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## CHAPTER 266

### STRATA TITLES

Act 29 of 2000  
Act 21 of 2003

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## STRATA TITLES

### An Act relating to the establishment of strata titles.

#### PART 1 – PRELIMINARY

##### 1. Interpretation

In this Act unless the contrary intention appears:

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

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

“body corporate” means a body corporate incorporated by section 15;

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

“building” means a building which has been, or is proposed to be, subdivided into lots and common property by a strata plan or a strata plan of resubdivision;

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

“consent authority” means in relation to a parcel the relevant municipal council or local government council;

“council” means council of a body corporate constituted under Schedule 1;

“Director” means the Director of the department responsible for land;

“excluded utility infrastructure” means:

- (a) utility infrastructure that is related exclusively to supplying utility services to a particular lot and is located within the boundaries of that lot (but not within a boundary structure for that lot); or
- (b) utility infrastructure positioned within common property if its positioning is the subject of an agreement to which the lessee or the body corporate is a party and ownership of the utility infrastructure does not pass to the lessee or body corporate under the agreement;

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

“land” means land registered under the Land Leases Act [Cap. 163] which is subject to an approved lease and included within a Physical Planning Area under the Physical Planning Act [Cap. 193];

“Land Leases Register” has the same meaning as in the Land Leases Act [Cap. 163];

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

“lot” means a lot shown as such in a strata plan;

“Minister” means the Minister for lands;

“mortgage” includes a charge for securing money or money’s worth.

“municipal council” means a council established under the Municipalities Act [Cap. 126];

“parcel” means the land comprised in a strata plan;

“proprietor” means the proprietor for the time being of a lot;

“rating authority” means a municipal council, a local government council or other body authorised by or under an Act to levy rates or taxes on land;

“regulations” means regulations made under this Act;

“resolution without dissent” means a motion passed at a general meeting of the body corporate where no vote is cast against the motion;

“restrictive agreement” includes an instrument containing an agreement referred to in section 68(1) of the Land Leases Act [Cap. 163].

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

- (a) the votes counted for the motion are more than the votes cast against the motion, and
- (b) the number of votes counted against the motion is not more than 25% of the number of lots included in the strata plan.

“strata plan” means a plan which:

- (a) is described in its title or heading as a strata plan; and
- (b) shows the whole or any part of the land comprised in it as being divided into 2 or more lots and common property, and may divide the land comprised in it into strata; and
- (c) complies with the requirements of section 4;

and includes a plan of resubdivision of any lots in a strata plan registered under this Act and any amendment of the strata plan or plan of resubdivision registered under this Act;

“the Court” means the Supreme Court of Vanuatu;

“unit entitlement” in respect of a lot means the unit entitlement of that lot, specified or apportioned in accordance with the provisions of section 5(c);

“utility infrastructure” means:

- (a) cables, wires, pipes, sewers, drains, ducts, plant and equipment by which lots or common property are supplied with utility services; or
- (b) a device for measuring the reticulation or supply of a utility service;

“utility service” means:

- (a) water reticulation or supply; or
- (b) gas reticulation or supply; or
- (c) electricity supply; or
- (d) air conditioning; or
- (e) a telephone service; or

- (f) a computer data or television service; or
- (g) a sewer system; or
- (h) drainage; or
- (i) a system for the removal or disposal of garbage or waste; or
- (j) another system or service designed to improve the amenity, or enhance the enjoyment, of lots or common property;

“valuing authority” means the Department of Lands or any other body authorised by or under an Act to carry out valuations of land.

## **PART 2 – SUBDIVISION UNDER THE ACT**

### **2. Rights to subdivide under this Act**

- (1) Land including the whole or a part of a building may be subdivided by registering a strata plan in the manner provided by or under this Act.
- (2) When a plan has been so registered:
  - (a) the lots comprised therein, or any one or more thereof, may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as any land registered under the provisions of the Land Leases Act [Cap. 163] except that section 36 of that Act does not apply in relation to a lot; and
  - (b) the Director must issue a separate certificate of title for each lot and for the common property in accordance with the regulations.
- (3) Subject to the provisions of this section, any transfer, lease, mortgage or other dealing affecting a lot has the same effect as a similar dealing affecting land under the Land Leases Act [Cap. 163].
- (4) A strata plan is for the purposes of the Land Leases Act [Cap. 163] taken upon registration to be embodied in the Land Leases Register.
- (5) Notwithstanding the provisions of the Land Leases Act [Cap. 163], a proprietor holds his or her lot and his or her share in the common property, subject to any interests affecting the same for the time being notified on the registered strata plan and subject to any amendments to lots or common property shown on that plan.
- (6) Easements or restrictive agreements implied or created by this Act take effect and are enforceable without any memorial or notification in the Land Leases Register and without any express indication of the dominant or servient tenements.

