) the sale and purchase agreement would require any proprietor who has not agreed in writing to the sale to be a party to any arrangement for the development of the flats and the land in the development. [21/99]

(10) Where no objection has been filed under subsection (5), the determination under subsection (9) shall be made by the Board on the basis of the facts available to the Board. [21/99]

(11) Where a Board has made an order for the sale of the flats and the land, the proprietor of the land shall be deemed to have transferred his estate and interest in the land to the purchaser without consideration upon the registration by the Registrar of the transfers of all the flats (except the flats deemed to be owned by the proprietor under subsection (14)) in the development and the Registrar shall enter a notification of the vesting of the land in the purchaser on the land-register. [21/99]

(12) The proprietors of the flats who have not agreed in writing to the sale, the proprietor of the land, a mortgagee, chargee or other person with an estate or interest in land, where applicable, shall produce the title deeds for the flats or the land to the person having conduct of the sale, the representatives appointed under section 84A (2) or to their solicitors. [21/99]

(13) If the title deeds for the flats or the land are not produced under subsection (12), the person having conduct of the sale shall not be required to produce to the purchaser any title deed other than a certified true copy of the title deed or a subsidiary certificate of title. [21/99]

(14) Where the proprietor of the land in a development referred to in subsection (1) has granted leases for some but not all the flats in the development, he shall be deemed to be the proprietor of the flats which are still owned by him. [21/99]

(15) Sections 84A (2), (3), (5), (11), (12) and (13), 84B and 84C shall apply, with the necessary modifications, to any application or order made under this section. [21/99]

(16) For the purposes of this section —
"development" means any parcel of land with one or more buildings;
"proprietor" includes a successor in title. [21/99]

Application for collective sale by all proprietors of flats who own leasehold estate of at least 999 years or other estate in flats not registered under this Act but do not own land

84F. —(1) This section shall apply where there are subsisting leases of flats registered under the Registration of Deeds Act (Cap. 269) or the Land Titles Act (Cap. 157) for a leasehold estate of 999 years or more or for such other estate as the Minister may, by notification in the *Gazette*, specify and where the proprietors of the flats do not own the land comprised in the development. [21/99]

(2) Where the proprietors of all the flats in a development to which this section applies agree in writing under a sale and purchase agreement to sell all their flats to a purchaser (whether in cash or kind or both), they shall serve a notice on the proprietor of the land and every mortgagee, chargee or other person with an estate or interest in the land and whose interest is notified on the land-register at least 21 days before the date of the first transfer of any such flat informing them of the transfer under subsection (4). [21/99]

(3) Notice under subsection (2) shall be given by —
(a) advertising the proposed sale in such local newspapers in the 4 official languages as approved by the Registrar;
(b) serving the notice on the proprietor of the land and every mortgagee, chargee or other person with an estate or interest in the land and whose interest is notified on the land-register by registered post; and
(c) affixing a copy of the notice in the 4 official languages to a conspicuous part of each building in the development. [21/99]

(4) The proprietor of the land referred to in subsection (2) shall be deemed to have transferred his estate and interest in the land to the purchaser without consideration upon the registration by the Registrar of the transfers of all the flats in the development and the Registrar shall enter a notification of the vesting of the land in the purchaser on the land-register.

[21/99]

(5) A notice sent by registered post under this section to a proprietor of the land, his mortgagee, chargee or other person with an estate or interest in the land and whose interest is notified on the land-register at its last registered address in the case of a company registered under the Companies Act (Cap. 50) or otherwise at its last recorded address at the Registry of Titles or the Registry of Deeds, as the case may be, shall be deemed to be duly served on the person to whom it is addressed 2 days after the day on which the notice was posted, notwithstanding the fact that the letter may be returned by the post office as undelivered.

[21/99]

(6) When the transfers of the flats to which this section applies are lodged for registration with the Registrar, the solicitors acting for the proprietors of the flats shall certify in such form as the Registrar may determine that the provisions of this section have been complied with, and the certificate in favour of the purchaser and the Registrar shall be conclusive evidence of the facts stated therein.

[21/99]

(7) Section 84E (12), (13), (14) and (16) shall apply, with the necessary modifications, to a development to which this section applies.

[21/99]

PART VI

STRATA TITLES BOARDS

85. —(*Repealed by Act 21/99*)

Strata Titles Boards

86. —(1) There shall be one or more Strata Titles Boards to be presided over by a President or Deputy President to be appointed by the Minister.

[16/87]

(2) The Minister may appoint not more than 3 Deputy Presidents of the Boards.

[21/99]

(3) Unless otherwise provided by this Act, a Board shall determine by arbitration every dispute of which it has cognizance and every matter with respect to which it has jurisdiction under this Act.

[21/99]

(4) Except where otherwise provided by this Act, a Board shall, in relation to a dispute of which the Board has cognizance or any other matter with respect to which the Board has jurisdiction under this Act, be constituted by the President or a Deputy President and 2 or 4 members selected by the President for the purposes of the dispute or matter from the panel constituted in accordance with this Part.

[21/99]

(5) Any party to a dispute of which a Board has cognizance, or a matter with respect to which a Board has jurisdiction, under this Act may, within the prescribed period and for any reasonable cause, object in writing to any member of the Board selected by the President under subsection (4).

[21/99]

(6) The Board shall be constituted —

(a) upon the expiration of the prescribed period if the Registrar of the Boards does not earlier receive any objection under subsection (5);

(b) if any objection received under subsection (5) is allowed by the President, upon the selection of another member by the President; or

(c) if any objection received under subsection (5) is disallowed by the President, upon the decision to disallow the objection.

[21/99]

(7) No person shall be appointed as the President or a Deputy President of the Board unless he is a qualified person within the meaning of the Legal Profession Act (Cap. 161).

[16/87;21/99]

Panel

87. —(1) For the purpose of enabling the Boards to be constituted in accordance with this Part, a panel consisting of not more than 30 persons shall be appointed by the Minister and their names shall be notified in the *Gazette*.

[16/87;21/99]

(2) A person shall, subject to subsection (4), be appointed as a member of the panel for a term of 2 years but shall be eligible for reappointment.

(3) A member of the panel who resigns or whose appointment expires during the course of any proceedings of a Board shall for the purpose of such proceedings and until their determination be deemed to remain a member of the Board.

(4) The Minister may at any time remove from office a member of the panel and fill any vacancy in its membership.

Continuation of hearing

88. —(1) Where a Board has been constituted in relation to a dispute or matter and before a dispute or matter has been determined, the President or a member constituting the Board is unable to hear or continue to hear or to determine the dispute or matter or has ceased to be the President or a member of the Board, as the case may be, whether by death or otherwise, the Board shall be reconstituted in accordance with section 86.

(2) The Board as reconstituted shall hear and determine the dispute or matter or so much of the dispute or matter as has not been determined and in so hearing may have regard to the evidence given, the arguments adduced and any interim order made during the previous hearing.

[16/87]

Protection of members of Board

89. A member of a Board shall in the performance of his functions and duties under this Part have the same protection and immunity as a District Judge.

[16/87]

Allowances

90. A member of a panel who is a member of a Board for the purposes of hearing a dispute or matter may, in respect of each day on which the Board is engaged in the hearing and determining of the dispute or matter, be paid such allowances as may be prescribed by regulations made under this Act.

[16/87]

Board to carry out its work expeditiously

91. A Board shall carry out its work expeditiously and shall make a finding or determination within 6 months from the date it is constituted or within such extension of time as may be granted by the Minister.

[16/87]

Officers of Boards

92. —(1) The Minister may appoint a Registrar of the Boards (referred to in this Part as the Registrar) and such other officers and employees of the Board as the Minister may determine.

[16/87;21/99]

(2) Subject to the directions of the President, the Registrar may, in connection with any application to a Board, make interlocutory orders.

[21/99]

(3) The Registrar shall, in the performance of his functions and duties under subsection (2), have the same protection and immunity as a member of a Board.

[21/99]

(4) The remuneration of the Registrar, officers and employees appointed under subsection (1) and such other expenses of the Boards as the Minister may determine shall be paid out of moneys provided by Parliament.

[16/87;21/99]

Proceedings of Board

93. —(1) The proceedings of a Board shall be open to the public and minutes of a Board including a note of any oral evidence given before the Board shall be kept by the President of the Board.

[16/87]

(2) The proceedings of a Board shall be deemed to be judicial proceedings and the members of the Board to be public servants within the meaning of the Penal Code (Cap. 224).

[16/87]

Order to convene general meeting

94. Where a default is made by a management corporation in holding a general meeting, a Board may, on the application of any person entitled to vote at a meeting of the management corporation, order the management corporation to convene a general meeting.

[16/87]

Order revoking amendment of by-law

95. —(1) Where, pursuant to an application by any person entitled to vote at a meeting of the management corporation (including both a first mortgagee and a mortgagor of a lot), a Board considers that, having regard to the interest of all subsidiary proprietors in the use and enjoyment of their lots or the common property, an amendment or revocation of a by-law or addition of a new by-law should not have been made or effected, the Board may order that the amendment be revoked, that the revoked by-law be revived or that the additional by-law be revoked.

[16/87]

(2) When making an order under subsection (1) in respect of a by-law referred to in section 41 (3), a Board may direct the payment by the management corporation of compensation to the subsidiary proprietor of the lot referred to in the by-law.

[16/87]

(3) A payment ordered to be made under subsection (2) is recoverable by the subsidiary proprietor as a debt in a court of competent jurisdiction.

