



ANNO DECIMO SEXTO

# ELIZABETHAE II REGINAE

A.D. 1967

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## No. 37 of 1967

An Act to amend the Real Property Act, 1886-1963.

[Assented to 14th September, 1967]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :—

1. (1) This Act may be cited as the “Real Property Act Amendment (Strata Titles) Act, 1967”, and shall come into operation on a day to be fixed by proclamation. Short titles and commencement.

(2) The Real Property Act, 1886-1963, as amended by this Act, may be cited as the “Real Property Act, 1886-1967”.

(3) The Real Property Act, 1886-1963, is hereinafter referred to as “the principal Act”.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.

3. Section 2 of the principal Act is amended by inserting therein after the item :— Amendment of principal Act, s. 2—Division of Act into Parts.

“PART XIXA.—Rectification of certificates, ss. 223a to 223l.”

the following item :—

“PART XIXB.—Division of land by strata plan and titles to units created thereby, ss. 223m to 223nr.”.

Amendment of  
principal Act,  
s. 3—  
Interpretation.

**4.** Section 3 of the principal Act is amended—

(a) by striking out the passage “sections 201, 218, or 219” from the definition of “Assurance Fund” therein and inserting in lieu thereof the passage “section 201 of this Act as in force prior to the repeal thereof and sections 218 and 219”;

(b) by striking out from the definition of “Assurance Fund” therein the word “pounds”;

and

(c) by inserting after the word “thereof” in the definition of “Court” the passage “, and includes the Master or a Deputy Master of the Supreme Court when exercising the powers or jurisdiction or performing the functions of the Supreme Court or any Judge thereof in pursuance of any provision of this Act or of the rules of court made under the Supreme Court Act, 1935-1967”.

Amendment of  
principal Act,  
s. 10—Objects.

**5.** Section 10 of the principal Act is amended by inserting after the word “land” therein the passage “, to authorize and facilitate, to the extent to which this Act allows, the division and ownership of land in units approved for separate occupation in accordance with this Act,”.

Amendment of  
principal Act,  
s. 73—  
Certificates of  
title.

**6.** Section 73 of the principal Act is amended by inserting therein after the passage “fourth schedule hereto,” the passage “or, where the land is a unit defined on a deposited strata plan within the meaning of Part XIXB of this Act or is common property within the meaning of that Part, shall be in the appropriate form prescribed in the twenty-fourth schedule hereto,”.

Repeal of s. 90a  
of principal  
Act.

**7.** Section 90a of the principal Act is repealed.

Amendment of  
principal Act,  
s. 101—  
Deposits of  
plans by  
persons sub-  
dividing land.

**8.** Section 101 of the principal Act is amended—

(a) by striking out from subsection (2) and from subsection (3) thereof the passage “one hundred pounds” and inserting in lieu thereof in each case the passage “two hundred dollars”;

and

(b) by inserting after subsection (4) thereof the following subsection :—

(5) This section does not apply to the division of land into units in accordance with a strata plan,

within the meaning of Part XIXB of this Act, deposited by the Registrar-General in the Lands Titles Registration Office under that Part.

9. Sections 201 and 202 of the principal Act are repealed.

Repeal of  
ss. 201 and  
202 of  
principal Act.

10. Section 220 of the principal Act is amended by striking out from subsection (3) thereof the passage "one pound" and inserting in lieu thereof the passage "two dollars".

Amendment of  
principal Act,  
s. 220—  
Powers of  
Registrar-  
General.

11. The following headings and sections are enacted and inserted in the principal Act after section 223l thereof:—

Enactment of  
Part XIXB of  
principal Act—

### PART XIXB.

#### DIVISION OF LAND BY STRATA PLAN AND TITLES TO UNITS CREATED THEREBY.

223m. (1) In this Part and in all instruments made or purporting to be made thereunder, unless the contrary intention appears—

Interpretation.

"area" means a municipality or district as defined in the Local Government Act, 1934-1967, and includes an area in relation to which any body corporate is, by virtue of any Act, deemed to be, or vested with the powers of, a municipal council or district council :

"building" includes part of a building :

"committee" means committee of a corporation :

"common property" means so much of the land for the time being comprised in a deposited strata plan as is not within a unit defined therein :

"corporation" means a body corporate that is incorporated by virtue of section 223nc of this Act :

"council" means a municipal council or a district council and includes any body corporate that is, by virtue of any Act, deemed to be, or vested with the powers of, a municipal council or district council :

"deposited strata plan" means a strata plan deposited in the Lands Titles Registration Office by the Registrar-General under this Part :

"parcel" means the whole of the land comprised in a strata plan :

“registered estate or interest”, in relation to any land, means any estate, interest, easement, right, title, claim, demand, mortgage, charge, lien or encumbrance evidenced by any entry made in any certificate in respect of the land :

“site”, in relation to a strata plan, means the surface of the land comprised in the plan :

“special resolution”, in relation to a corporation, means a resolution passed at a general meeting of the corporation of which at least fourteen days’ notice specifying the proposed resolution has been given and at which not less than two-thirds of the total number of units and not less than one-half of the total unit entitlement of the units shown on the relevant strata plan were represented by the persons who were entitled to vote, and voted, in favour of the resolution :

“strata plan” means a plan of land wholly comprised in a certificate or in two or more certificates which plan—

(a) is described in the title or heading thereto as a strata plan ;

(b) lays out the land comprised therein in a building unit scheme consisting of not less than two units ;

and

(c) complies with the requirements of section 223mb of this Act and the regulations relating to strata plans :

“the Director” means the person for the time being holding or acting in the office of Director of Planning under the Planning and Development Act, 1966-1967 :

“this Part” means this Part of this Act and includes the regulations made under any provision of this Part of this Act :

“unanimous resolution”, in relation to a corporation, means—

(a) where only one person is entitled to vote in respect of all the units defined in the relevant strata plan—a resolution made by that person and recorded by him as a unanimous resolution in the minute book of the corporation kept as required by this Part ;

and

(b) where more than one person is entitled to vote in respect of the units defined in the relevant strata plan—a resolution—

(i) unanimously passed by all persons who voted in accordance with this Part on the relevant resolution personally, by proxy or by absentee vote at a duly convened meeting of the corporation ;

and

(ii) recorded as a unanimous resolution in the minute book referred to in paragraph (a) of this definition.

“unit” means such part of a building represented on a strata plan as is approved for separate occupation by the council of the area in which the building is situated and is shown on the plan as a unit :

“unit entitlement”, in relation to a unit, means such proportion of the total improved value of the parcel comprised in the strata plan in which that unit is shown as is attributable to that unit and is expressed for the time being in the schedule to the strata plan as required by this Part :

“unit subsidiary” means such part of a building represented on a strata plan consisting of a suite of rooms, utility room, laundry, garage, carport or shed, or such part of the site consisting of a garden plot, lawn, yard or parking area for vehicles, as is shown on the plan as a unit subsidiary that is appurtenant to a unit.

(2) Unless otherwise provided in the relevant strata plan—

(a) the common boundary of a unit and the unit immediately above it lies midway between the under surface of the ceiling of the first-mentioned unit and the upper surface of the floor of the second-mentioned unit ;

(b) the common boundary of a unit and common property immediately above it lies midway between the lower and upper surfaces of the ceiling of that unit ;

(c) the common boundary of a unit and common property immediately below it lies midway between the upper and lower surfaces of the floor of that unit ;

and

(d) where a wall or fence separates a unit from any other unit or from common property, the common boundary of those units or of the first-mentioned unit and the common property lies midway between the two surfaces of that wall or fence.