### **3. Approval by consent authority**

- (1) The provisions relating to subdivision of land contained in any other Act do not apply to any subdivision effected pursuant to section 2(1).
- (2) The lessee under an approved lease may apply for a certificate referred to in section 4(3)(b).
- (3) In respect of any application for a certificate under section 4(3)(b), the consent authority must direct the issue of such certificate if it is satisfied that:
  - (a) separate occupation of the proposed lots will not contravene the provisions of the Physical Planning Act [Cap. 193] or any other prescribed Act; and

- (b) any consent or approval required under the Physical Planning Act [Cap. 193] or any other prescribed Act has been given in relation to the separate occupation of the proposed lots; and
  - (c) the building and the proposed subdivision of the parcel into lots for separate occupation will not interfere with the existing or likely future amenity of the neighbourhood, having regard to the circumstances of the proposal, or with the public interest.
- (4) Upon any refusal by the consent authority to direct the issue of the certificate referred to in subsection (3), or upon failure by the consent authority to do so within 30 days after the receipt of the application for such certificate, the applicant may appeal to the Court.
  - (5) Any proprietor or proprietors may with the approval of the consent authority subdivide his or her or their lots by registering a plan relating to the lot or lots so resubdivided in the manner provided by this Act for the registration of strata plans.
  - (5A) Despite subsection (5), a lease of the land comprised in a strata plan of resubdivision is not required to be an approved lease.
  - (6) Subject to subsections (7) to (11), the provisions of this section relating to strata plans and to appeals from any decision of the consent authority or failure by the consent authority to make a decision apply *mutatis mutandis* to such resubdivision.
  - (7) Notwithstanding section 15, the proprietors of lots in a strata plan of resubdivision established pursuant to the regulations do not become a body corporate, but upon the date of registration of such plan of resubdivision become members of the body corporate formed on registration of the original strata plan.
  - (8) On registration of a strata plan of resubdivision, lots comprised in it are subject to the burden and have the benefit of any easements affecting such lots in the original strata plan as are included in the plan of resubdivision, and such lots have exclusive use of any common property created on the plan of resubdivision.
  - (9) The schedule endorsed on a strata plan of resubdivision, as required by section 5, must apportion among the lots the unit entitlement of such lot or lots in the original strata plan as are included in the resubdivision.
  - (9A) The costs of insurance, repair and maintenance of any common property created in a plan of resubdivision are to be apportioned amongst the proprietors of the newly created lots in the same proportion as the unit entitlements apportioned under subsection (9).
  - (10) Before registering a strata plan of resubdivision, the Director must amend the original registered strata plan in the manner prescribed by regulations.
  - (11) Upon registration of any strata plan of resubdivision, land in that plan is not to be dealt with by reference to lots in the original strata plan.
  - (12) The decision of the Court upon any appeal under this section is final and binding on the consent authority and the appellant, and for the purposes of this Act is taken to be the final decision of the consent authority.

### **PART 3 – STRATA PLAN REQUIREMENTS, EASEMENTS AND RESTRICTIVE AGREEMENTS**

#### **4. Strata plan – requirements**

- (1) A strata plan must:

- (a) delineate the external surface boundaries of the parcel and the location of any building in relation to it; and
  - (b) include a statement containing such particulars as may be necessary to identify the title to that parcel; and
  - (c) include a drawing illustrating the lots and distinguishing those lots by number or other symbols; and
  - (d) define the boundaries or dimensions of a lot; and
  - (e) show the approximate area of each lot; and
  - (f) have endorsed upon it a schedule complying with the provisions of section 5; and
  - (g) have endorsed upon it the address at which documents may be served on the body corporate; and
  - (h) contain such other features as may be prescribed by the regulations.
- (2) Unless otherwise stipulated in the strata plan, the common boundary of any lot with another lot or with common property is the middle line of the floor, ceiling or adjoining wall, as the case may be.
- (3) Every strata plan lodged for registration must be endorsed with or accompanied by a certificate:
- (a) of a surveyor that the building shown on the strata plan is within the external surface boundaries of the parcel and where eaves or guttering project beyond such external boundaries, that an appropriate easement has been granted as an appurtenance of the parcel; and
  - (b) of the consent authority that the proposed subdivision of the parcel as illustrated in the strata plan, has been approved by the consent authority.