[16/87]

Order invalidating purported by-law

96. Where, pursuant to an application by a person entitled to vote at a meeting of the management corporation (including both a first mortgagee and a mortgagor of a lot), a Board considers that a management corporation did not have the power to make a by-law purporting to have been made by it, the Board may make an order declaring the by-law to be invalid.

[16/87]

Power of Board to invalidate proceedings

97. —(1) Where, pursuant to an application by a subsidiary proprietor or first mortgagee of a lot, a Board considers that the provisions of this Act have not been complied with in relation to a meeting of the management corporation, the Board may, by order —

- (a) invalidate any resolution of, or election held by, the persons present at the meeting; or
- (b) refuse to invalidate any such resolution or election.

[16/87]

(2) A Board shall not make an order under subsection (1) refusing to invalidate a resolution or election unless it considers —

- (a) that the failure to comply with the provisions of this Act did not prejudicially affect any person; and

(b) that compliance with the provisions of this Act would not have resulted in a failure to pass the resolution, or have affected the result of the election, as the case may be.

[16/87]

Order varying certain rates of interest

98. Where, pursuant to an application by a subsidiary proprietor or a mortgagee in possession, a Board considers that the management corporation for the subdivided building to which the application relates has determined an unreasonable rate as the rate of interest chargeable for the late payment of a contribution levied under section 42, the Board may, in respect of such contributions as are specified in the order, order that no interest be so chargeable or that the rate so chargeable be a rate specified by the Board in the order instead of the rate so determined.

[16/87]

Order for variation of contributions levied or manner of payment thereof

99. —(1) Where, pursuant to an application by a management corporation, a subsidiary proprietor or a mortgagee in possession (whether by himself or another person), a Board considers that any amount levied or proposed to be levied by way of contributions under section 42 in respect of —

(a) a lot in a subdivided building where planning permission for the development of land was granted prior to 15th April 1976; or

(b) a lot which has been subdivided from another lot or has been derived from the amalgamation of 2 or more lots,

is inadequate, excessive or unreasonable, the Board may order the subsidiary proprietor of the lot concerned to pay a different amount from such date as the Board determines.

[16/87;21/99]

(2) Where an order of a Board under subsection (1) takes effect in relation to a contribution levied by a management corporation that has been wholly or partly paid in respect of a lot, the management corporation shall be deemed to have imposed a levy of the amount determined by the Board with effect from such date as the Board determines.

(3) Notwithstanding section 42 (2), an order may be made by a Board under subsection (1) for the payment of any amount which the Board thinks is fair and adequate.

[16/87]

Order where voting rights denied or due notice of item of business not given

100. —(1) Where, pursuant to an application by a person under this section, a Board is satisfied that a particular resolution would not have been passed at a general meeting of a management corporation but for the fact that the applicant —

(a) was improperly denied a vote on the motion for the resolution; or

(b) was not given due notice of the item of business pursuant to which the resolution was passed, the Board may order that the resolution be treated as a nullity on and from the date of the order.

[16/87]

(2) An application for an order under subsection (1) may not be made after 21 days after the date of the meeting at which the resolution was passed.

[16/87]

(3) Where —

(a) an order under subsection (1) is made in respect of a resolution making a by-law amending, adding to or revoking another by-law; and

(b) the by-law made pursuant to that resolution is in force, the by-law shall, subject to its having been or being amended, added to or revoked under section 41, have force and effect on and from the date the order is so made to the same extent as it would have had if the resolution had not been passed.

[16/87]

Order varying amount of insurance to be provided

101. Where, pursuant to an application by a subsidiary proprietor or the mortgagee of a lot, a Board considers that the amount for which the management corporation for the subdivided building concerned has insured under section 71 is not reasonable, the Board may order the management corporation to vary that amount to a specified amount.

[16/87]

Order appointing managing agent to exercise or perform certain powers, etc.

102. —(1) Where, pursuant to an application made by a subsidiary proprietor, the mortgagee of a lot or a judgment creditor of a management corporation, a Board is satisfied that it is in the interests of the subsidiary proprietors of all the lots in the subdivided building concerned or the creditors of the management corporation to appoint a managing agent for the management corporation, the Board may order the management corporation to appoint a managing agent to perform the duties specified in the order.

[16/87]

(2) Where a Board makes an order under subsection (1), it may also order that the managing agent shall have and may exercise and perform —

- (a) all the powers, duties and functions of the management corporation for the subdivided building to which the order relates or of the chairman, secretary or treasurer of that management corporation or the council of that management corporation;
- (b) any one or more of those powers, duties or functions specified in the order; or
- (c) all of those powers, duties and functions except those specified in the order.

[16/87]

Disputes regarding performance of functions, etc.

103. —(1) Subject to subsections (4), (6) and (7), a Board may, pursuant to an application by a management corporation, subsidiary proprietor, mortgagee in possession, lessee or occupier of a lot in a subdivided building, make an order for the settlement of a dispute, or the rectification of a complaint, with respect to —

- (a) any defect in a lot, a subdivided building or its common property;
- (b) the liability of a subsidiary proprietor to bear the costs of or any part thereof for any work carried out by a management corporation in the exercise or performance of its powers, duties or functions conferred or imposed by this Act or the by-laws relating to the subdivided building; or
- (c) the exercise or performance of, or the failure to exercise or perform, a power, authority, duty or function conferred or imposed by this Act or the by-laws relating to the subdivided building.

[21/99]

(2) An order under subsection (1) may be made on —

- (a) any person entitled to make an application under this section; or
- (b) the chairman, secretary or treasurer of a management corporation or its council.

[21/99]

(3) Any order made under subsection (1), except an order made with respect to the exercise or performance of, or the failure to exercise or perform, a power, authority, duty or function conferred or imposed by this Act or the by-laws, may provide for the payment of damages.

[21/99]

(4) For the purposes of this section, where a management corporation has a discretion as to whether or not to exercise or perform a power, authority, duty or function conferred or imposed on it by this Act or the by-laws, it shall be deemed to have refused or failed to exercise or perform that power, authority, duty or function only if it has decided not to exercise or perform that power, authority, duty or function.

[21/99]

(5) For the purposes of subsection (4), where an application is made to a management corporation to exercise a discretion referred to in that subsection, and the management corporation does not, before the expiration of 2 months after the making of the application —

- (a) exercise or perform a power, authority, duty or function in accordance with the application; or
 - (b) inform the applicant that it has decided not to exercise or perform the power, authority, duty or function in accordance with the application,
- the management corporation shall be deemed to have decided not to exercise or perform the power, authority, duty or function.

[21/99]

(6) Nothing in subsection (1) shall empower a Board to make an order with respect to the exercise or performance of, or the failure to exercise or perform, a power, authority, duty or function of a management corporation where that power, authority, duty or function may, in accordance with any provision of this Act or the by-laws, only be exercised or performed pursuant to a unanimous resolution or a special resolution.

[21/99]

(7) An order in respect of any matter dealt with in any other section in this Part shall not be made under this section.

[21/99]

(8) Subsection (5) shall apply to any application to a management corporation made before 11th October 1999 as if the application had been made immediately after that date.

[21/99]

Order with respect to certain consents affecting common property

104. Where, pursuant to an application by a subsidiary proprietor, a Board considers that the

management corporation for the subdivided building to which the application relates has unreasonably refused to consent to a proposal by that subsidiary proprietor to effect alterations to the common property, the Board may make an order that the management corporation consents to the proposal.

[16/87]

Order to make or pursue insurance claim

105. Where, pursuant to an application by a subsidiary proprietor, a Board considers that the management corporation for the subdivided building to which the application relates has unreasonably refused to make or pursue an insurance claim in respect of damage to the building or any other property insured by the management corporation under Division 5 of Part IV, the Board may order the management corporation to make or pursue the claim.

[16/87]

Order to supply information or documents

106. Where, pursuant to an application by any person, a Board considers that the management corporation for the subdivided building to which the application relates, or a managing agent for that building or the chairman, secretary or treasurer of that management corporation has wrongfully —
(a) withheld from the applicant any information to which the applicant is entitled under this Act; or
(b) failed to make available for inspection by the applicant or his agent any record or document that, under this Act, he is entitled to inspect,

the Board may order that management corporation, managing agent, chairman, secretary or treasurer to supply or make available the information or to make so available the record or document, as the case may require, to the applicant.

[16/87]

Appeal against decision of Commissioner under section 52

107. —(1) Any person who is aggrieved by a decision of the Commissioner under section 52 may appeal to a Board against the decision of the Commissioner.

(2) The Board may by order affirm, vary or revoke the decision against or substitute its own decision for the decision appealed against or dismiss the appeal.

[16/87]

Appeal to High Court on question of law

108. —(1) No appeal shall lie to the High Court against an order made by a Board except on a point of law.

[16/87]

(2) Where an appeal is made to the High Court, the Court may confirm, vary or set aside the order or remit the order to the Board for reconsideration together with such directions as the Court thinks fit.

(3) The filing of a notice of appeal shall not operate as a stay of execution of an order or suspend the effect of an order unless the Board or the High Court, as the case may be, otherwise orders and any stay or suspension of an order may be subject to such conditions as the Board or High Court thinks fit.

[16/87]

General provisions relating to orders under this Part

109. —(1) An order made by a Board may include such ancillary or consequential provisions as the Board thinks fit including costs to be paid by the applicant, a management corporation or any person against whom the order is made or costs to be paid by a party for making a frivolous application to the Board.