(3) Where a schedule or certificate is required by any provision of this Act to be attached to a strata plan as a part thereof, the schedule or certificate, when attached as so required, shall be deemed to be part of that strata plan.

(4) Where a unit subsidiary is shown on a deposited strata plan as appurtenant to a unit defined thereon, that unit subsidiary shall, unless the contrary intention appears, be deemed to be part of that unit.

(5) A strata plan is deposited in the Lands Titles Registration Office under this Part when the Registrar-General deposits it in the Lands Titles Registration Office and gives it a number as a deposited strata plan.

Division of  
land into  
units.

223ma. Notwithstanding anything contained in any other Act or in any other Part of this Act, but subject to this Part, land wholly comprised in a certificate or in two or more certificates may be divided into units in accordance with a deposited strata plan.

Strata plan.

223mb. (1) Subject to this Part, but without limiting its effect, a strata plan may make provision for—

(a) the division of a building into units ;

(b) a unit wholly on one storey or level or partly on one storey or level and partly on another or others ;

or

(c) a unit comprising part of a building and one or more unit subsidiaries shown as appurtenant thereto.

(2) A strata plan must—

(a) delineate the external surface boundaries of the site which it comprises and the location of the building or buildings thereon in relation thereto;

- (b) contain sufficient particulars to identify the certificate or certificates issued in respect of the parcel ;
  - (c) define the units into which the building or buildings shown thereon is or are divided and the unit subsidiary or respective unit subsidiaries (if any) appurtenant to each unit and distinguish the units shown on the plan by numbers or symbols ;
  - (d) contain sufficient particulars from which the boundaries of each unit are capable of being ascertained without necessarily specifying any bearings or dimensions of the unit or of any unit subsidiary appurtenant thereto ;
  - (e) have attached thereto, as a part thereof, a schedule to the plan in accordance with section 223mf of this Act completed and endorsed as provided by that section ;
  - (f) contain such other particulars and comply with such other requirements as may be prescribed ;
- and
- (g) either have endorsed thereon or have attached thereto as a part thereof—

- (i) a certificate in the prescribed form signed by a licensed surveyor within the meaning of the Surveyors Act, 1935-1961 ;

and

- (ii) the written consent to the plan being deposited in the Lands Titles Registration Office under this Part of every person who has a registered estate or interest in the parcel, if such estate or interest would be affected on the plan being so deposited.

(3) Where a unit shown on a strata plan consists of or is part of a single-storey building the plan must comply with such requirements as are (and may be) prescribed in relation or with respect to—

- (a) the area of the unit subsidiary or the total area of the unit subsidiaries (if any) shown on the plan as appurtenant to that unit where such area or total area comprises any part of the site that is not occupied by any building or by any structure of a kind prescribed ;

and

- (b) the area of the common property or of that part of the common property which comprises the part or parts of the site that is not or are not occupied by any building or by any structure of a kind prescribed.

Strata plans for  
new building  
unit schemes.

223mc. (1) Subject to this Part, a strata plan (other than a strata plan lodged pursuant to subsection (3) of this section) may be lodged with the Registrar-General for deposit in the Lands Titles Registration Office under this Part by or on behalf of the registered proprietor or registered proprietors of the parcel.

(2) The strata plan, when so lodged with the Registrar-General must be accompanied by—

- (a) an application in the prescribed form by the registered proprietor or registered proprietors, signed by the applicant or applicants, and containing such particulars and complying with such requirements as may be prescribed ;
- (b) the duplicate of every certificate that would be affected by the deposit by the Registrar-General of the strata plan in the Lands Titles Registration Office under this Part ;
- (c) the certificate applying to the strata plan and referred to in subsection (1) of section 223md of this Act signed, on behalf of the council within whose area the parcel lies, by the town clerk or other officer thereof duly authorized by the council in that behalf ;
- (d) the certificate applying to the strata plan and referred to in subsection (2) of section 223md of this Act signed by the Director ;

and

- (e) the appropriate fees as prescribed.

Strata plan for  
existing build-  
ing unit  
schemes.

(3) Where—

- (a) in accordance with plans and specifications approved under the provisions of the Building Act, 1923-1965, and the regulations thereunder by a council on or after the first day of January, 1940, but before the commencement of the Real Property Act Amendment (Strata Titles) Act, 1967, any land wholly comprised within a certificate or within two or more certificates has been laid out in a building unit scheme consis-



- ting of two or more building units each of which has been designed for separate occupation ;
- (b) the building or buildings on the land have been erected in accordance with those plans and specifications ;
- and
- (c) under or by virtue of leases, underleases or tenancy or other agreements or ownership of shares in a company, the predominant rights to the exclusive use and occupation of the building units are vested in persons who, in consequence or in pursuance of such leases, underleases, or agreements or ownership of shares, are either in possession of those units or entitled to the rents and profits thereof, whether or not those persons are the registered proprietors in fee simple of the land,

a strata plan comprising that land may be lodged with the Registrar-General for deposit in the Lands Titles Registration Office under this Part by all the persons who have any registered estates or interests in the land.

(4) A strata plan to which subsection (3) of this section applies, when so lodged with the Registrar-General, must be accompanied by—

- (a) an application in the prescribed form which must state the name and address or the names and addresses of the person or persons entitled to be the registered proprietor or registered proprietors of each of the units defined on the plan and shall be signed by each person who has a registered estate or interest in the parcel which estate or interest would be affected by the deposit by the Registrar-General of the strata plan in the Lands Titles Registration Office under this Part and also signed by each person, if any, referred to in paragraph (c) of subsection (3) of this section in whom, by virtue of any lease, underlease or agreement or share in a company, are vested the predominant rights to the exclusive use and occupation of any building unit referred to in that subsection ;
- (b) the duplicate of every certificate that would be affected by such deposit ;
- (c) where they exist, the duplicate and triplicate copies of such instruments as will be cancelled

pursuant to subsection (6) of section 223na of this Act ;

- (d) all instruments, duly executed, which will be required to be registered in substitution for those that are to be cancelled pursuant to that subsection and which, upon such cancellation, are to be registered on the appropriate certificates for the units that will be issued upon the deposit of the strata plan under this Part ;
- (e) the certificate applying to the strata plan and referred to in subsection (1) of section 223md of this Act signed, on behalf of the council within whose area the parcel lies, by the town clerk or other officer thereof duly authorized by the council in that behalf ;
- (f) the certificate applying to the strata plan and referred to in subsection (2) of section 223md of this Act signed by the Director ;

and

- (g) the appropriate fees as prescribed.

(5) For the purposes of paragraph (a) of subsection (4) of this section, the person or persons referred to in paragraph (c) of subsection (3) of this section, in whom are vested the predominant rights to the exclusive use and occupation of the building units referred to in that subsection, shall be the person or persons entitled to be the registered proprietor or registered proprietors, respectively, of the units defined on the plan.

Certificate on behalf of council and by the Director.

223md. (1) Upon application in accordance with the regulations by or on behalf of the proposed applicant or applicants for the deposit of a strata plan under this Part, the council within whose area the proposed parcel lies may issue to the applicant or applicants a certificate signed by the town clerk or other officer of the council duly authorized by the council in that behalf certifying—

- (a) that the strata plan and the building unit scheme laid out therein are approved by the council ;
- (b) that the plans and specifications relating to the building or buildings shown in the strata plan were approved by the council under the Building Act, 1923-1965, and the regulations thereunder on the date of such approval which shall be specified ;

and

- (c) that each unit defined on the strata plan is approved by the council for separate occupation.