#### **5. Schedule of unit entitlement**

Every plan lodged for registration as a strata plan or strata plan of resubdivision must have endorsed upon it a schedule specifying in whole numbers the unit entitlement of each lot and a number equal to the aggregate unit entitlement of all lots, and such unit entitlement determines:

- (a) the voting rights of proprietors; and
- (b) the quantum of the undivided share of each proprietor in the common property; and
- (c) the proportion payable by each proprietor of contributions levied pursuant to section 16(2).

#### **6. Easements for support**

In respect of each lot there is implied:

- (a) in favour of the proprietor of such lot and as appurtenant thereto, an easement of the subjacent and lateral support thereof by the common property and by every other lot capable of affording support; and
- (b) as against the proprietor of such lot and to which the same shall be subject an easement for the subjacent and lateral support of the common property and of every other lot capable of enjoying support.

#### **7. Rights to shelter**

- (1) A proprietor is entitled to have his or her lot sheltered by all such parts of the building as are capable of affording shelter ("the sheltered parts").

- (2) The right created by this section is an easement to which the sheltered parts are subject.
- (3) The easement for shelter created by this section entitles the proprietor of the dominant tenement to enter on the servient tenement to replace, renew or restore any shelter.

#### **8. Implied easements**

In respect of each lot there is implied:

- (a) in favour of the proprietor of such 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 for the time being existing in the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of such lot; and
- (b) as against the proprietor of such lot, and to which the same 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 pipes, wires, cables or ducts for the time being existing within such lot, as appurtenant to the common property and also to every other lot capable of enjoying such easements.

#### **9. Ancillary rights and obligations**

All ancillary rights and obligations reasonably necessary to make easements effective apply in respect to easements implied or created by this Act.

### **PART 4 – COMMON PROPERTY**

#### **10. Common property**

- (1) The common property is to be held by the proprietors as tenants in common in shares proportional to the unit entitlement of their respective lots.
- (2) The Director in issuing a certificate of title for a lot must certify therein the proprietor's share in the common property.
- (3) Except as provided for by section 11, no share in the common property is to be disposed of except as appurtenant to the lot of the proprietor and any assurance of a lot is to operate to assure the share of the disposing party in the common property, without express reference to it.

#### **11. Dealing with common property**

- (1) The proprietors by resolution without dissent may direct the body corporate to grant exclusive use of, to transfer, lease or otherwise dispose of common property, or any part of it.
- (2) The body corporate must execute the appropriate instrument or lease if it is satisfied that:
  - (a) the resolution was duly passed; and
  - (b) all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the proposed disposal or, in the case of a lease, have approved in writing of the execution of the proposed lease.

- (3) The instrument or lease is valid and effective without execution by any person having any interest in the common property.
- (4) The receipt of the body corporate for the purchase money, rent, premiums, or other moneys payable to the body corporate under the terms of the instrument or lease is a sufficient discharge, and exonerates the persons taking under the instrument or the lease, as the case may be, from any responsibility for the application of the moneys expressed to have been so received.
- (5) Every such instrument or lease lodged for registration is to be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed, that the instrument or lease conforms with the terms of the resolution and that all necessary consents were given.
- (6) For the purposes of the purchaser or other person taking an interest in the common property and the Director, the certificate is conclusive evidence of the facts stated in it.
- (7) The Director must register:
  - (a) the instrument in the manner prescribed by the regulations; and
  - (b) the lease by noting it in the manner prescribed by regulations.
- (8) Upon lodgement for registration of an instrument or lease disposing of common property, the Director must amend the registered strata plan by deleting from it the common property comprised in the instrument or lease in the manner prescribed in the regulations.
- (9) A grant by the body corporate of exclusive use of the common property, or any part of it, to a proprietor of a lot must be made by amendment to the by-laws.
- (10) However, a grant of exclusive use must not be made unless the proprietor of the lot concerned gives the proprietor's prior consent in writing to the grant of the exclusive use.
- (11) Unless otherwise stipulated in the by-laws, the proprietor of the lot to whom a grant of exclusive use is made is responsible for all costs relating to the insurance, maintenance and repair of the area of exclusive use.