[16/87]

(2) Without prejudice to subsection (1), a Board may order a management corporation, the chairman, secretary or treasurer of a management corporation or its council, a managing agent or a proprietor or other person having an estate or interest in a lot or an occupier of a lot to do or refrain from doing a specified act with respect to a subdivided building and the common property.

[16/87;21/99]

(3) Any order made by a Board under this Act may, by leave of a District Court, be enforced against the person in the same manner as a judgment of that Court, and where leave is so given, judgment may be entered in terms of that order.

[21/99]

Representation before Board

110. —(1) A party to any proceedings under this Act may appear before a Board or may be

represented by counsel, or such other person as the Board may allow, who may examine witnesses and address the Board on behalf of the party.

[21/99]

(2) A management corporation appearing before a Board may be represented by counsel, a member of the council of the management corporation or such other person as the Board may allow.

[21/99]

Witness may be summoned before Board

111. —(1) A Board may summon any person to attend before the Board at the time and place specified in the summons and then and there to give evidence and to produce books, documents or writings in his custody or control which he is required by the summons to produce.

[16/87]

(2) A person served with a summons under subsection (1) who, without reasonable excuse, disobeys the summons shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years.

(3) A person shall not be bound to produce any books, documents or writings not specified or otherwise sufficiently described in the summons or which he would not be bound to produce upon a subpoena for production in a court.

[16/87]

Board may administer oath or affirmation

112. —(1) A Board may administer an oath or affirmation to a person appearing as a witness before the Board, whether or not he has appeared in answer to a summons, and may examine the witness upon oath or affirmation.

[16/87]

(2) A person appearing as a witness before a Board —

(a) shall not refuse to be sworn or to make an affirmation;

(b) shall not refuse to answer any question relevant to any proceedings before the Board put to him by the Board or by any person entitled to appear before the Board in those proceedings; and

(c) shall not knowingly give false testimony in any evidence given by him to the Board.

(3) A witness before a Board shall have —

(a) the same protection; and

(b) in addition to the penalties provided by this Act, the same liabilities, as he would have had if he had been a witness before a court instead of the Board.

[16/87]

Penalty for contravention of certain orders

113. —(1) A person who contravenes an order made by a Board to do or refrain from doing a specified act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both.

[16/87]

(2) A document purporting to be a copy of an order made by a Board shall be admissible in evidence and shall, until the contrary is proved, be deemed to be an order made by the Board.

[16/87]

Time when order takes effect

114. Except where provision is otherwise made by this Act or to the extent a Board specifies in an order, an order of a Board shall take effect when a copy of the order, certified by the Board to be a true copy, is served —

(a) except as provided in paragraph (b), on the management corporation for the subdivided building to which the order relates; or

(b) where the order requires a person to do or refrain from doing a specified act, on that person.

[16/87]

PART VII

GENERAL

Other rights and remedies not affected by this Act

115. Nothing in this Act shall affect or take away any rights or remedies that a subsidiary proprietor or mortgagee of a lot or a management corporation may have in relation to any lot or the common property apart from this Act.

[16/87]

Management corporation may represent subsidiary proprietors in proceedings

116.—(1) Where all or some of the subsidiary proprietors of the lots in a subdivided building are jointly entitled to take proceedings against any person or are liable to have proceedings taken against them jointly (any such proceedings being proceedings for or with respect to common property), the proceedings may be taken by or against the management corporation as if it were the subsidiary proprietors of the lots concerned.

(2) Any judgment or order given or made in favour of or against the management corporation in any such proceedings shall have effect as if it were a judgment or order given or made in favour of or against the subsidiary proprietors.

[16/87]

(3) Where a subsidiary proprietor is liable to make a contribution to another subsidiary proprietor in respect of a judgment debt arising under a judgment referred to in subsection (2), the amount of that contribution shall bear to the judgment debt the same proportion as the share value of the lot of the first-mentioned subsidiary proprietor bears to the aggregate share value.

[16/87]

Management corporation's power to take proceedings as agent for subsidiary proprietor in case of structural defects

117. Where —

(a) the condition of any lot in a parcel affects or is likely to affect the support or shelter provided by that lot for another lot in the same building or the common property; and

(b) the subsidiary proprietor of the lot in that condition has neglected or refused within a reasonable time to take any proceedings for the purpose of exercising any right or enforcing any remedy available to him to have that condition rectified,

the management corporation may, as agent for the subsidiary proprietor of the lot in that condition but at its own expense, take any of the proceedings referred to in paragraph (b).

[16/87]

Costs in proceedings by subsidiary proprietors against management corporation

118.—(1) In any proceedings brought by one or more subsidiary proprietors against the management corporation, or by the management corporation against one or more subsidiary proprietors (including subsidiary proprietors joined in third party proceedings), the court or a Board may order that any moneys (including costs) payable by the management corporation pursuant to an order of the court or a Board, as the case may be, in those proceedings shall be paid, in respect of such lots as are specified in the order and in such proportions as may be specified, by the management corporation out of contributions levied for the purpose.

[21/99]

(2) Where a court or a Board makes an order under subsection (1), the management corporation shall, for the purpose of paying the moneys ordered to be paid by it, levy contributions in accordance with the terms of the order and shall pay the moneys out of the contributions paid pursuant to that levy.

(3) Section 42 (subsection (2) excepted) shall apply to and in respect of contributions levied under subsection (2) in the same way as it applies to contributions levied under that section.

[16/87;21/99]

Service of documents on management corporation, subsidiary proprietors and others

119.—(1) A summons or other legal process may be served on a management corporation by leaving it with the chairman or secretary of the management corporation or of the council or with any member of the council.

[16/87]

(2) A document other than a document referred to in subsection (1) may be served on a management corporation —

(a) by leaving it with any person referred to in subsection (1) or in the receptacle provided by the management corporation under section 55; or

(b) by sending it, by registered post, to the management corporation at its address recorded on the folio of the land-register comprising the common property.

[16/87]

(3) Subject to the provisions of this Act, a notice or other document required or authorised by this Act or the by-laws to be served by the Commissioner, a management corporation, a council or the secretary of a council on a proprietor, subsidiary proprietor, lessee, mortgagee or occupier of a lot may be served —

(a) by leaving it —

(i) where the person to be served is an occupier of the lot, at the address of the lot; or

(ii) where an address for the service of notices on the person to be served is recorded in the strata roll, at the address so recorded;

(b) by sending it, by registered post, to the person to be served, where an address for the service of notices on that person is recorded in the strata roll, at the address so recorded and, if that notice or document is not returned through the post office as undelivered, that service shall be deemed to have been made at the time at which the registered letter would in the ordinary course be delivered; or

(c) in the case of a subsidiary proprietor, by affixing the notice on the front door of his lot.

(4) Section 60 (3) of the Land Titles Act (Cap. 157) shall apply to the service of documents on a management corporation and a subsidiary proprietor.

[16/87]

(5) This section shall not apply to notices served in proceedings in the court.

[16/87]

Breaches of provisions of Part IV

120. —(1) If a management corporation commits a breach of any of the provisions of Part IV, or makes default in complying with any requirement of, or duty imposed on it by, any of the provisions of Part IV, the management corporation and every member of its council, or every subsidiary proprietor, who is knowingly a party to the breach or default, shall be guilty of an offence and shall be liable on conviction to the penalty expressly prescribed for such breach or default, or, if no penalty is so prescribed, to a fine not exceeding \$2,000.

[16/87]

(2) Where a requirement or duty is imposed on a management corporation by Part IV, any person for whose benefit, or for the benefit of whose lot that requirement or duty is imposed on the management corporation may apply to the court for an order compelling the management corporation to carry out the requirement or perform the duty, as the case may be, and, on such an application being made, the court may make such order as it thinks proper.

[16/87]

Legal proceedings

121. —(1) Every application to the court under this Act shall be by originating summons.

[16/87]

(2) Where this Act provides for any sum to be recovered by any person or authority from any other person or authority, the sum may be recovered by an action for a debt in any court of competent jurisdiction.

[16/87]

PART VIII

ISSUE OF SUBSIDIARY CERTIFICATES OF TITLE FOR FLATS UNDER OTHER SCHEMES AND ISSUE OF SUBSIDIARY STRATA CERTIFICATES OF TITLE

Issue of subsidiary certificate of title to registered lessee

122. —(1) A registered lessee may by an application in the prescribed form apply to the Registrar for the issue of a subsidiary certificate of title in respect of the registered leasehold estate to his flat.

[16/87;S143/89]

(2) The registered lessee shall at the time of making his application surrender his duplicate lease to the Registrar.

(3) Upon the issue of a subsidiary certificate of title, the Registrar shall enter a memorial in the volume and folio of the land-register of the registered land on or over which the flat is erected to the effect that a subsidiary certificate of title has been issued to the registered lessee for his registered leasehold estate.

[16/87;S143/89]

(4) The subsidiary certificate of title shall be in the prescribed form and upon its issue any assurance or other dealing affecting the leasehold estate comprised therein shall be subject to the Land Titles Act (Cap. 157).

[16/87;S143/89]

Flats sold by Housing and Development Board

123. —(1) The restriction imposed by section 6 (1) on an assurance disposing of any part of a subdivided building shall not apply to any assurance disposing of any interest in any flat in a subdivided building erected on registered land where the interest in the flat is held under a lease from the Housing and Development Board constituted under the Housing and Development Act (Cap. 129).

[16/87]

(2) Where a strata title plan and an application for the issue of subsidiary strata certificates of title are lodged by the Housing and Development Board with and duly registered by the Registrar, the provisions of this Act relating to a strata title plan and a subsidiary proprietor and Parts IV to VII shall apply to each and every subdivided building comprised in the registered strata title plan.