(2) Upon application in accordance with the regulations by or on behalf of the proposed applicant or applicants for the deposit of a strata plan under this Part, the Director may issue to the applicant or applicants a certificate signed by him certifying that the strata plan and the building unit scheme laid out therein are approved by him.

(3) The council may refuse an application referred to in subsection (1) of this section if—

(a) the building shown on the strata plan, or any part thereof, or any plans, working drawings or specifications relating thereto, does not or do not comply with the Building Act, 1923-1965, or the regulations thereunder ;

(b) the building shown on the strata plan, or any part thereof has not been completed in accordance with, or does not conform with the plans, working drawings or specifications relating thereto which had been approved by the council under the Building Act, 1923-1965, or the regulations thereunder ; but the council shall refuse the application if such approval had been granted before the first day of January, 1940 ;

(c) the strata plan, or the building unit scheme laid out therein would contravene or be inconsistent with any regulation made under any provision of this Part or contravene or be inconsistent with any authorized development plan within the meaning of the Planning and Development Act, 1966-1967, or any law for the administration or enforcement of which the council is responsible or has power to act ;

(d) any unit defined on the strata plan is not approved by the council for separate occupation ;

or

(e) the application is not made or any fee is not paid as provided or required by this Part.

(4) The Director may refuse an application referred to in subsection (2) of this section if the strata plan or the building unit scheme laid out therein would contravene or be inconsistent with any provision of the Planning and Development Act, 1966-1967, or any regulation thereunder, or would be inconsistent with any authorized development plan within the meaning of that Act.

(5) Without limiting the effect of subsection (3) or subsection (4) of this section—

(a) the council or the Director may refuse an application referred to in subsection (1) or subsection (2) of this section—

(i) if the application or any annexure thereto or any document accompanying it does not comply with the appropriate provisions of this Part ;

or

(ii) on any further grounds which may be prescribed ;

or

(b) the council or the Director may grant such an application subject to compliance with such conditions as the council or the Director think fit or as may be prescribed.

(6) Without limiting the power contained in any other provision of this Part for the making of regulations for any of the purposes of this Part, such regulations may provide that, in relation to strata plans (other than strata plans to which subsection (3) of section 223mc of this Act applies), the granting by the Director of an application referred to in subsection (2) of this section shall be subject to the payment to the Director for payment by him into the Fund established under the Planning and Development Act, 1966-1967, of a sum calculated at a rate not exceeding one hundred dollars (if the parcel is situated in the Metropolitan Planning Area within the meaning of that Act) or forty dollars (if the parcel is situated outside that planning area) for each unit defined on the strata plan and where any money is paid into the Fund pursuant to any such condition, it shall be used by the State Planning Authority for the acquisition or development of reserves.

Appeal against  
refusal of  
application.

223me. (1) If the Director or a council refuses an application referred to in section 223md of this Act, the Director or the council, as the case may be, shall notify the applicant or applicants of such refusal and inform him or them of the reasons for such refusal.

(2) The applicant or applicants may appeal to the Planning Appeal Board established under the Planning and Development Act, 1966-1967, against any decision of the Director or a council refusing an application referred to in section 223md of this Act or granting any such application subject to compliance with any conditions as if the decision were a decision of the Director or the council under that Act and, for the purposes of any such appeal, the

provisions of sections 26 and 27 of that Act and the regulations made under subsection (8) of section 27 of that Act governing the practice and procedure relating to appeals to that board under that Act shall, *mutatis mutandis*, and, subject to subsection (3) of this section, apply and have effect accordingly.

(3) For the purposes of subsection (2) of this section—

(a) the provisions of subsection (5) of section 26 of the Planning and Development Act, 1966-1967, shall be read and construed as if the passage “to the Authority and” were omitted from that subsection ;

and

(b) the provisions of any regulation made under subsection (8) of section 27 of that Act shall be read and construed subject to the provisions of any regulations made under this Part and subject to the modifications, if any, made by the latter provisions to the former provisions referred to in this paragraph.

223mf. (1) The schedule to a strata plan, which shall form part of the plan, shall be set out in the form prescribed in the twenty-fifth schedule to this Act on a separate sheet attached to the plan and shall be completed and endorsed in accordance with the provisions of this Part.

Unit entitle-  
ment of units.

(2) The unit entitlement of each unit and the aggregate unit entitlement of all the units shown in a strata plan shall be expressed in the schedule to such plan as whole numbers.

(3) The schedule to every strata plan must be endorsed by or on behalf of the Commissioner of Land Tax or, if the Governor appoints (as he is hereby empowered to do) some other person for the purposes of this subsection in lieu of the Commissioner of Land Tax, by or on behalf of such other person to the effect that the unit entitlement of each unit as set out therein is approved by him.

(4) An application for approval of the unit entitlement of each unit set out in the schedule to a strata plan may be made in accordance with the regulations and on payment of the prescribed fee, and must set out such particulars as may be prescribed ; and the applicant must furnish to the Commissioner of Land Tax or the other person referred to in subsection (3) of this section such further information as the Commissioner or that other person may require for the purpose of determining the application.

(5) Upon approving such unit entitlement, the Commissioner of Land Tax or the other person referred to in subsection (3) of this section shall endorse the schedule to the strata plan accordingly.

(6) Subject to subsections (7), (8), (9), (10), (11) and (12) of this section, the schedule to a deposited strata plan shall, from time to time, be amended by the Registrar-General in accordance with—

(a) an order of the Court made upon an application by any of the registered proprietors of the units defined on the plan, or by the corporation incorporated by virtue of section 223nc of this Act upon the deposit of the plan in the Lands Titles Registration Office under this Part acting pursuant to a unanimous resolution of the corporation, or by the administrator (if any) of the corporation appointed pursuant to section 223nm of this Act ;

or

(b) an application by all the registered proprietors of the units defined on the plan which application the Commissioner of Land Tax or the other person referred to in subsection (3) of this section has approved in writing.

(7) The Court shall cause notice of every application referred to in paragraph (a) of subsection (6) of this section to be given to the Commissioner of Land Tax or the other person referred to in subsection (3) of this section and to such other persons as the Court thinks fit ; and the Commissioner of Land Tax or the other person referred to in that subsection or his duly appointed agent may, before the conclusion of the hearing of the application, make a report in writing to the Court concerning the matter of the application or may appear at the hearing and any proceedings relating to the application and tender evidence, and call, examine and cross-examine witnesses and address the Court.

(8) In any proceedings before the Court on any such application, any person claiming to have any interest in any of the units may, with the consent of the Court, appear personally or by counsel or solicitor and be heard and, in determining any such application, the Court shall have regard to any report made to the Court under subsection (7) of this section and to the relative values of the respective units at the time of the making of the application.

(9) As soon as practicable after an order of a kind referred to in paragraph (a) of subsection (6) of this section is made

the applicant or applicants for the order shall forward to the Registrar-General a certified copy of the order of the Court together with an application in the prescribed form requesting him to amend the schedule to the deposited strata plan in accordance with the order.

(10) Upon receipt of an application for the amendment of the schedule to a deposited strata plan, the Registrar-General shall, if he is satisfied that the relevant provisions of this Part in relation thereto have been complied with, amend the schedule to the plan in accordance therewith.

(11) The Registrar-General may, in his discretion, substitute for any schedule to a deposited strata plan a new schedule which shall constitute the original schedule as amended pursuant to all orders and the appropriate applications referred to in subsection (6) of this section made prior to the substitution and, upon such substitution, the schedule so substituted shall be endorsed with his signature and shall be the schedule to the plan.

(12) An amendment of a schedule shall have effect when the Registrar-General endorses the same with his signature.