## **12. Destruction of the building**

- (1) Upon destruction of a building, the body corporate must immediately lodge with the Director a notification of such destruction in the form prescribed by the regulations.
- (2) Upon receipt of the notification, the Director must make an entry of it on the relevant registered strata plan in the manner prescribed by the regulations.
- (3) Upon such entry, the proprietors of lots in such strata plan are entitled to the parcel, or the proprietors of lots in a strata plan of resubdivision are entitled to the resubdivided lot, as tenants in common in shares proportional to the unit entitlement of their respective lots.
- (4) The proprietors of all lots by resolution without dissent may direct the body corporate to dispose of the parcel or any part or parts of it.
- (5) The body corporate must execute the appropriate instrument if it is satisfied that:
  - (a) the resolution was duly passed; and
  - (b) all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition.



- (6) The instrument is valid and effective without execution by any person having an interest in the parcel.
- (7) The receipt of the body corporate is a sufficient discharge and exonerates the persons taking under the instrument from any responsibility for the application of the moneys expressed to have been so received.
- (8) Every such instrument lodged for registration is to be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed and that all necessary consents were given.
- (9) The certificate is conclusive evidence in favour of purchasers of the parcel and in favour of the Director of the facts stated in it.
- (10) Upon lodgement for registration by the body corporate of an instrument dealing with a parcel pursuant to this section, the Director must make the entry prescribed by subsection (2) in accordance with the regulations.
- (11) If land is transferred by the body corporate pursuant to this section:
  - (a) the proprietors must surrender to the Director their duplicate certificates of title for cancellation; and
  - (b) the Director, after cancelling the folia of the Land Leases Register constituted by the certificates of title relating to the lots, must register any instrument in favour of the transferee for the land transferred.

**13. Interests affecting common property**

- (1) The proprietors of all lots by resolution without dissent at a meeting convened by the body corporate may direct the body corporate:
  - (a) to execute on their behalf a grant of easement or create a restrictive agreement burdening the parcel; or
  - (b) to accept on their behalf a grant of easement or a restrictive agreement benefiting the parcel.
- (2) The body corporate must execute the appropriate easement or restrictive agreement if it is satisfied that:
  - (a) the resolution was duly passed; and
  - (b) all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition.
- (3) The easement or restrictive agreement is valid and effective without execution by any person having an interest in the parcel.
- (4) The receipt of the body corporate is a sufficient discharge and exonerates all persons taking under the easement or restrictive agreement from any responsibility for the application of the moneys expressed to have been so received.
- (5) Every such easement or restrictive agreement lodged for registration is to be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed and that all necessary consents were given.
- (6) For the purposes of dealing with the body corporate pursuant to this section and the Director, the certificate is conclusive evidence of the facts stated in it.
- (7) The Director must register such easement or restrictive agreement by noting it on the registered strata plan in the manner provided by the regulations.

## **PART 5 – BY-LAWS**

### **14. By-laws**

- (1) The strata plan is to be regulated by by-laws.
- (2) The by-laws are to provide for the control, management, administration, use and enjoyment of the lots and the common property and must include the by-laws set out in the regulations. The by-laws are not to be added to, amended or repealed except by special resolution.
- (3) The by-laws set out in Schedule 1 and Schedule 2 are taken, on and after the registration of a strata plan, to be in force for all purposes in relation to the parcel, the lots and common property until they are added to, amended and repealed in accordance with subsection (2).
- (4) No by-law or addition to or amendment or repeal of any by-law is capable of operating to prohibit or restrict the devolution of lots or any instrument, lease, mortgage, or other dealing with the lots or to destroy or modify any easement or restrictive agreement implied or created by this Act.
- (5) The body corporate must lodge with the Director of the department responsible for land written notification of an addition or amendment, or repeal of any by-law, within 3 months after the passing of the relevant resolution. Any such addition, amendment or repeal of any by-law is of no effect unless such notification is lodged within that time and the Director has made reference to it on the registered strata plan.
- (6) The body corporate must, on the application of a proprietor or any person the proprietor has authorised in writing, make available for inspection the by-laws for the time being in force.
- (7) The by-laws for the time being in force bind the body corporate and the proprietors to the same extent as if those by-laws had respectively been signed and sealed by the body corporate and each proprietor, and contained covenants on the part of the body corporate with each proprietor and on the part of each proprietor with every other proprietor and with the body corporate to observe and perform all the provisions of the by-laws.