[16/87]

Flats sold by Jurong Town Corporation

124. —(1) The restriction imposed by section 6 (1) on an assurance disposing of any part of a subdivided building shall not apply to any assurance disposing of any interest in any flat in any subdivided building erected on registered land where the interest in the flat is held under a lease from the Jurong Town Corporation constituted under the Jurong Town Corporation Act (Cap. 150).

[16/87]

(2) Where a strata title plan and an application for the issue of subsidiary strata certificates of title are lodged by the Jurong Town Corporation with and duly registered by the Registrar, the provisions of this Act relating to a registered strata title plan and a subsidiary proprietor and Parts IV to VII shall apply to each and every subdivided building comprised in the registered strata title plan.

[16/87]

Subsidiary strata certificates of title for flats with registered leases under Registration of Deeds Act

125. —(1) Where there are 3 or more flats in a building and subsisting leases for those flats have been registered under the Registration of Deeds Act (Cap. 269), the proprietor of the land together with the proprietors of those flats who altogether own not less than 25% of the total number of flats in the building may lodge with the Registrar an application —

(a) to have the land brought under the Land Titles Act (Cap. 157); and

(b) for the issue of subsidiary strata certificates of title for all those flats.

[16/87]

(2) An application submitted to the Registrar under subsection (1) shall be accompanied by —

(a) a transfer of the proprietor's estate and interest in the land to the proprietors of all the flats in that building as tenants-in-common in the shares according to the ratio of one share to each flat except where the flats are of different sizes, the share in the land allotted to the proprietor of each flat shall have the value determined by the Registrar; and

(b) a strata title plan (as approved by the Chief Surveyor) prepared for the purpose of the issue of subsidiary strata certificates of title for those flats.

(3) The Registrar may, upon acceptance of the application, dispense with the production of the leases of the flats.

(4) Before issuing subsidiary strata certificates of title in favour of the proprietors of the flats as shown in the records of the Registry of Deeds, the Registrar shall —

(a) require a notice in the form approved by him to be inserted once in one or more daily newspapers to the effect that the Registrar will issue the subsidiary strata certificates of title under this section to

the proprietors of the flats as shown in the records maintained at the Registry of Deeds after the expiration of 6 weeks from the date of publication of the notice if no valid objection is received by the Land Titles Registry; and

(b) send by registered post a copy of the notice referred to in paragraph (a) to the proprietors of all the flats at the addresses shown in the transfer referred to in subsection (2).

(5) Notwithstanding subsections (1) to (4), the Registrar may, in order to relieve any case of extreme hardship, in his discretion, issue any subsidiary strata certificate of title in favour of a purchaser of a flat whose assignment of the leasehold estate of the flat has been duly stamped and lodged with the Registrar of Deeds, notwithstanding that the name of the purchaser was not shown in the transfer lodged under subsection (2).

(6) Where the proprietors of the flats who altogether own not less than 25% of the total number of the flats as shown in the records of the Registry of Deeds as at the date of transfer mentioned in subsection (2) have agreed in writing to accept the transfer of the estate and interest of the proprietor of the land, all the proprietors of the flats within the same development and all the respective successors-in-title or assigns shall be deemed to have accepted the transfer of the proprietor's estate and interest in the land and to have given consent to the application for the issue of the subsidiary strata certificates of title by the Registrar and the acceptance of the transfer of the proprietor's estate and interest in the land.

(7) The proprietor of the land shall deposit with the Registrar the title deeds in his possession relating to the land and the Registrar may, after inspection of the title deeds, create a folio of the land-register by issuing a certificate of title for the land on which the flats are erected.

(8) Where the Registrar is satisfied with the evidence of title and that all the necessary documents are in order, the Registrar may issue subsidiary strata certificates of title for the flats after the publication of the notice referred to in subsection (4).

(9) The Registrar may, under subsections (7) and (8), issue the certificate of title and the subsidiary strata certificates of title qualified as to their title or their boundaries and dimensions, and sections 25 and 165 of the Land Titles Act (Cap. 157) shall apply, with the necessary modifications, to such certificate of title and subsidiary strata certificates of title.

(10) Upon the registration of the strata title plan, the management corporation of the parcel of land shall reimburse the person or persons who incurred any expenditure for the purpose of —

(a) bringing the land under the Land Titles Act;

(b) applying for the issue of subsidiary strata certificates of title for all those flats comprised in a building or buildings erected on the parcel;

(c) lodging the transfer under subsection (2);

(d) the preparation of the strata title plan for the parcel;

(e) the publication of the notices referred to in subsection (4) (a); and

(f) issuing notices to the proprietors of the flats under subsection (4) (b).

(11) It shall be the duty of the management corporation to determine the amount of contributions payable by the subsidiary proprietors of the lots in the subdivided building concerned to its management fund to meet the expenditure referred to in subsection (10) and any contributions so levied by the management corporation shall be deemed to be contributions levied under section 48 (1) (r).

(12) For the purposes of this section, where the registered proprietor of the land on which the building is erected has granted leases for some but not all of the flats in the building, he shall be deemed a proprietor of the flats which are still owned by him.

[16/87]

Subsidiary strata certificates of title for flats where proprietors own leasehold estate of at least 999 years or other estate

125A. —(1) Where the subsisting leases of the flats registered under the Registration of Deeds Act (Cap. 269) or the Land Titles Act are for a leasehold estate of 999 years or more or for such other estate as the Minister may, by notification in the *Gazette*, specify and where the proprietors of those flats who altogether own not less than 25% of the total number of flats in the development have agreed to have the land brought under the Land Titles Act and for the issue of subsidiary strata certificates of title for all the flats, the proprietor of the land shall be deemed to have agreed to the transfer of the land without consideration to the proprietors of the flats in the shares as specified in section 125 (2) (a) or section 126 (1) or (2), as the case may be.

[21/99]

(2) The proprietors of the flats referred to in subsection (1) shall serve a notice on the proprietor of the land and the subsisting mortgagees, chargees or other persons with an estate or interest in land who appear as such in the records of the Land Titles Registry or the Registry of Deeds, as the case may be, at least one month before the date of the application for registration of the strata title plan is filed with the Registrar, informing them of the transfer under subsection (1).

[21/99]

(3) Section 125 or 126, as the case may be, shall, except the provisions relating to the transfer of the land by the registered proprietors, continue to apply to the proprietors of the flats referred to in subsection (1).

[21/99]

(4) Upon registration of the strata title plan for the development and the issue of subsidiary strata certificates of title for the flats in the development, the estate and interest of the registered proprietor in the land shall vest in the subsidiary proprietors.

[21/99]

Issue of subsidiary strata certificates of title for flats with subsisting leases registered under Land Titles Act

126.—(1) Where there are subsisting leases of flats registered under the Land Titles Act (Cap. 157), the registered proprietors of the flats who altogether own not less than 25% of the total number of flats comprised in the building erected on the same parcel of land together with the registered proprietor of the land on which the said flats are erected may lodge with the Registrar a transfer of the estate and interest of the registered proprietor of the land to all the registered proprietors of the flats as tenants-in-common in the shares according to the ratio of one share to each flat together with an application for the issue of subsidiary strata certificates of title for the flats.

[16/87]

(2) Where the flats in the building are of different sizes, the shares in the land to be allotted to the registered proprietor of each flat shall have the values determined by the Registrar.

(3) An application submitted under subsection (1) shall be accompanied by a strata title plan (as approved by the Chief Surveyor) prepared for the purpose of the issue of subsidiary strata certificates of title for the flats.

(4) The Registrar may, upon acceptance of the instruments and strata title plan and being satisfied that the instruments and strata title plan are in order, register all the registered proprietors of the flats as the proprietors of the registered land as tenants-in-common and issue the subsidiary strata certificates of title according to the strata title application and the strata title plan lodged and dispense with the production of the duplicate leases of the flats.

(5) Where the registered proprietors of the flats who altogether own not less than 25% of the total number of flats comprised in the building erected on the parcel of land have agreed in writing to accept the transfer of all the estate and interest of the registered proprietor in the land, all the remaining registered proprietors of the flats in the same building shall be deemed to have accepted the transfer and deemed to have applied for the issue of subsidiary strata certificates of title for the flats.

(6) Before issuing subsidiary strata certificates of title in favour of the registered proprietors of the flats as shown in the records of the Land Titles Registry, the Registrar shall —

(a) require a notice in the form approved by him to be inserted once in one or more daily newspapers to the effect that the Registrar will issue the subsidiary strata certificates of title under this section to the registered proprietors of the flats as shown in the records maintained at the Land Titles Registry after the expiration of 6 weeks from the date of publication of the notice if no valid objection is received by the Registrar; and

(b) send by registered post a copy of the notice referred to in paragraph (a) to the registered proprietors of all the flats at the addresses shown in the records of the Land Titles Registry or in the transfer lodged under subsection (1) where the addresses differ from that shown in the records of the Land Titles Registry.

(7) Notwithstanding subsections (1), (2) and (3), the Registrar may, in order to relieve any case of extreme hardship, in his discretion, issue any subsidiary strata certificate of title in favour of a purchaser of a flat whose transfer of the leasehold estate of the flats has been duly stamped and lodged

with him, notwithstanding that the name of the purchaser was not shown in the transfer lodged under subsection (1).

(8) The Registrar may, under subsection (4), issue the subsidiary strata certificates of title qualified as to their title or their boundaries and dimensions, and sections 25 and 165 of the Land Titles Act (Cap. 157) shall apply, with the necessary modifications, to such subsidiary strata certificates of title.