(13) The unit entitlements of the units as set out for the time being in the schedule to a deposited strata plan shall be the basis for determining—

- (a) the respective undivided shares of the registered proprietors in the equitable estate in the common property to which the plan relates ;
- (b) the proportions payable by the respective registered proprietors of contributions levied by the corporation on the registered proprietors generally pursuant to powers vested in it by this Part ;

and

- (c) the proportions in which moneys (if any) received or held by the corporation for distribution among the registered proprietors generally are to be distributed among them.

223mg. (1) The Registrar-General may refuse to accept a strata plan for deposit in the Lands Titles Registration Office under this Part if any of the relevant requirements of this Part applicable to or in relation to such strata plan has not been complied with, or may return the plan to the person or persons who made the application for the deposit of the strata plan, or to his or their agent, for compliance with those requirements.

Procedure  
prior to deposit  
of strata plan.

(2) When it appears to the Registrar-General that all the requirements referred to in subsection (1) of this section have been complied with, he shall in writing notify the registered proprietor or registered proprietors of the parcel, or his or their agent, that, subject to the provisional registration by the Registrar of Companies of the proposed corporation, he would deposit the strata plan in the Lands Titles Registration Office.

(3) Within fourteen days after the receipt of the notification referred to in subsection (2) of this section, or within such further time as the Registrar of Companies may allow, the applicant or applicants for the deposit of the strata plan shall make application to the Registrar of Companies in the prescribed form for the provisional registration of the proposed corporation by a name which shall consist of the name by which the building or buildings erected on the parcel will be known followed by the passage "(Strata Plan No. ) Incorporated", with the number of the plan left blank.

(4) The application must be accompanied by—

- (a) the notification referred to in subsection (2) of this section ;
- (b) the prescribed fee which shall not exceed one dollar ;

and

- (c) such other documents or information as may be prescribed.

(5) If, at the time of the application, the parcel is held by the registered proprietor or registered proprietors or any of them subject to any trusts, or subject to any unregistered liens or charges, the application shall be accompanied by a statement setting out the trusts, liens or charges and, if the trusts, liens or charges or any of them are created by or embodied in an instrument, by a copy of the instrument, and the correctness of the statement and of the copy of the instrument shall be verified by declaration made by the applicant or by one of the applicants.

(6) Except with the consent of the Attorney-General, a proposed corporation shall not be provisionally registered by the Registrar of Companies by a name—

- (a) that, in the opinion of the Registrar of Companies, is, or contains any word that is, undesirable or is a name, or a name of a kind, or contains any word or word of a kind, that the Attorney-General has, in relation to business names,



companies or other bodies corporate, directed the Registrar of Companies not to accept for registration ;

- (b) that is the same as, or may, in the opinion of the Registrar of Companies, be mistaken for, the name of any other corporation, company or other body corporate that is incorporated or carrying on business in this State ;
- (c) that contains the word "limited", "no-liability", "proprietary", "corporation" or "co-operative" or any abbreviation thereof ;

or

- (d) the use of which by any corporation, company or other body corporate, or by any firm is prohibited by or under any law.

(7) Where any of the registered proprietors is a company or a foreign company within the meaning of the Companies Act, 1962-1966, the Registrar of Companies may defer provisional registration of the proposed corporation if he is satisfied that there is a floating or other charge affecting the parcel comprised in the strata plan, registered under that Act or under a corresponding previous enactment, or required to be registered, or capable of being registered, under that Act, until he is satisfied that such charge has been discharged.

(8) If it appears to the Registrar of Companies that the provisional registration by him of the proposed corporation would not contravene any provisions of this Part or any other enactment, he shall provisionally register the proposed corporation in a register kept by him for the purpose.

(9) Upon provisionally registering the proposed corporation, the Registrar of Companies shall notify the Registrar-General in writing of that fact.

223mh. (1) Upon receipt of the notification referred to in subsection (9) of section 223mg of this Act, the Registrar-General shall—

Deposit of  
strata plan in  
Lands Titles  
Registration  
Office.

- (a) deposit the strata plan in the Lands Titles Registration Office and give it a number as a deposited strata plan ;

and

- (b) forthwith notify the Registrar of Companies in writing of the number given to the plan.

(2) Upon receipt of the notification referred to in paragraph (b) of subsection (1) of this section, the Registrar of Companies shall complete the name of the corporation by entering the number of the deposited strata plan in the blank space appearing in the name by which the proposed corporation was provisionally registered, where such name appears in the register of the Registrar of Companies, and he shall thereupon register the corporation incorporated by virtue of section 223nc of this Act comprising the registered proprietor or registered proprietors of the units defined in the deposited strata plan and issue to the corporation a certificate of registration in the prescribed form.

Registers,  
records, etc.  
of Registrar  
of Companies.

223n. (1) For the purposes of this Part, the Registrar of Companies shall keep such registers and records as he considers necessary in such form as he considers fit.

(2) Any person may, on payment of the prescribed fee—  
(a) inspect any document filed or lodged with the Registrar of Companies under this Part ;

or

(b) be entitled to receive from the Registrar of Companies a copy of a certificate of the registration of a corporation that is registered by the Registrar of Companies under this Part or a copy of or extract from any document kept by the Registrar of Companies for the purposes of this Part certified to be a true copy or extract, as the case may be, under the hand and seal of the Registrar of Companies.

(3) A copy of or extract from any document kept or issued by the Registrar of Companies for the purposes of this Part certified to be a true copy or extract under the hand and seal of the Registrar of Companies shall in any legal proceedings be admissible in evidence as of equal validity with the original document.

(4) If the Registrar of Companies is of opinion that any application made to him under subsection (3) of section 223mg of this Act, or any annexure thereto or document accompanying it—

(a) has not been duly completed :

or

(b) does not comply with the appropriate requirements of any of the provisions of this Part,

he may refuse to accept it or may return it for completion or amendment and require that it be re-submitted after being

appropriately amended or completed or that a fresh application, annexure or document be submitted in its place.

223na. (1) Upon the deposit of a strata plan in the Lands Titles Registration Office by the Registrar-General, a memorial thereof shall be entered on every certificate affected thereby and the Registrar-General shall, subject to this Act, cancel the certificate issued in respect of the parcel and issue a certificate for each unit and a separate certificate for the common property comprised in the plan.

Certificates to be issued on deposit of strata plan.

(2) The person to be named in a certificate as the registered proprietor of the common property shall be the corporation incorporated by virtue of section 223nc of this Act comprising the registered proprietor or registered proprietors of the units defined in the deposited strata plan.

(3) Except as provided in subsection (6) of this section, the person or persons to be named in the certificate for a unit as the registered proprietor or registered proprietors thereof shall be the person or persons who, immediately prior to the deposit of the strata plan in the Lands Titles Registration Office by the Registrar-General, was or were the registered proprietor or registered proprietors, as the case may be, of the parcel comprised in the strata plan.

(4) On each certificate for a unit defined on a strata plan to which subsection (2) of section 223mc of this Act applies, the Registrar-General shall enter memorials of such subsisting registered estates and interests (if any), other than easements, that had been entered on the original certificate for the parcel and, on and after the issue of the certificate for the unit, the unit shall vest in the registered proprietor or registered proprietors for the time being thereof for an estate in fee simple subject to such estates and interests as are notified on the original certificate for the unit.

(5) On the certificate for the common property issued pursuant to subsection (1) of this section the Registrar-General shall enter memorials of such easements, if any, notified on the original certificate for the parcel as have not been extinguished and, on and after the issue of the certificate for the common property, the common property shall, subject to section 223nh of this Act, vest in the corporation as the registered proprietor thereof for an estate in fee simple subject to such easements as are notified on the original certificate for the common property but freed and discharged from all other estates and interests to which the parcel was subject immediately before the strata

plan was deposited in the Lands Titles Registration Office under this Part.