## **PART 6 – BODY CORPORATE**

### **15. Formation and nature of body corporate**

- (1) The proprietor or proprietors become by virtue of this Act, upon registration of the strata plan a body corporate under the name “The Proprietors – Strata Plan No.” (the number to be specified is the number of the relevant registered strata plan).
- (2) The provisions of the Companies Act [Cap. 191] do not apply to the body corporate.
- (3) Subject to this Act, the body corporate is responsible for enforcement of the by-laws and the control, management, and administration of the common property.
- (4) The body corporate has perpetual succession and must have a common seal and be capable of suing and being sued in its corporate name and is to be regulated in accordance with the by-laws for the time being in force.
- (4A) The body corporate has the powers granted to it under this Act, the regulations and the by-laws.
- (5) The body corporate may:
  - (a) sue and be sued on any contract made by it; and

- (b) sue for and in respect of any damage or injury to the common property caused by any person, whether a proprietor or not; and
  - (c) be sued in respect of any matter connected with the parcel for which the proprietors are jointly liable.
- (6) In this section “proprietors” includes the persons entitled to the parcel pursuant to section 13(2)(b).

**16. Duties of body corporate**

- (1) The duties of the body corporate include the following:
- (a) to insure and keep insured the building to its replacement value against fire and such other risks as may be prescribed by the regulations; and
  - (b) to effect such insurance as it is required by law to effect; and
  - (c) to insure against such other risks as the proprietors may from time to time determine by special resolution; and
  - (d) subject to section 19, forthwith to apply insurance moneys received by it in respect of the damage to the building in rebuilding and reinstating the building so far as the same may lawfully be effected; and
  - (e) to pay premiums on any policies of insurance effected by it; and
  - (f) to keep in a state of good and serviceable repair and properly maintain the common property; and
  - (g) to comply with notices or orders by a municipal council, a local government council or any public authority requiring repairs to, or work to be done in respect of, the parcel or the building; and
  - (h) to comply with any reasonable request for the names and addresses of the persons who are members of the council of the body corporate.

The body corporate for the purpose of effecting any insurance under paragraph (a) is deemed to have an insurable interest to the replacement value of the building and for the purpose of effecting any other insurance under this subsection is deemed to have an insurable interest in the subject matter of such insurance.

- (2) The powers of the body corporate include the following:
- (a) to establish a fund for expenses sufficient in the opinion of the body corporate for the control, management and administration of the common property, for the payment of any premiums of insurance and the discharge of any other obligation of the body corporate; and
  - (b) to determine from time to time the amounts to be raised for the purposes referred to in paragraph (a); and
  - (c) to raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective lots; and
  - (d) to recover from any proprietor by an action for debt in any court of competent jurisdiction any sum of money expended by the body corporate for repairs to or work done by it or at its direction in complying with any notice or order by a municipal council, a local government council or a public authority in respect of that portion of the building comprising the lot of that proprietor.
- (3) Subject to subsection (4), any contribution levied:
- (a) is due and payable on the passing of a resolution to that effect and in accordance with the terms of such resolution; and

- (b) may be recovered as a debt by the body corporate in an action in any court of competent jurisdiction from the proprietor entitled at the time when such resolution was passed and from the proprietor entitled at the time when such action was instituted both jointly and severally.
- (4) The body corporate must, within 7 days after receiving a written request from the proprietor or any person authorised in writing by the proprietor or mortgagee of a lot accompanied by the fee prescribed by the regulations, issue a certificate stating:
- (a) the amount of any contribution determined as the contribution of the proprietor; and
  - (b) the manner in which such contribution is payable; and
  - (c) the extent to which such contribution has been paid by the proprietor; and
  - (ca) any other information prescribed by the regulations; and
  - (d) the amount of any rate paid by the body corporate pursuant to section 17 and not recovered by it;

and in favour of any person dealing with that proprietor, such certificate is conclusive evidence of the matters certified in it.

- (5) The policy of insurance authorised by this section and taken out by the body corporate in respect of the building cannot be brought into contribution with any other policy of insurance other than another policy authorised by this section in respect of the same building.

#### **17. Payments by body corporate**

- (1) Where any rate levied in respect of a lot by any municipal council, local government council or other public authority is due and payable and the proprietor has made default in payment of it, then that council or the authority may serve upon the body corporate a copy of the notice of assessment of that rate together with a notice requiring the body corporate to pay it within 30 days from the date of such service.
- (2) If the body corporate fails to pay that rate within the 30 day period the council or authority, without prejudice to its rights against any proprietor, may sue the body corporate for that rate as a debt in any court of competent jurisdiction and may exercise any other remedy available to the council or authority under any Act, regulation or by-laws as if the body corporate were the sole proprietor of the parcel and the rate levied was the rate applicable to the parcel.
- (3) If the body corporate pays any such rate it may recover the amount so paid in an action for debt in any court of competent jurisdiction from the person who is the proprietor of the lot in respect of which the rate was levied at the time when such action is instituted.