(9) Upon the registration of the strata title plan, the management corporation of the parcel of land shall reimburse the person or persons who incurred any expenditure for the purpose of —

(a) applying for the issue of subsidiary strata certificates of title for all those flats comprised in a building or buildings erected on the parcel;

(b) lodging the transfer under subsection (1);

(c) the preparation of the strata title plan for the parcel;

(d) the publication of the notices referred to in subsection (6) (a); and

(e) issuing notices to the proprietors of the flats under subsection (6) (b).

(10) It shall be the duty of the management corporation to determine the amount of contributions payable by the subsidiary proprietors of the lots in the subdivided building concerned to its management fund to meet the expenditure referred to in subsection (9) and any contributions so levied by the management corporation shall be deemed to be contributions levied under section 48 (1) (r).

(11) For the purposes of this section, where the registered proprietor of the land on which the building is erected has granted leases for some of but not all the flats in the building, he shall be deemed the registered proprietor of the flats which are still owned by him.

[16/87]

Application of section 126 to land vested in Housing and Development Board and HUDC dwellings

126A. —(1) In the application of section 126 to any designated land which is vested in the Housing and Development Board —

(a) any reference therein to the registered proprietor of the land shall be read as a reference to the Board;

(b) any reference therein to the registered proprietors of flats shall be read as a reference to the owners of flats;

(c) any reference therein to 25% of the total number of flats comprised in a building erected on a parcel of land shall be read as a reference to 75% of the total number of flats comprised in the building or buildings within a housing estate built on a parcel or parcels of land vested in the Board; and

(d) any lease of such land issued by the Board under section 45 (1) of the HUDC Housing Estates Act (Cap. 131) shall be deemed to have been surrendered by all the lessees to the Board on the day immediately before the date an instrument of transfer of such land is lodged under section 126 (1).

[27/95]

(2) In addition to its duties specified in section 126 (9) and (10), the management corporation for any estate or interest in land transferred by the Board under an application under section 126 (1) shall pay to the Board —

(a) the cost of any estate or interest in land which was the subject of such transfer; and

(b) the cost of any work carried out by the Board in accordance with the directions of any other public authority prior to such transfer.

[27/95]

(3) The management corporation for any land transferred by the Board pursuant to an application under section 126 (1) shall, upon a written demand by the Board to pay the costs referred to in subsection (2) or any part thereof and the expenses referred to in section 126 (9), pay to the Board not later than 30 days of notice of the written demand those costs or that part thereof and those expenses.

[27/95]

(4) If the costs or expenses referred to in subsection (3) are not paid by the management corporation on the date due, the management corporation shall be liable to pay interest in accordance with the rate specified by the Minister charged with the responsibility for national development, such interest, if unpaid, to constitute a debt due to the Board and recoverable as such.

[27/95]

(5) For the purposes of paying the costs and interest referred to in subsections (2), (3) and (4), the management corporation shall determine the amount of contributions payable by the subsidiary proprietors who are members of the management corporation.

(6) Any contributions so levied by the management corporation shall be deemed to be contributions levied under section 48 (1) (*r*).

[27/95]

(7) In this section and section 126B —

"Board" means the Housing and Development Board constituted under the Housing and Development Act (Cap. 129);

"designated land" means any land or housing estate vested in the Board which the Minister, by notification in the *Gazette*, designates as land to which section 126A applies;

"owner" , in relation to any flat, means —

(a) a purchaser of a leasehold interest in the flat, including a purchaser under an agreement for a lease of the flat; or

(b) in any other case, the Board.

[27/95]

Application of HUDC Housing Estates Act and Housing and Development Act after registration of strata title plan or issue of subsidiary strata certificate of title

126B. —(1) Upon the registration of the strata title plan in respect of any housing estate built on land to which the HUDC Housing Estates Act (Cap. 131) applies —

(a) the HUDC Housing Estates Act shall cease to apply to the housing estate and to all the registered proprietors of flats within the housing estate;

(b) any body corporate constituted under the provisions of the HUDC Housing Estates Act in respect of that land shall continue as a management corporation constituted under the provisions of this Act having as its corporate name the corporate name as prescribed in this Act (referred to in this section as the new management corporation);

(c) the management committee constituted under the HUDC Housing Estates Act of such body corporate shall, subject to this Act, be the council of the new management corporation, and any person who, immediately before such registration, is a member of the management committee shall be deemed to have been elected under the provisions of this Act as a member of the council of the new management corporation;

(d) all by-laws relating to the land under the provisions of the HUDC Housing Estates Act (Cap. 131) shall cease to have any force or effect in relation to that land but without prejudice to any right or liability accruing or legal proceedings instituted prior to the registration of the strata title plan;

(e) any contribution levied by such body corporate under the provisions of the HUDC Housing Estates Act and unpaid on the registration of the strata title plan may be recovered by the new management corporation as if it were a contribution levied by the new management corporation under this Act;

(f) any charge constituted upon a flat in favour of such body corporate under the provisions of the HUDC Housing Estates Act in connection with any unpaid contributions shall be deemed to be a charge constituted upon the lot corresponding to that flat in favour of the new management corporation under this Act;

(g) every fund which was, immediately before the registration of the strata title plan, kept by such body corporate under the provisions of the HUDC Housing Estates Act, shall be deemed to be a fund required under the corresponding provisions of this Act to be established and maintained by the new management corporation; and

(h) any policy of insurance effected by such body corporate in relation to any building within the housing estate in accordance with the provisions of the HUDC Housing Estates Act and in force on the registration of the strata title plan shall continue and deemed to have been effected under this Act, and sections 71 and 72 shall not apply to or in respect of the new management corporation for that housing estate until the expiry of that policy.

[27/95]

(2) In the case of flats built on designated land which have been sold under Part IV of the Housing and Development Act (Cap. 129), the provisions of Part IV of that Act shall cease to apply in relation to such flats upon the registration of the strata title plan in respect of such designated land.

[27/95]

(3) The Minister may, for the purposes of facilitating any transfer of designated land or the issue of subsidiary strata certificates of title for the flats comprised in any building on such land, make regulations containing such other transitional, consequential or savings provisions as may appear necessary or expedient to the Minister.

[27/95]

Issue of subsidiary strata certificates of title for flats with subsisting leases registered under Registration of Deeds Act where land is vested in flat-owners as tenants-in-common

127. —(1) Where there are subsisting leases of flats registered under the provisions of the Registration of Deeds Act (Cap. 269) and the registered estate or interest in the land on which the flats are erected is vested, subject to the provisions of the Land Titles Act (Cap. 157), in the lessees of the flats as tenants-in-common in the shares shown in the land-register, the registered lessees of those flats who altogether own not less than 25% of the total number of those flats may lodge with the Registrar an application for the issue of subsidiary strata certificates of title for all those flats.

[16/87]

(2) An application submitted to the Registrar under subsection (1) shall be accompanied by a strata title plan (as approved by the Chief Surveyor) prepared for the purpose of the issue of subsidiary strata certificates of title for those flats.

(3) The Registrar may, upon acceptance of the application, dispense with the production of the leases of the flats.

(4) Before issuing subsidiary strata certificates of title in favour of the registered lessees of the flats as shown in the records of the Registry of Deeds, the Registrar shall —

(a) require a notice in the form approved by him to be inserted once in one or more daily newspapers to the effect that the Registrar will issue the subsidiary strata certificates of title under this section to the registered lessees of the flats as shown in the records maintained at the Registry of Deeds after the expiration of 6 weeks from the date of publication of the notice if no valid objection is received by the Land Titles Registry; and

(b) send by registered post a copy of the notice referred to in paragraph (a) to the registered lessees of all the flats at the addresses shown in the records of the Registry of Deeds.

(5) Where the Registrar is satisfied that all the necessary documents are in order, the Registrar may issue subsidiary strata certificates of title for the flats after the publication of the notice referred to in subsection (4).

(6) Any subsidiary strata certificates of title issued by the Registrar under subsection (5) may be qualified as to their title or their boundaries and dimensions, and sections 25 and 165 of the Land Titles Act (Cap. 157) shall apply, with the necessary modifications, to such subsidiary strata certificates of title.

(7) Upon the registration of the strata title plan, the management corporation of the parcel of land shall reimburse the person or persons who incurred any expenditure for the purpose of —

(a) applying for the issue of subsidiary strata certificates of title for all those flats comprised in a building or buildings erected on the parcel;

(b) the preparation of the strata title plan for the parcel;

(c) the publication of the notices referred to in subsection (4) (a); and

(d) issuing notices to the subsidiary lessees of the flats under subsection (4) (b).

(8) It shall be the duty of the management corporation to determine the amount of contributions payable by the subsidiary proprietors of the lots in the subdivided building concerned to its management fund to meet the expenditure referred to in subsection (7) and any contributions so levied by the management corporation shall be deemed to be contributions levied under section 48 (1) (r).

[16/87]

Effect of issue of qualified certificate of title and of subsidiary strata certificates of title

128. —(1) Upon the issue of a qualified certificate of title for the land under section 125, the provisions of the Land Titles Act relating to a qualified certificate of title, except section 21 (1), (2) and (5) of that Act, shall apply to the land comprised therein.