(6) Where the strata plan relates to or incorporates a building unit scheme of a kind referred to in subsection (3) of section 223mc of this Act and is accompanied by an application as required by subsection (4) of that section signed by all persons who have registered estates and interests in the parcel and stating the names and addresses of the person or persons entitled to be the registered proprietor or registered proprietors of each of the units defined on the plan, the person or persons to be named in a certificate for a unit as the registered proprietor or registered proprietors thereof shall be the person or persons who appears or appear from the application to be entitled to be the registered proprietor or registered proprietors of the unit and it shall not be necessary to lodge with the Registrar-General for registration under this Act a memorandum of transfer in respect of such unit from the registered proprietor or registered proprietors of the parcel to such person or persons; but, upon the deposit of the strata plan in the Lands Titles Registration Office by the Registrar-General, the Registrar-General shall enter a memorial of the application on every certificate relating to the parcel and affected thereby and, upon such memorial being entered on a certificate, every subsisting registered estate and interest entered in that certificate shall be extinguished and discharged and the Registrar-General shall accordingly, by endorsement signed by him, cancel every instrument concerned, either totally or partially, as the case may require, referring to the application as his authority for the cancellation, and the Registrar-General shall, on the relevant certificates that are issued for the units defined on the strata plan, register such instruments as were required to be registered in substitution for those that were so cancelled.

(7) Upon the issue of a certificate for a unit defined on a strata plan referred to in subsection (6) of this section, the unit shall vest in the registered proprietor or registered proprietors thereof in fee simple subject to such estates and interests as are registered on the certificate by virtue of the instruments referred to in that subsection.

(8) Notwithstanding paragraph XI of section 191 of this Act, it shall be lawful for a caveator, whose caveat has been extinguished by virtue of subsection (6) of this section, without the leave of the Court, to lodge another caveat relating to the same matter over a certificate for a unit defined on the strata plan or for the whole or any portion

of the common property and for the Registrar-General to enter a memorial thereof in the Register Book.

(9) Where, after the deposit of a strata plan referred to in subsection (6) of this section in the Lands Titles Registration Office by the Registrar-General and the incorporation of the registered proprietors of the units defined thereon, the Registrar of Companies is satisfied, on the application of a company that had been formed and incorporated under the Companies Act, 1962-1966, or under any corresponding previous enactment, and on verification, by statutory declaration or otherwise as the Registrar of Companies may require, of matters contained in such application or of matters relevant thereto, that, because of the deposit of the strata plan, the purpose for which the company had been formed no longer exists and that it has no assets or liabilities, the Registrar of Companies may, notwithstanding anything contained in the Companies Act, 1962-1966, by order dissolve the company and strike the name of the company from his register.

(10) Where, after the deposit of a strata plan referred to in subsection (6) of this section in the Lands Titles Registration Office by the Registrar-General and the incorporation of the registered proprietors of the units defined thereon, the Court is satisfied, on the application of a company that had been formed and incorporated under the Companies Act, 1962-1966, or under any corresponding previous enactment, or on the application of a member or creditor of the company, that, because of the deposit of the strata plan, the purpose for which the company had been formed no longer exists, but that it has any assets or liabilities, the Court may, by order, dissolve the company and direct the Registrar of Companies to strike the name of the company from his register and by the same or a subsequent order, give such directions as it considers just for the disposal of its remaining assets, if any, or to render the persons who, immediately before the dissolution, were members of the company personally liable for its outstanding liabilities in such manner and in such proportions as the Court thinks proper.

(11) For the purposes of this Act, the deposit by the Registrar-General of a strata plan in the Lands Titles Registration Office under this Part, and the entering on a certificate of a memorial of any application that accompanied a deposited strata plan shall be deemed to be dealings in land.

Deposit of  
strata plan to  
be dealing in  
land.

223nb. (1) A registered proprietor shall not enter into any dealing with a unit subsidiary except where the dealing

Unit subsidiary  
not to be dealt  
with independ-  
ently of unit  
to which it is  
appurtenant.

has effect as part of a dealing with the unit to which, in accordance with the relevant deposited strata plan, the unit subsidiary is appurtenant.

Penalty : Five hundred dollars.

(2) Any dealing with a unit subsidiary in contravention of subsection (1) of this section is void.

Incorporation  
of registered  
proprietors of  
units.

223nc. (1) Subject to this Part, on and after the deposit of a strata plan in the Lands Titles Registration Office by the Registrar-General, the registered proprietor or registered proprietors for the time being of the units defined on the plan shall, by virtue of this section, be a body corporate incorporated under the name by which, as the corporation referred to in section 223mh of this Act, it is registered by the Registrar of Companies.

(2) The members of the corporation shall be the person who is or persons who are at the relevant time the registered proprietor or registered proprietors for the time being of the units defined on the deposited strata plan, each member being a member in respect of the unit or units of which he is the registered proprietor or one of the registered proprietors.

(3) The corporation shall have perpetual succession, shall be capable of being a party to legal proceedings in its corporate name, and shall have a common seal, on which shall be inscribed its name in legible characters, but it shall be sufficient if the abbreviation "Inc." is used in place of the word "Incorporated" in the name of the corporation, whether inscribed on its common seal or in any description of or reference to the corporation.

(4) Subject to this Part, the custody and use of the common seal of the corporation and the procedure for the calling of meetings and the conduct thereof shall be as provided by the constitution of the corporation as contained in its articles, or, if not so provided, as determined by the corporation.

(5) Subject to this Part and to its constitution, the corporation may also—

- (a) enter into contracts with any person, including a member of the corporation, and hold any real and personal property ;
- (b) sue for or in respect of any damage or injury to the common property caused by any person, whether that person is a member of the corporation or has any interest in the common property or not ;

- (c) be sued in respect of any matter connected with the parcel for which the registered proprietors of the units to which the common property relates are jointly liable ;
- (d) establish, keep and maintain a fund or funds which, in the opinion of the corporation, is or are sufficient, and which the corporation may use—
  - (i) for administrative expenses and for the control, management and administration of the common property and for the payment of any premiums of insurance ;and
  - (ii) for the discharge or the performance of any other function or obligation of the corporation ;
- (e) determine from time to time in writing the amounts to be raised from the members for the purposes aforesaid and the time and manner of payment by each of the members of the amount payable by him ;
- (f) raise amounts so determined by demanding and receiving payment of the same from members either in proportion to the unit entitlement of their respective units or in such other proportions as are agreed to by unanimous resolution of the corporation ;
- (g) remedy any breach of any provision of its articles if—
  - (i) the breach is one that may be remedied by the expenditure of money ;and
  - (ii) the breach has not been remedied by the person bound to comply with the provision within the time specified in a notice given to that person by the corporation specifying the nature of the breach and requiring the breach to be remedied within that time ;and
- (h) exercise such other powers and functions as are conferred or necessarily implied or prescribed by or under this Part or its articles or are incidental or ancillary thereto.

(6) Any amount demanded pursuant to paragraph (f) of subsection (5) of this section from each member shall be due and payable in accordance with the terms of the relevant determination and that amount or so much thereof as from time to time becomes due and payable (but not paid) shall be recoverable by the corporation in an action in any court of competent jurisdiction as a debt due to it jointly and severally from the person who was the member at the time when the same was so demanded and the person who is the member at the time when the action is commenced.