### **PART 7 – INSURANCE**

#### **18. Proprietor may insure**

- (1) If a building is insured to its replacement value, a proprietor may effect a policy of insurance in respect of any damage to his or her lot in a sum equal to the amount secured, at the date of any loss referred to in such policy, by mortgages charged upon the lot.
- (2) If any such policy of insurance is in force:
- (a) payment is to be made by the insurer under such policy to the mortgagees whose interests are noted thereon in order of their respective priorities, subject to the terms and conditions of the policy; and

- (b) subject to the terms and conditions of such policy, the insurer is liable to pay:
- (i) the value stated in such policy; or
  - (ii) the amount of the loss; or
  - (iii) the amount sufficient, at the date of the loss, to discharge mortgages charged upon the lot;
- whichever is the least amount.
- (3) If the amount so paid by the insurer equals the amount necessary to discharge a mortgage charged upon the lot, the insurer is entitled to an assignment of that mortgage.
- (4) If the amount so paid by the insurer is less than the amount necessary to discharge a mortgage charged upon the lot, the insurer is entitled to a sub-mortgage of such mortgage to secure the amount so paid on terms and conditions agreed upon as provided in subsection (7), or failing agreement on the same terms and conditions as those contained in the mortgage.
- (5) If a building is uninsured, or has been insured to less than its replacement value, a proprietor may:
- (a) effect a policy of insurance in respect of any damage to his or her lot in a sum equal to the replacement value of the lot less a sum representing the amount for which the lot is insured under any policy of insurance effected on the building; and
  - (b) notwithstanding any existing policies, effect a policy of insurance in respect of damage to the lot in a sum equal to the amount secured, at the date of any loss referred to in such last mentioned policy, by mortgages charged upon the lot, and the provisions of subsections (2), (3), and (4) apply in respect of any payment pursuant to such last mentioned policy.
- (6) For the purposes of subsection (5), the amount for which a lot is insured under a policy of insurance effected in respect of the building is to be determined by multiplying the value stated in such policy by the unit entitlement of the lot and dividing the product so obtained by the sum of the unit entitlements of all lots.
- (7) For the purposes of subsection (4) and paragraph (b) of subsection (5), any insurer and mortgagee may at any time, whether before or after a policy of insurance has been effected by a proprietor, agree upon the terms and conditions of the sub-mortgage.
- (8) Nothing in this section limits the right of a proprietor to insure against risks other than damage to the proprietor's lot.
- (9) The policy of insurance authorised by this section and taken out by a proprietor in respect of damage to the proprietor's lot cannot be brought into contribution with any other policy of insurance, other than another policy authorised by this section and taken out in respect of damage to the same lot.
- (10) This section applies notwithstanding the provisions of the Insurance Act [Cap. 82].

**19. Strata plan terminated**

- (1) For the purposes of this Act, a strata plan is taken to be terminated on the happening of the following events:
- (a) when the proprietors by resolution without dissent so resolve; or
  - (b) when the Court upon application under this section is satisfied that having regard to the rights and interests of the proprietors as a whole it is just and

equitable that the strata plan is deemed to have been terminated and makes a declaration to that effect.

- (2) In any case where a declaration has been made pursuant to paragraph (b) of subsection (1) the Court may by order impose such conditions and give such directions (including directions for the payment of money) as it thinks fit for the purpose of adjusting as between the body corporate and the proprietors and as amongst the proprietors themselves the effect of the declaration.
- (3) If the building is damaged but is not destroyed the Court may by order settle a scheme, including provisions:
  - (a) for the reinstatement in whole or in part of the building; and
  - (b) for transfer or conveyance of the interests of proprietors of lots which have been wholly or partially destroyed to the other proprietors in proportion to their unit entitlement.
- (4) In the exercise of its powers under subsection (3), the Court may make such orders as it deems necessary or expedient for giving effect to the scheme, including orders:
  - (a) directing the application of insurance moneys received by the body corporate in respect of damage to the building; and
  - (b) directing payment of money by the body corporate or by proprietors or by any one or more of them; and
  - (c) directing such amendment of the strata plan as the Court thinks fit, so as to include in the common property any addition thereto; and
  - (d) imposing such terms and conditions as it thinks fit.
- (5) For the purposes of this section, an application for an order to have the building declared destroyed may be made to the Court by the body corporate or by a proprietor or by a registered mortgagee of a lot.
- (6) On any application to the Court any insurer who has effected insurance on the building or any part thereof (being insurance against destruction of lots or damage to the building) has the right to appear in person or by agent or counsel.
- (7) The Court may from time to time vary any order made by it under this section.
- (8) The Court on the application of the body corporate or any proprietor may by order make provision for the winding up of the affairs of the body corporate.
- (9) By the same or subsequent order the Court may declare the body corporate dissolved as on and from a date specified in the Order.
- (10) On any application under this section the Court may make such order for the payment of costs as it thinks fit.