[16/87]

(2) Upon the issue of the subsidiary strata certificates of title for the flats under section 125, 126 or 127, all the provisions of the leases of the flats registered under the provisions of the Registration of Deeds Act (Cap. 269) and the Land Titles Act shall cease to apply to the flats except in respect of any

terms, covenants and conditions which were subsisting prior to the date of the issue of the subsidiary strata certificates of title in so far as they relate to any obligations which have yet to be fulfilled or any cause of action which had arisen as between the registered proprietors of the flats themselves and as between the registered proprietors of the flats and the registered proprietors of the land on which the flats are erected.

[16/87]

129. Deleted by Act 38/2002, wef 01/01/2003.

PART IX

MISCELLANEOUS

Regulations

130. —(1) Subject to section 131, the Authority, with the approval of the Minister, may make regulations not inconsistent with this Act for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Authority, with the approval of the Minister, may make regulations with respect to —

- (a) the fees to be paid to a management corporation for anything to be done under this Act;
- (b) the nomination and election of members of a council of a management corporation;
- (c) the minimum amount of contributions payable by subsidiary proprietors towards the sinking fund of a management corporation;
- (d) the investment of moneys belonging to the sinking funds of management corporations;
- (e) the provision of parking places for the exclusive use of residents of lots in subdivided buildings used for both residential and commercial purposes;
- (f) Deleted by Act 17/2001, wef 01/06/2001.
- (g) Deleted by Act 17/2001, wef 01/06/2001.
- (h) the fees to be paid in respect of lodgment and registration of plans and documents under this Act;
- (i) the practice and procedure of the Board; and
- (j) any matter which by this Act is required or permitted to be prescribed or is necessary or convenient to be prescribed for carrying out or giving effect to any provision of this Act.

[16/87]

Regulations made by, and fees to be paid to, Authority

131. —(1) The Authority may make regulations on any of the following matters:

- (a) the preparation of plans and documents for the purposes of this Act; and
- (b) the lodgment and registration of plans under this Act.

(2) All prescribed fees collected under or in connection with any service provided by the Registrar under this Act shall be paid into the funds of the Authority.

FIRST SCHEDULE

Sections 41 (2), (3), (6) and (16) and 50 (e)

BY-LAWS

PART I

Chairman, secretary and treasurer of management corporation

1. The chairman, secretary and treasurer of the council shall also be respectively the chairman, secretary and treasurer of the management corporation.

Council may employ agents and employees

2. A council may employ for and on behalf of the management corporation such agents and employees as it thinks fit in connection with the exercise and performance of the powers, duties and functions of the management corporation.

Notice board

3. A council shall cause a notice board to be affixed to some part of the common property.

Powers and duties of secretary of management corporation

4. The powers and duties of a secretary of a management corporation shall include —

- (a) the preparation and distribution of minutes of meetings of the management corporation;
- (b) the giving on behalf of the management corporation of the notices required to be given under this Act;
- (c) the maintenance of the strata roll;
- (d) the supply of information on behalf of the management corporation in accordance with section 54 (1) (a) and (b);
- (e) the answering of communications addressed to the management corporation; and
- (f) the calling of nominations of candidates for election as members of the council.

Powers and duties of treasurer of management corporation

5. The powers and duties of a treasurer of a management corporation shall include —

- (a) the notifying of subsidiary proprietors of any contributions levied under this Act;
- (b) the receipt, acknowledgment and banking of and the accounting for any money paid to the management corporation;
- (c) the preparation of any certificate applied for under section 54 (1) (c); and
- (d) the keeping of the books of account referred to in section 48 (1) (j) and the preparation of the statement of accounts referred to in section 48 (1) (k).

PART II

Duty to furnish information

6. Any member of the council shall furnish the Commissioner or any person authorised by him to act on his behalf such information as the member possesses which the Commissioner or any such duly authorised person considers necessary for the purposes of discharging the functions of the Commissioner under this Act or the Buildings and Common Property (Maintenance and Management) Act (Cap. 30).

Noise

7. A subsidiary proprietor or occupier of a lot shall not upon the parcel create any noise likely to interfere with the peaceful enjoyment of the subsidiary proprietor or occupier of another lot or of any person lawfully using the common property.

Vehicles

8. A subsidiary proprietor or occupier of a lot shall not park or leave any motor vehicle or other vehicle upon the common property except with the approval of the management corporation.

Obstruction of common property

9. A subsidiary proprietor or occupier of a lot shall not obstruct the lawful use of the common property by any person.

Damage to lawns, etc., on common property

10. A subsidiary proprietor or occupier of a lot shall not —

- (a) damage any lawn, garden, trees, shrub, plant or flower being part of, or situated upon, the common property; or
- (b) use for his own purposes as a garden any portion of the common property.

Damage to common property

11. A subsidiary proprietor or occupier of a lot shall not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the approval in writing of the management corporation, but this by-law shall not prevent a subsidiary proprietor or person authorised by him from installing —

- (a) any locking or other safety device for the protection of his lot against intruders; or
- (b) any screen or other device to prevent entry of animals or insects upon his lot.

Permission to carry out alterations

12. A subsidiary proprietor or occupier shall not make any alteration to the windows installed in the

external walls of the subdivided building without having obtained the approval in writing of the management corporation.

Balconies

13. A subsidiary proprietor or occupier of a lot shall not make any alterations or additions to any balcony of his lot without the written approval of the management corporation.

Behaviour of subsidiary proprietors and occupiers

14. A subsidiary proprietor or occupier of a lot when upon the common property shall be adequately clothed and shall not use language or behave in a manner likely to cause offence or embarrassment to the subsidiary proprietor or occupier of another lot or to any person lawfully using the common property.

Children playing on common property in building

15. A subsidiary proprietor or occupier of a lot shall take all reasonable steps to ensure that any child, of whom he has control when playing upon the common property, shall not —

(a) cause any damage to the common property; and

(b) create any noise likely to interfere with the peaceful enjoyment of the subsidiary proprietor or occupier of another lot.

Behaviour of invitees

16. A subsidiary proprietor or occupier of a lot shall take all reasonable steps to ensure that his invitees do not behave in a manner likely to interfere with the peaceful enjoyment of the subsidiary proprietor or occupier of another lot or of any person lawfully using the common property.

Depositing rubbish, etc., on common property

17. A subsidiary proprietor or occupier of a lot shall not deposit or throw upon the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of the subsidiary proprietor or occupier of another lot or of any person lawfully using the common property.

Drying of laundry items

18. A subsidiary proprietor or occupier of a lot shall not, except with the consent in writing of the management corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the subdivided building, other than on any lines provided for the purpose and there only for a reasonable period.

Floor coverings

19. A subsidiary proprietor or occupier of a lot who carries out any pounding of chillies or other substances for cooking purposes shall ensure that the part of the floor on which the activity is carried out is covered to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of the subsidiary proprietor or occupier of another lot.

Storage of flammable liquids, etc.

20. —(1) A subsidiary proprietor or occupier of a lot shall not use or store upon his lot or upon the common property any flammable chemical, liquid, gas or other flammable material, other than chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

(2) This by-law shall not apply to any lot where the subsidiary proprietor or occupier thereof has obtained a licence issued under Part V of the Fire Safety Act (Cap. 109A) authorising the use of a lot for a trade or other purpose specified in that Part.

Refuse disposal

(21) —(1) A subsidiary proprietor or occupier of a lot in a multi-storeyed subdivided building provided with chutes for the disposal of refuse shall —

(a) ensure that before any refuse is thrown into the chutes it is securely wrapped in plastic bags or other similar materials; and

(b) not dispose of any large objects into the chutes which may obstruct the free fall of refuse in the chutes.

(2) A subsidiary proprietor or occupier of a lot which is not provided with any chute for the disposal of refuse —

(a) shall maintain within his lot, or on such part of the common property as may be authorised by the management corporation, in clean and dry condition, an adequately covered receptacle for the disposal of refuse;

- (b) shall ensure that before refuse is placed in the receptacle it is securely wrapped or, in the case of tins or other containers, completely drained;
- (c) for the purpose of having the refuse collected, shall, not more than one hour before the time at which refuse is normally collected, place the receptacle within an area designated for that purpose by the management corporation;
- (d) when the refuse has been collected shall promptly return the receptacle to his lot or other area referred to in sub-paragraph (a);
- (e) shall not place anything in the receptacle of the subsidiary proprietor or occupier of any other lot except with the permission of that subsidiary proprietor or occupier; and
- (f) shall promptly remove anything which he or the refuse collector may have spilled from the receptacle and shall take such action as may be necessary to clean the area within which that thing was so spilled.

Keeping of animals

22. A subsidiary proprietor or occupier of a lot shall not keep any animal upon his lot or the common property which may cause annoyance to the subsidiary proprietors or occupiers of other lots.

Duty to maintain lot

23. A subsidiary proprietor or occupier of a lot shall maintain his lot including all sanitary fittings, water, gas, electrical and air-conditioning pipes and apparatus thereof in a good condition so as not to cause annoyance to the subsidiary proprietors or occupiers of other lots.

Lot not to be used for purpose injurious to reputation of building

24. A subsidiary proprietor or occupier of a lot shall not use his lot for any purpose (illegal or otherwise) which may be injurious to the reputation of the subdivided building.

[16/87]

SECOND SCHEDULE

Section 60 (9)

PROCEEDINGS OF COUNCIL OF MANAGEMENT CORPORATION

Chairman to preside at meetings

1. The chairman shall preside at all meetings of the council at which he is present and, if he is absent from any such meeting, the members of the council present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairman.

Meetings of councils

2. —(1) At any meeting of a council a quorum shall consist, where there is only one member of a council, of that member or, where there are 2 or more members of a council, of the majority of the members of the council.