(7) Subject to this Part and to its articles, the corporation shall—

- (a) control, manage and administer the common property vested in it and do all things reasonably necessary for the enforcement of its articles and the control, management and administration of the common property ;
- (b) carry out the duties imposed on it by or under this Part or its articles ;
- (c) unless by unanimous resolution of the corporation it is otherwise resolved, insure and keep insured all buildings and other improvements on the parcel for the replacement value from time to time thereof against fire and such other risks as may be prescribed ;
- (d) effect such insurance as it is required by law to effect and such other insurance as it may by special resolution determine ;
- (e) pay premiums on policies of insurance effected by it ;
- (f) unless otherwise directed by order of the Court pursuant to section 223nl of this Act, forthwith apply the insurance moneys when received by it in respect of damage to any building or improvements in re-building and re-instating the building or improvements so far as the same may lawfully be done ;
- (g) keep in a state of good and serviceable repair and properly maintain the common property and such other portions of the buildings and other improvements, fittings and fixtures on the parcel as by its articles are entrusted to its care ;
- (h) comply with any notice, order or other instrument duly served on it by any competent authority under any law requiring repairs to be done to,



or work to be performed in respect of, the common property or any building or other improvement on the parcel ;

and

- (i) comply with any reasonable request for the names and addresses of the persons who are members of the committee of the corporation.

(8) For the purposes of effecting any insurance pursuant to paragraph (c) of subsection (7) of this section, the corporation shall be deemed to have an insurable interest to the replacement value of the buildings and improvements referred to therein, and for the purpose of effecting any other insurance pursuant to that subsection, the corporation shall be deemed to have an insurable interest in the subject matter of such insurance.

(9) The moneys received by the corporation under a policy of insurance effected by it under or pursuant to paragraph (c) of subsection (7) of this section in respect of any buildings or other improvements on the parcel comprised in the relevant deposited strata plan shall not be liable to be brought into contribution with moneys received under any other policy of insurance except another policy effected under or pursuant to that paragraph in respect of the same buildings or improvements.

(10) Where the corporation performs any repairs, work or act that it is required or authorized by or under this Part or its articles or by or under any other Act to perform (whether or not the repairs, work or act were or was performed consequent upon the service on it by a competent authority of any notice or order), but the repairs, work or act were or was wholly or substantially the liability or the responsibility of the registered proprietor of one unit only or wholly or substantially for the benefit of some of the units only or wholly or substantially the liability or the responsibility of the registered proprietors of some of the units only, any money expended by the corporation in performing the repairs, work or act shall—

- (a) in the case where the repairs, work or act were or was wholly or substantially the liability or the responsibility of the registered proprietor of one unit only, be recoverable by the corporation in an action in any court of competent jurisdiction as a debt due to it jointly and severally from the relevant registered proprietor of the unit at the time when the repairs, work or act were or was performed and the relevant registered proprietor

of the unit at the time when the action was commenced ;

or

- (b) in the case where the repairs, work or act were or was wholly or substantially for the benefit of some of the units only or wholly or substantially the liability or the responsibility of the registered proprietors of some of the units only, be recoverable by the corporation in an action in any court of competent jurisdiction as a debt due to it jointly and severally from the relevant registered proprietor of each of such units at the time when the repairs, work or act were or was performed and the relevant registered proprietor of that unit at the time when the action was commenced, the amount payable by any registered proprietor and former registered proprietor in respect of any unit being not more than the proportion of the debt which the unit entitlement of the unit then bears to the aggregate unit entitlement of all those units.

(11) Where the corporation incurs any expenditure or performs any repairs, work or act that it is required or authorized by or under this Part or its articles or by or under any other Act to perform (whether or not the expenditure was incurred or the repairs, work or act were or was performed consequent upon the service on it by a competent authority of any notice or order) and the expenditure or the repairs, work or act were or was rendered necessary by reason of any wilful or negligent act or omission on the part of, or breach of any provision of its articles by any person or his tenant, lessee, licensee or invitee, the amount of that expenditure or any money expended by it in performing the repairs, work or act shall be recoverable by it from that person as a debt in an action in any court of competent jurisdiction.

(12) On application by or on behalf of a person who is a member of the corporation in respect of a unit or by or on behalf of a prospective purchaser of a unit that is offered for sale, the corporation shall issue to that person a certificate in the prescribed form certifying—

- (a) the amount then unsatisfied of any determination made by the corporation pursuant to paragraph (e) of subsection (5) of this section ;
- (b) the time and manner of payment of the amount determined by it pursuant to that paragraph ;

- (c) the proportion of the amount of the determination which the member who is the registered proprietor of the unit is liable to pay to the corporation;
- (d) the amounts (if any) demanded from that member pursuant to paragraph (f) of subsection (5) of this section and then unpaid;
- (e) the amount (if any) then recoverable by the corporation in respect of the unit pursuant to subsection (6) of this section;
- (f) the amount (if any) then recoverable by the corporation in respect of the unit pursuant to subsection (10) of this section;
- (g) the sum or the respective sums standing to the credit of the fund or funds kept and maintained by the corporation pursuant to paragraph (d) of subsection (5) of this section, and the amount or respective amounts out of that fund or those funds committed or earmarked for any expenses already incurred by the corporation;

and

- (h) whether or not the corporation has incurred any expenditure or performed or is about to perform any repairs, work or act in respect of which a liability is likely to be incurred by the member who is the registered proprietor of the unit under any provision of this Part or of the articles of the corporation and, if so, the estimated amount of the expenditure or the general nature of the repairs, work or act,

and as against the corporation and in favour of any person (including the member) relying in good faith on such certificate, that certificate shall be conclusive evidence of the matters certified therein.

(13) A notice or order requiring repairs to or work to be performed in respect of the parcel comprised in the deposited strata plan or any building or other improvements thereon which a competent authority is required or authorized by any law to serve may, notwithstanding anything contained in such law be served on the corporation in the manner provided by this Part and, when served in that manner, the notice or order shall be deemed to have been duly served on the person on whom it was required to be served and, subject to this Part, the corporation shall comply therewith.

(14) Where a member who is not beneficially entitled to possession of a unit in respect of which he is a member is

required to pay, and pays, any amount to the corporation pursuant to paragraph (f) of subsection (5) or to subsection (6) or subsection (10) of this section or any other provision of this Part or any provision of the articles of the corporation, he shall, subject to any agreement, express or implied, between him and the person beneficially entitled to possession of the unit, be entitled to recover from that person any amount so paid.

(15) The payment of any amount lawfully incurred by the corporation in the course of the exercise of any of its powers or functions or the carrying out of its duties or obligations or of any pecuniary penalty imposed on the corporation is, by force of this section, guaranteed by the persons who, for the time being, and from time to time, are the members of the corporation, the member who is, or the members who are, the registered proprietor or registered proprietors of each unit being liable under such guarantee only for such proportion of the money so incurred as the unit entitlement of that unit bears to the aggregate unit entitlement of all the units.

(16) Where—

(a) by reason of any liability of a member or former member of the corporation under subsection (15) of this section that member or former member has, in respect of any matter, been obliged to pay, and paid, more than the proportion for which he was liable in respect of that matter under subsection (6) of this section ;

and

(b) any other member or members of the corporation has or have not discharged or fully discharged his or their liability under that subsection in respect of that same matter,

the member or former member referred to in paragraph (a) of this subsection shall be entitled to recover from the member or members referred to in paragraph (b) of this subsection in any court of competent jurisdiction, as a debt due to him from that member or those members, an amount not exceeding the amount by which the aggregate amount paid by him in respect of that matter exceeded the amount of the proportion for which he was liable in respect of that matter under subsection (6) of this section, but no member referred to in paragraph (b) of this subsection shall be held liable to pay under this subsection more than the amount remaining undischarged of his liability in respect of that matter under subsection (6) of this section.