## **PART 8 – VALUATION AND TAXES**

### **20. Valuation – rates and taxes**

- (1) If a valuing authority causes a parcel to be valued, the parcel must, notwithstanding the provisions of any Act or law be valued as a single parcel of land and as if it were owned by a single owner and for the purposes of any such valuation and all purposes incidental thereto (including objection to a valuation) but not otherwise, the parcel and all improvements on it are taken to be owned by the body corporate and by no other person.
- (2) During the period from the registration of the strata plan and until a valuation of the parcel showing the body corporate as owner becomes effective for rating or taxing

- purposes, the valuation then in force is, for the purposes of subsection (6), taken to be a valuation of the parcel made by the valuing authority showing the body corporate as owner.
- (3) The valuing authority is not required to make separate valuations of any part of a parcel unless prescribed by the regulations.
- (4) The body corporate or lessee, if the body corporate has not had its inaugural meeting, must within 28 days after the registration of a strata plan or any amendment of it, furnish to the valuing authority and to any rating authority authorised to levy rates or taxes in relation to the parcel or any part of it, two copies of the registered strata plan or any amendment (including all endorsements) certified as prescribed by the regulations.
- (4A) The proprietor of a lot must within 28 days after the registration of a strata plan of resubdivision affecting that lot, or any amendment of it, furnish to the valuing authority and to any rating authority authorised to levy rates or taxes in relation to the parcel or any part of it, two copies of the registered strata plan of resubdivision or any amendment (including all endorsements) certified as prescribed by the regulations.
- (5) For all purposes in relation to the making, levying, imposition, assessment or recovery of rates, charges or taxes in relation to the parcel or any part of it:
- (a) the particulars shown on the certified copy of the strata plan or any amendment so furnished are conclusive evidence of those particulars; and
  - (b) the production by an authority authorised to levy rates and taxes in relation to the parcel or any part of it of what purports to be the certified copy of the strata plan or any amendment of it so furnished shall be *prima facie* evidence that it is the certified copy so furnished.
- (6) Where any rating authority authorised to make and levy rates on the parcel uses a valuation of the parcel made by a valuing authority showing the body corporate as owner, the following provisions have effect.
- (a) the value of the parcel shown in the valuation is to be apportioned by the rating authority between the lots comprised in the parcel in proportion to the unit entitlement of the respective lots as shown on the registered strata plan or any amendment; and
  - (b) subject to this Act, the body corporate is not liable in relation to the parcel for any rate made and levied by the municipal council, local government council or other rating authority, as the case may be; and
  - (c) the proprietor of each lot comprised in the parcel is deemed to be the owner in possession of the lot as if it were a separate parcel of land having a value equal to that apportioned to it under paragraph (a) and is, subject to any exemptions or concessions that may be applicable, liable accordingly for any rate made and levied by the municipal council, local government council or other rating authority, as the case may be, on the owners of land.

## PART 9 – VOTING

### 21. Proprietor – voting rights

- (1) Any voting powers conferred by or under this Act may be exercised:
- (a) in the case of a proprietor who is an infant, by his guardian; or
  - (b) in the case of a proprietor who is for any reason unable to control his or her property, by the person who for the time being is authorised by law to control that property.

- (2) If the Court upon the application of the body corporate or of any proprietor is satisfied that there is no person able to vote in respect of a lot, the Court:
  - (a) must, in cases where the resolution without dissent is required by this Act; and
  - (b) may in its discretion in any other case,  
appoint a fit and proper person with appropriate qualifications for the purpose of exercising the powers of voting under this Act.
- (3) The Court may order service of notice of such application on such persons as it thinks fit or may dispense with service of such notice.
- (4) On making any such appointment, the Court may make such order as it thinks necessary or expedient to give effect to such appointment including an order as to the payment of costs of the application, and may vary any orders so made.