(2) Subject to this Act, the decision on any matter, where there is only one member of a council, of that member or, where there are 2 or more members of a council, of the majority of the members voting on that matter shall be the decision of the council at any meeting at which a quorum is present.

(3) A council shall cause a record of its decisions, of any notices given to its secretary under section 63 (3), and full and accurate minutes of its meetings to be kept.

Keeping of records

3. —(1) The council shall keep minutes of its proceedings and shall cause minutes of general meetings to be kept.

(2) The council shall —

(a) cause proper books of account to be kept in respect of all sums of money received and expended by it, specifying the matters in relation to which the receipts and expenditure take place; and

(b) on the application of a subsidiary proprietor or mortgagee of a lot (or any person authorised in writing by him) make the books of account available for inspection at all reasonable times.

(3) The council shall permit the Commissioner or any person authorised by him to act on his behalf at all reasonable times full and free access to accounting and other records of the management

corporation and permit the Commissioner or such person to make copies of or make extracts from any such accounting or other records.

Notice of council meetings

4. For not less than 24 hours ending immediately before a council holds a meeting, it shall cause a notice of its intention to hold the meeting, containing the agenda for the meeting, to be displayed on the notice board of the management corporation.

Subsidiary proprietor's attendance at council meetings

5. A subsidiary proprietor shall be entitled to attend a meeting of the council but may not address the meeting except with the permission of the council.

Acts, etc., of council valid notwithstanding vacancy, etc.

6. Any act or proceeding of a council done in good faith shall, notwithstanding that at the time when the act or proceeding was done, taken or commenced there was —

(a) a vacancy in the office of a member of the council; or

(b) any defect in the appointment, or any disqualification of any such member,

be as valid as if the vacancy, defect or disqualification did not exist and the council were fully and properly constituted.

[16/87]

THIRD SCHEDULE

Sections 40 and 48 (1) (l)

GENERAL MEETINGS OF MANAGEMENT CORPORATION

Notice of general meetings

1. —(1) Notice of a general meeting of a management corporation shall be served on each subsidiary proprietor and first mortgagee of a lot, as ascertained from the strata roll, at least 14 days before the meeting.

(2) Every such notice for an annual general meeting shall —

(a) be accompanied by a copy of the statement of accounts of the management corporation last prepared by the management corporation in accordance with section 48 (1) (j) and a copy of the auditor's report on the accounts of the management corporation; and

(b) include a motion for the adoption of those accounts.

(3) Every such notice for an annual general meeting or an extraordinary general meeting shall —

(a) specify the place, day and hour for the meeting;

(b) include each proposed resolution to be considered at the meeting;

(c) specify any other business to be transacted at the meeting; and

(d) inform each person to whom the notice is addressed that he may vote in respect of each proposed resolution and, where relevant, on election of members of the council —

(i) in the case of a subsidiary proprietor of a lot subject to a first mortgage shown on the strata roll, only if the mortgagee fails or neglects to exercise the voting power conferred upon him by this Schedule;

(ii) except in the case of a unanimous resolution, only if all contributions levied and payable on the lot, and any other moneys recoverable under this Act by the management corporation from him at the date of the notice (being contributions levied on him, or moneys recoverable from him, in respect of the lot of which he is the subsidiary proprietor or first mortgagee) have been duly paid at least 3 days before the commencement of the meeting; and

(iii) either in person or by proxy at the meeting.

(4) No motion shall be submitted at a general meeting unless notice of the resolution has been given in accordance with this paragraph.

(5) A meeting at which a special or unanimous resolution is to be proposed shall be deemed not to be duly convened by the council if it does not give such notice thereof as is required by this Act in the case of special and unanimous resolutions.

Persons entitled to vote at general meetings

2. —(1) A person shall be entitled to vote in respect of any lot on any proposal submitted at a general meeting of a management corporation or on any election of members of the council only if he is the subsidiary proprietor or a mortgagee in possession or a receiver of that lot as shown on the strata roll and has paid to the management corporation all contributions and any other moneys levied or recoverable by the management corporation under this Act.

(2) Notwithstanding any other provision of this paragraph, a first mortgagee, as shown on the strata roll, of a lot shall be entitled to vote in respect of that lot on any proposals submitted at a general meeting of a management corporation or on any election of members of the council and, if he votes on that proposal, any vote cast by the subsidiary proprietor of that lot on the proposal shall not be counted.

(3) The vote of co-proprietors or co-mortgagees may be cast by any of them in person or by a proxy and if both co-proprietors or co-mortgagees are present at a meeting of the management corporation the vote of the senior who casts a vote, whether in person or by a proxy, shall be accepted to the exclusion of the votes of the others; and for this purpose seniority shall be determined by the order in which the names stand in the strata roll.

(4) Only the subsidiary proprietor entitled to the first of 2 or more successive estates in a lot shall, subject to this Schedule, be entitled to cast a vote on any proposal submitted at a general meeting of a management corporation or on any election of members of the council.

(5) A subsidiary proprietor who is the trustee of a lot shall, subject to this Schedule, be entitled to cast a vote on any proposal submitted at a general meeting of a management corporation or on any election of members of the council and the persons beneficially interested in the trust shall not be entitled to cast such a vote.

(6) The voting rights conferred by this paragraph shall be subject to section 59 (9) and (10).

Quorum

3. —(1) No business shall be transacted at any general meeting of a management corporation unless a quorum of members is present.

(2) For the purposes of this paragraph, the number of subsidiary proprietors present at the meeting either in person or by proxy who own not less than 50% of share values for all the lots shown on the strata title plan shall form a quorum.

(3) If within half an hour appointed for holding a general meeting no quorum of subsidiary proprietors is present, the general meeting, not being a general meeting convened on receipt of a requisition by members, may be held as if a quorum is present if there are 2 or more subsidiary proprietors present in person.

Motions out of order

4. At a general meeting of a management corporation, the chairman may rule that a motion submitted at the meeting is out of order if he considers that the motion, if carried, would conflict with this Act or the by-laws or would otherwise be unlawful or unenforceable.

Method of casting vote

5. Except as provided in paragraph 2 (3), a vote on a motion submitted at a general meeting of a management corporation or on any election of members of the council may be cast by the person entitled to vote, either personally or by his duly appointed proxy.

Chairman to preside

6. The chairman of the management corporation shall preside at any general meeting of the management corporation at which he is present and, in his absence from any such meeting, the persons present at that meeting and entitled to vote on motions submitted at that meeting may elect one of their number to preside at that meeting and the person so elected shall, while he is so presiding, be deemed to be the chairman of the management corporation.

List of names of persons entitled to vote

7. The secretary of the management corporation shall put up a list of the names of the persons who are entitled to vote at a general meeting on the notice board maintained on the common property at least 48 hours before the general meeting.

Counting of votes on election of council

8. Each person entitled to vote on an election of members of the council shall have one vote in respect of each lot which he is entitled to vote.

Counting of votes on motion

9. —(1) Subject to this paragraph, a motion submitted at a general meeting of a management corporation shall be decided according to the number of votes cast for and against the motion, whether personally, by proxy or in writing, each person entitled to vote having one vote in respect of each lot in respect of which he is entitled to vote unless a poll is demanded by any person entitled to vote at the general meeting before a vote is taken as aforesaid.

(2) If —

(a) a poll is demanded by any person entitled to vote at a general meeting of a management corporation on a motion submitted at that meeting and the demand is made by that person personally at the meeting; or

(b) a motion submitted at such a meeting is for a resolution which, if it is to be effective, is required by this Act to be a special resolution,

the motion shall be decided according to the value, ascertained in accordance with sub-paragraphs (3) and (4), of the votes cast for and against the motion, whether personally, by proxy or in writing.

(3) Subject to sub-paragraph (4), for the purposes of sub-paragraph (2) the value of a vote cast on a motion submitted at a general meeting of a management corporation by a person entitled to vote in respect of a lot shall be equal to the share value of that lot.

(4) For the purposes of sub-paragraph (2), the value of the vote cast by a subsidiary proprietor of a provisional lot shall be 25% of the value that, but for this sub-paragraph, his vote would have under sub-paragraph (3), ignoring any fraction.

(5) A poll shall be taken in such manner as the chairman thinks fit.

(6) A demand for a poll may be withdrawn by the person who made it.

Chairman's declaration of vote

10. The declaration of the chairman of the result of the voting on any proposal submitted at a general meeting of the management corporation, otherwise than on a poll, shall be conclusive without proof of the votes recorded for or against the proposal.

General meetings valid if attended only by chairman

11. A general meeting of a management corporation shall, subject to paragraph 3, be validly held notwithstanding that the only person present at the meeting is the chairman of the management corporation.

Requisition for motions to be included on agenda for general meeting

12. —(1) Any person entitled to vote at a general meeting of a management corporation may by notice in writing served on the secretary of the council require inclusion in the agenda of the next general meeting of the management corporation (other than a meeting in respect of which notices have already been given under paragraph 1 (4)) of a motion set out in the first-mentioned notice and the secretary shall comply with the notice.

(2) For the purposes of sub-paragraph (1), a subsidiary proprietor who, but for the existence of a mortgage over his lot, would be entitled to vote at a general meeting of the management corporation shall be deemed to be entitled to vote at that meeting.

Amendment or revocation of unanimous or special resolutions

13. A unanimous resolution or special resolution of a management corporation shall not be amended or revoked except by a subsequent unanimous resolution or special resolution, as the case may be.