223nd. (1) The corporation may, if authorized by a unanimous resolution of the corporation—

Restricted  
powers of  
corporation.

- (a) purchase, hire or otherwise acquire personal property for its own use or for use in connection with the enjoyment of the common property ;
- (b) borrow moneys required by it for the purpose of carrying out its duties or exercising its powers ;
- (c) secure the repayment of moneys borrowed by it, and the payment of interest thereon, by negotiable instrument or mortgage of unpaid contributions from the members (whether levied or not), or by any combination of those means ;
- (d) deposit in any trading bank or savings bank account any moneys in any fund established pursuant to paragraph (d) of subsection (5) of section 223nc of this Act ;
- (e) enter into and carry out an agreement with any member or any occupier of a unit for the provision of amenities or services by it to such unit or to the member or occupier ;

and

- (f) grant to a member, or any person who has derived an interest in a unit through a member, any special privilege (not being a lease) in respect of the enjoyment of part or parts of the common property.

(2) Any grant made pursuant to paragraph (f) of subsection (1) of this section shall be determinable by notice in writing given by the corporation to that member or person pursuant to a special resolution of the corporation.

(3) Except in the course and for the purpose of controlling, managing, administering, maintaining, repairing and renewing the common property, or any part thereof or in the course and for the purpose of carrying out its functions and duties or exercising its powers as provided by this Part, the corporation shall not carry on any business for profit or for the purpose of securing pecuniary profit to its members.

Penalty : Five hundred dollars.

(4) Except as provided by this Part or in accordance with an order of the Court (which the Court is hereby authorized to make if it is satisfied that in all the circumstances it is proper to do so, having regard in particular to the corporation's accrued and contingent liabilities), the

corporation shall not pay to any of its members any moneys received or held by it.

Penalty : Five hundred dollars.

Committee of  
corporation.

223ne. (1) Subject to this Part, the powers, functions and duties of the corporation, shall be exercised and performed by the committee of the corporation in such manner as the corporation by resolution passed at a general meeting of the corporation may direct or, in the absence of such resolution, in such manner as the committee thinks fit.

(2) Until the first annual general meeting of the corporation, all the members thereof shall constitute the committee, but thereafter—

(a) subject to paragraph (b) of this subsection, the committee shall consist of not less than three nor more than seven members who shall be elected at each annual general meeting ;

and

(b) where there are not more than three members of the corporation the committee shall consist of all the members.

(3) Except where the committee consists of all the members of the corporation, the corporation may, by special resolution passed at an extraordinary general meeting, remove any member of the committee before the expiration of his term of office and appoint another member in his place to hold office until the next annual general meeting.

(4) Subject to subsection (3) of this section, when a casual vacancy occurs on the committee, the remaining members of the committee may appoint, in place of, and for the unexpired part of the term of office of, the member of the committee whose office is vacant, another member of the corporation.

(5) Any meeting of the committee at which a quorum is present shall be competent to transact the business of the committee, and a quorum necessary for the transaction of such business shall—

(a) where the committee consists of only one member, be one ;

(b) where the committee consists of two, three or four members, be two ;

(c) where the committee consists of five or six members, be three ;

and

- (d) where the committee consists of seven members, be four.
- (6) At the commencement of each committee meeting, the members present (if more than one) shall elect a chairman for the meeting who, in the case of equality of votes, shall have a second or casting vote and, if any chairman so elected vacates the chair during the course of a meeting, the members then present (if more than one) shall choose in his place another chairman who shall have the same rights of voting.
- (7) At meetings of the committee all matters shall be decided by a majority of the votes of the members present.
- (8) The committee may—
- (a) subject to subsection (9) of this section, meet for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit ;
  - (b) subject to such directions (if any) as may be given by special resolution of the corporation, for and on behalf of the corporation, employ agents and servants in connection with the control, management, administration, maintenance, repairing and renewing of the common property or any part thereof, and the exercise and performance of the powers, functions and duties of the corporation, and lawfully terminate such employment ;
- and
- (c) subject to any restriction or direction that may be imposed or given by ordinary resolution passed at a general meeting of the corporation, delegate to one or more of its members such of its powers, functions and duties as it thinks fit, and at any time revoke such delegation.
- (9) Any member of the committee may convene a meeting of the committee by giving to the other members of the committee not less than seven days' written notice specifying the reason for convening such meeting and the time and place of such meeting.
- (10) Subject to the regulations, the committee shall—
- (a) keep minutes of its proceedings ;
  - (b) cause minutes to be kept, in a minute book of the corporation kept for the purpose, of proceedings at all general meetings of the corporation and include therein a record of every special

resolution, unanimous resolution and other resolution of the corporation ;

- (c) cause proper records and books of account to be kept in respect of its assets and liabilities, all sums of money received and expended by it and owing to and by it ;
- (d) in, and in respect of, each year, prepare proper accounts relating to all moneys of the corporation, and the income and expenditure thereof, and present them at each annual general meeting of the corporation for approval by the corporation and within fourteen days, or such further time as the Registrar of Companies may allow, after each annual general meeting, lodge with the Registrar of Companies a copy of the accounts as approved by the corporation certified as correct by a member of the committee ;
- (e) on the application of a member or of a mortgagee of a unit, or any person authorized in writing by either of them, make the books of account, records and all minutes kept by the committee available to him for inspection at all reasonable times ;

and

- (f) furnish the Registrar of Companies in accordance with the regulations with such returns and information as may be prescribed.

(11) No fee that is payable to the Registrar of Companies on the lodging or furnishing with him of any copy of accounts or any return or information under paragraph (d) or (f) of subsection (10) of this section shall exceed one dollar.

(12) If default is made in complying with any provision of subsection (10) of this section, each member of the committee shall, unless he shows the court before which he is charged that he had taken all reasonable steps to ensure that the default did not occur, be guilty of an offence against this Act and liable, on conviction, to a penalty not exceeding Twenty-five dollars.

(13) All acts done in good faith by the committee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment or continuance in office of any member thereof, be as valid as if such member had been duly elected or had duly continued in office.



223nf. (1) Subject to this Part and to its articles, a corporation may hold general meetings as it thinks fit, but—

General  
meetings.

(a) one such general meeting (which shall be called the annual general meeting and may be held in any calendar year in addition to any other meeting of the corporation held in the same year) shall be held at least once in every calendar year and (except in the case of the first annual general meeting) not more than fifteen months after the date of the last preceding annual general meeting ;

and

(b) within six months after the deposit of the relevant strata plan in the Lands Titles Registration Office by the Registrar-General, the first annual general meeting of the corporation shall be held.

(2) The general meetings of the corporation, other than its annual general meetings, shall be called extraordinary general meetings.

(3) The committee of the corporation may, whenever it thinks fit, and shall, upon a requisition in writing made by members of the corporation entitled to not less than twenty-five per centum of the total unit entitlement of the units shown on the relevant strata plan, convene a general meeting of the corporation.

(4) Except where only one person is entitled to vote in respect of all the units defined on the relevant strata plan, at least fourteen days' notice of every general meeting of the corporation specifying the place, the date and the hour of the meeting and, in the case of special business, the general nature of such business, shall be given to all members of the corporation and to the mortgagees, if any, of the units defined on the relevant strata plan who have, in accordance with this Part, given the corporation written notice of their mortgages and have therein claimed their respective rights to vote as provided by this Part ; but the non-receipt of such notice by any such member or mortgagee shall not invalidate the proceedings at any such meeting.