**22. Mortgagee – voting rights**

- (1) Where a proprietor's interest is subject to a registered mortgage, a power of voting conferred on a proprietor by or under this Act:
  - (a) where a resolution without dissent is required, must not be exercised by the proprietor, but is to be exercised by the registered mortgagee first entitled in priority; and
  - (b) in all other cases, may be exercised by the mortgagee first entitled in priority, and must not be exercised by the proprietor when such mortgagee is present personally or by proxy.
- (2) Subsection (1) does not apply unless the mortgagee has given written notice of the mortgage to the body corporate and, if the mortgagee has taken steps to enforce the mortgage, the mortgagee has given notice in writing to the body corporate of those steps.

**PART 10 – GENERAL**

**23. Rights to enter the parcel**

If any public authority, municipal council, local government council or person authorised by it has a statutory right to enter upon any part of the parcel, such authority or council or person is entitled to enter upon any other part of the parcel to the extent necessary or expedient to enable it or him or her to exercise the statutory powers.

**24. Appointment of receiver**

- (1) The body corporate or any person having an interest in a lot may apply to the Court for the appointment of a receiver.
- (2) The Court may in its discretion on cause shown appoint a receiver for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit.
- (3) The receiver has, to the exclusion of the body corporate, the powers and duties of the body corporate or such of those powers and duties as the Court orders.
- (4) The receiver may delegate any of the powers so vested in him or her.
- (5) The Court may in its discretion on the application of the receiver or any person referred to in subsection (1) remove or replace the receiver.
- (6) On any application made under this section, the Court may make such order for the payment of costs as it thinks fit.



**25. Address for service**

- (1) A document may be served on the body corporate or the council of the body corporate by post enclosed in a prepaid letter addressed to the body corporate or the council, as the case may be, at the address shown on the strata plan.
- (2) *(Repealed)*
- (3) For the purposes of this section “document” includes summons, notice, order and other legal process.

**26. *(Repealed)***

**27. Regulations**

The Minister may make regulations not inconsistent with this Act for and with respect to:

- (a) the manner and form of registering a strata plan; and
- (b) the fees to be paid for any procedure or function required or permitted to be done under this Act; and
- (c) all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**SCHEDULE 1**

*(Repealed)*

**SCHEDULE 2**

*(Repealed)*

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**Table of Amendments**

1	<i>Amended by Act 21 of 2003; title of Director amended per Act 24 of 2003</i>	14(5)	<i>Substituted by Act 21 of 2003</i>
2(1)	<i>Amended by Act 21 of 2003</i>	15(4A)	<i>Inserted by Act 21 of 2003</i>
2(2)(a)	<i>Amended by Act 21 of 2003</i>	16(1)(a),(c)	<i>Amended by Act 21 of 2003</i>
3(5A)	<i>Inserted by Act 21 of 2003</i>	16(2)(a)	<i>Amended by Act 21 of 2003</i>
3(8)	<i>Amended by Act 21 of 2003</i>	16(4)	<i>Amended by Act 21 of 2003</i>
3(9A)	<i>Inserted by Act 21 of 2003</i>	16(4)(ca)	<i>Inserted by Act 21 of 2003</i>
4(1)(a)	<i>Amended by Act 4 of 2003</i>	19 (heading)	<i>Amended by Act 21 of 2003</i>
4(1)(d)	<i>Substituted by Act 21 of 2003</i>	19(1)	<i>Amended by Act 21 of 2003</i>
4(1)(e)	<i>Amended by Act 21 of 2003</i>	20(4)	<i>Amended by Act 21 of 2003</i>
11(1)	<i>Amended by Act 21 of 2003</i>	20(4A)	<i>Inserted by Act 21 of 2003</i>
11(9),(10),(11)	<i>Inserted by Act 21 of 2003</i>	21(2)(a)	<i>Amended by Act 21 of 2003</i>
12(1),(3),(4)	<i>Amended by Act 21 of 2003</i>	22(1)(a),(2)	<i>Amended by Act 21 of 2003</i>
13(1)	<i>Amended by Act 21 of 2003</i>	25 (heading)	<i>Amended by Act 21 of 2003</i>
14(1)	<i>Amended by Act 21 of 2003</i>	25(1),(2)	<i>Substituted by Act 21 of 2003</i>
14(2)	<i>Substituted by Act 21 of 2003</i>	26	<i>Repealed by Act 21 of 2003</i>
		Schedules 1 & 2	<i>Repealed by Act 21 of 2003</i>