Duties of proprietor until council is elected

14. Until the offices of the chairman, secretary and treasurer of the management corporation are filled or until the expiration of the first annual general meeting, whichever first happens, the powers, duties and functions conferred or imposed on the holders of those offices shall be exercised and performed by the proprietor or by his agent duly authorised in writing.

Meetings of management corporation before first annual general meeting

15. —(1) Until the first annual general meeting of the management corporation is held, the secretary of the management corporation may convene an extraordinary general meeting and shall do so on receipt of a requisition signed by one or more persons entitled to vote in respect of one or more lots, the share value or the sum of the share value of which is at least 25% of the aggregate share value.

(2) The provisions of this Schedule (paragraph 1 (2) excepted) shall apply to and in respect of a meeting referred to in sub-paragraph (1) so far as those provisions are not inconsistent with, or incapable of applying to, such a meeting.

Company may appoint representative to attend meetings

16. A company which is a subsidiary proprietor may under the seal of the company or the hand of its director or any duly authorised attorney appoint such person as it thinks fit to act as its representative either at a particular meeting or at all meetings of the management corporation and a person so authorised shall in accordance with his authority or until his authority is revoked by the company be entitled to exercise the same powers on behalf of the company as the company could exercise if it were an individual.

Instrument of proxy

17. —(1) An instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing or, if the appointer is a company, either under seal or under the hand of an officer or attorney duly authorised.

(2) A proxy need not be a subsidiary proprietor.

(3) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Form of proxy for voting for or against a resolution

18. Where it is desired to afford subsidiary proprietors an opportunity of voting for or against a resolution, the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

I/We, , of being a member/members of the above-named management corporation, hereby appoint , of , or failing him, of , as my/our proxy to vote for me/us on my/our behalf at the [annual or extraordinary, as the case may be] general meeting of the management corporation, to be held on the day of 20 , and at any adjournment thereof.

Signed this day of 20 .

This form is to be used *in favour of/against the resolution.

*Strike out whichever is not desired. [Unless otherwise instructed, the proxy may vote as he thinks fit.].

Proxy to be deposited at registered address of management corporation

19. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered address of the management corporation, or at such other place in Singapore as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 48 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

Authority not to be revoked by death of principal, etc.

20. A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, or the transfer of the share in respect of which the instrument is given, if no intimation in writing of such death, unsoundness of mind, revocation, or transfer as aforesaid has been received by the management corporation at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.

[16/87;21/89]

FOURTH SCHEDULE

Sections 84A (3), 84D (3) and 84E (4)

REQUIREMENTS UNDER SECTION 84A, 84D OR 84E

1. Before making an application to a Board, the subsidiary proprietors referred to in section 84A (1) or the proprietors of flats referred to in section 84D (2) or 84E (3), as the case may be, shall —

- (a) execute within the permitted time but in no case more than 12 months before the date the application is made, a collective sale agreement in writing among themselves (whether or not with other subsidiary proprietors or proprietors) agreeing to agree to collectively sell —
 - (i) in the case of an application under section 84A, all the lots and common property in a strata title plan; or
 - (ii) in the case of an application under section 84D or 84E, all the flats and the land in a development to which section 84D or 84E, as the case may be, applies;
- (b) once every 8 weeks after the start of the permitted time, affix to a conspicuous part of each building comprised in the strata title plan or the development to which section 84D or 84E applies, as the case may be, a notice in the 4 official languages specifying —
 - (i) the number of subsidiary proprietors or proprietors who, immediately before the date of the notice, have signed the collective sale agreement; and
 - (ii) the proportion (in percentage) that the total share value of such subsidiary proprietors' lots bear to the total share value of all lots comprised in that strata title plan, or that such proprietors' total share or total notional share of the land bears to the total share or notional share of all proprietors in that land, as the case may be;
- (c) consider the collective sale either —
 - (i) at an extraordinary general meeting of the management corporation held in accordance with Part IV of the Act or any other corresponding written law; or
 - (ii) in the case of land in a development to which section 84D or 84E applies, at a meeting held after sending a notice of the meeting by registered post to all the proprietors to their last recorded addresses at the Registry of Titles or the Registry of Deeds and placing a copy of the notice under the main door of every flat in the development;
- (d) advertise in the 4 official languages the particulars of the application in such local newspapers as approved by the Board;
- (e) serve notice of the proposed application on all the subsidiary proprietors of all the lots and common property in the strata title plan concerned or on all proprietors of all flats in the development concerned, as the case may be, by registered post and by placing a copy of the proposed application under the main door of every lot or flat, together with a copy each of the following:
 - (i) the collective sale agreement referred to in sub-paragraph (a);
 - (ii) the sale and purchase agreement which is to be the subject of the application to the Board;
 - (iii) a statutory declaration made by the purchaser under the sale and purchase agreement on the nature of his relationship (if any) or, if the purchaser is a body corporate, the nature of the relationship of every one of its directors (if any), to any subsidiary proprietor of any lot comprised in that strata title plan or any proprietor of any flat in the development, as the case may be;
 - (iv) the minutes of the extraordinary general meeting or meeting referred to in sub-paragraph (c);
 - (v) the advertisement referred to in sub-paragraph (d);
 - (vi) a valuation report that is not more than 3 months old; and
 - (vii) a report by a valuer on the proposed method of distributing the proceeds of the sale due under the sale and purchase agreement; and
- (f) affix a copy of the notice referred to in sub-paragraph (e) in the 4 official languages to a conspicuous part of each building comprised in the strata title plan or the development, as the case may be.

1A. For the purposes of this Schedule —

- (a) the permitted time in relation to a collective sale agreement executed or to be executed by subsidiary proprietors or proprietors referred to in section 84A (1), 84D (2) or 84E (3), means a period —
 - (i) starting from the date the first subsidiary proprietor or proprietor, or his duly appointed attorney, as the case may be, signs the collective sale agreement; and
 - (ii) ending not more than 12 months after the date the first subsidiary proprietor or proprietor, or his duly appointed attorney, as the case may be, signs the collective sale agreement; and
- (b) the collective sale agreement shall be regarded as executed notwithstanding that it is executed on separate copies thereof and at different times.

2. The notice referred to in paragraph 1(e) to be served by registered post shall be served on an affected party —

- (a) where the party is a subsidiary proprietor of a lot in the strata title plan, at the address as shown on the strata roll;
- (b) where the party is a proprietor of a flat or land, at the last recorded address at the Registry of Titles or Registry of Deeds;
- (c) where the party is a mortgagee, chargee or other person with an estate and interest in the lot or flat whose interest is notified on the land-register, at the address on the strata roll or last recorded address at the Registry of Titles or Registry of Deeds; and
- (d) where the party is a management corporation, at its address recorded on the folio of the land-register comprising the common property.

3. The advertisement referred to in paragraph 1(d) shall include —

- (a) information on the development;
- (b) the names of the subsidiary proprietors or proprietors, addresses, unit numbers and strata lot numbers, if any, of their flats;
- (c) the names of mortgagees, chargees and other persons with an estate and interest in the lots, flats and land;
- (d) brief details of the sale proposal; and
- (e) the place at which the affected parties can inspect documents for the collective sale.

4. An application to a Board shall be made by the subsidiary proprietors referred to in section 84A (1) or the proprietors referred to in section 84D (2) or 84E (3) within 14 days of the publication of the advertisement referred to in paragraph 1 (d), enclosing —

- (a) the documents specified in paragraph 1(e);
- (b) a statutory declaration made by the representatives appointed under section 84A (2) or their solicitors stating —
 - (i) the date the permitted time for the collective sale agreement started;
 - (ii) the date on which collective sale agreement referred to in paragraph 1 (a) was last executed by any subsidiary proprietor or proprietor referred to in section 84A (1), 84D (2) or 84E (3), as the case may be;
 - (iii) the date or dates on which the notice or notices referred to in paragraph 1(b) were affixed; and
 - (iv) that sub-paragraphs (c), (d), (e) and (f) of paragraph 1 have been complied with;
- (c) a list of the names of the subsidiary proprietors who have not agreed in writing to the sale, their mortgagees, chargees and other persons (other than lessees) with an estate or interest in the lots or flats whose interests are notified on the land-register; and
- (d) such other document as the Board may require.

5. The Board shall, within 5 days of the filing of an objection, serve a copy of it by registered post on the representatives appointed under section 84A (2) and their solicitors, if any.

6. The subsidiary proprietors referred to in section 84A (1) or the proprietors referred to in section 84D (2) or 84E (3) shall, after making an application to the Board, cause a copy of the application to be registered under the Act, the Land Titles Act (Cap. 157) or the Registration of Deeds Act (Cap. 269), as the case may be.

7. The subsidiary proprietors referred to in paragraph 6 shall, if an order for sale is granted by the Board under section 84A, 84D or 84E, register the order of the Board in accordance with the Act, the Land Titles Act or the Registration of Deeds Act (Cap. 269), as the case may be, or if the order for sale is not granted by the Board, apply to cancel the application registered under paragraph 6.

8. For the purposes of this Schedule, “affected parties” means —

- (a) the subsidiary proprietors referred to in section 84A (1) or the proprietors referred to in section 84D (2) or 84E (3);
- (b) the subsidiary proprietors of the lots or the proprietors of the flats who have not agreed in writing to the sale, and any mortgagee, chargee and other person (other than a lessee) with an estate or interest in the lot or flat whose interest is notified on the land-register;
- (c) the proprietor of the land under section 84E, his mortgagee, chargee or other person with an estate or interest in the land whose interest is notified on the land register; and
- (d) the management corporation, where applicable.