(5) Any notice required to be given under subsection (4) of this section shall be sufficiently given if sent by pre-paid letter addressed and posted to the person concerned to the last address of that person notified to the corporation or, if no such address has been so notified, to that person's last known place of abode or, if such person were a body

corporate, to its registered office or principal place of business or other known address in the State.

(6) All business that is transacted—

(a) at an annual general meeting of the corporation, with the exception of the election of the chairman for the meeting, the consideration of accounts and the election of members to the committee ;

or

(b) at an extraordinary general meeting, with the exception of the election of the chairman for the meeting,

shall be deemed to be special business.

(7) Except as provided in subsection (8) of this section, no business shall be transacted at any general meeting of the corporation unless a quorum, consisting of persons entitled to exercise the voting power in respect of not less than one-half of the number of the units defined on the relevant strata plan, is present at the time when the meeting proceeds to business.

(8) If within half an hour after the time appointed for a general meeting of the corporation the quorum referred to in subsection (7) of this section is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time and if the quorum is not then present within half an hour after the time appointed for the meeting as so adjourned, the persons who are then present and entitled to vote shall constitute the quorum for the purposes of subsection (7) of this section.

(9) At the commencement of a general meeting of the corporation, the members present (if more than one) shall elect a chairman for the meeting.

Voting at  
meetings of  
corporation.

223ng. (1) Subject to this section, at any meeting of the corporation—

(a) where a unanimous resolution of the corporation is required, each member shall be entitled to exercise one vote ;

and

(b) except in the case of a unanimous resolution, one vote shall be exercisable in respect of each unit and that vote is exercisable by the member registered as the proprietor of that unit or, where there are two or more members registered as proprietors of the unit, by those members jointly.

(2) For the purposes of paragraph (b) of subsection (1) of this section, where, in respect of any unit, there are successive registered estates of freehold, the member or members entitled to exercise the power of voting in respect of that unit shall be the member or members registered as the proprietor or proprietors of the first of such estates as is, at the relevant time, an estate of freehold in possession.

(3) Where the estate of a member of the corporation in a unit in respect of which he is a member is subject to a registered mortgage or to registered mortgages, and the mortgagee or the first mortgagee, as the case may be, has given the corporation written notice of his mortgage and has in such notice claimed the right to exercise the power of voting otherwise exercisable by the member under subsection (1) of this section, then, at any meeting of the corporation, the power of voting conferred on the member by virtue of subsection (1) of this section shall not be exercisable by that member as the registered proprietor of the unit if, at the time of voting, the mortgagee or first mortgagee is present at the meeting personally or by proxy in which case such power may be exercised only by the mortgagee or first mortgagee; but if, at the time of voting, the mortgagee or first mortgagee is not present at the meeting personally or by proxy or is not deemed to be present at the meeting by virtue of subsection (12) of this section, the member himself may exercise that power of voting.

(4) At any general meeting, except where a unanimous resolution of the corporation is required, a poll may be demanded by any person present and entitled to exercise a power of voting, and, unless a poll is so demanded, a declaration by the chairman that the resolution has been carried shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of, or against, such resolution.

(5) A demand for a poll at any meeting of the corporation may be withdrawn.

(6) A poll, if demanded, shall be taken in such manner as the chairman thinks fit and the result of the poll, which shall be declared by the chairman as soon as it is ascertained, shall be deemed to be the resolution in respect of which the poll was demanded.

(7) Subject to subsection (11) and subsection (12) of this section, a vote may be exercised personally or by proxy but where two or more persons are entitled to exercise one

vote jointly, that vote may, except in the case of a unanimous resolution, be exercised by any person (who may or may not be one of them) as their proxy jointly appointed by them.

(8) Except where a unanimous resolution or a special resolution of a corporation is required, every vote on any resolution shall be of equal value unless a poll is demanded and held when the value of each vote shall correspond with the unit entitlement of the unit in respect of which it is exercised.

(9) The chairman of a meeting of the corporation shall have a deliberative vote and, in the case of an equality in voting on an ordinary resolution, whether on a poll or not, shall be entitled also to a casting vote.

(10) Except where a unanimous resolution of the corporation is required, a power of voting conferred on the registered proprietor or mortgagee of a unit shall not be exercisable unless all amounts accrued due and payable in respect of that unit to the corporation by the member or members liable to pay the same have been paid.

(11) Where, at any meeting of the corporation, a unanimous resolution of the corporation is required for any purpose and more than one person is entitled to attend the meeting and vote on the resolution—

(a) the person proposing to move the proposed resolution shall give the committee of the corporation in writing not less than three weeks before the meeting is to be held notice of the motion ;

(b) the committee of the corporation shall give to each person who is entitled to receive notice of the meeting, a copy of the notice of motion which shall incorporate a voting paper in the prescribed form ;

and

(c) any person entitled to vote on the proposed resolution may, if he does not otherwise vote thereon, exercise an absentee vote by recording his vote on the voting paper in accordance with the regulations and delivering it or causing it to be delivered, duly completed in accordance with the regulations, to the corporation before the commencement of the meeting.

(12) A vote recorded on the voting paper by a person entitled to exercise an absentee vote and received by the corporation as provided by paragraph (c) of subsection (11)

of this section shall, unless the voting paper has not been completed in accordance with the regulations, be accepted by the chairman of the meeting as a valid vote by the person exercising it and, for the purposes of this Part, any person entitled to exercise an absentee vote on a proposed resolution at a meeting whose absentee vote thereon has been received by the corporation as provided by paragraph (c) of subsection (11) of this section shall, except for the purposes of subsection (7) of section 223nf of this Act, be deemed to be present at the meeting and to have exercised his power of voting on that resolution.

(13) The right of a person to vote at a meeting of the corporation—

- (a) may, subject to this subsection, be exercised by him if he is of or over the age of eighteen years ;
- (b) shall not be exercised by him if he is less than eighteen years of age, but may in that case be exercised by his guardian ;
- (c) shall not be exercised by him if he is by any rule of law under a disability that prevents him from lawfully dealing with his property, but may in that case be exercised by the person who is, for the time being, authorized by law to control the property of the person under the disability.

(14) An instrument appointing a proxy for the purposes of this Part must be in the prescribed form and must be signed and attested as prescribed.

223nh. (1) Subject to this Part, the corporation shall hold the common property in trust for the registered proprietors of the units defined on the relevant deposited strata plan, as tenants in common thereof in shares proportional to the unit entitlements from time to time of their respective units.

The common property.

(2) Subject to this Act and the Planning and Development Act, 1966-1967, the corporation may, if authorized in that behalf by a unanimous resolution of the corporation, purchase or otherwise acquire for an estate in fee simple any other land that is contiguous to the parcel and on the completion of such purchase or acquisition and registration of the relevant instrument by the Registrar-General, such land shall be added to and form part of the common property and the Registrar-General shall amend the relevant deposited strata plan by including such land in the common property and the parcel.

(3) The corporation may, if authorized in that behalf by a unanimous resolution of the corporation, and with the

approval of the Director and the council within whose area the parcel comprised within the relevant strata plan is situated, make application to the Registrar-General requesting him to amend, vary, correct or alter the designation of any defined part or parts of the common property or to set apart any part or parts thereof for any particular purpose and the Registrar-General may, at his discretion, grant such application and make such entries or endorsements on the strata plan or other records kept in the Lands Titles Registration Office to give effect to such grant.

(4) A registered proprietor of a unit shall not be competent to enter into any dealing with his share of his equitable estate in the common property which is appropriate to that unit except where the dealing has effect as part of a dealing with that unit and any dealing with the unit shall likewise operate as a dealing with the share of the common property which is appropriate to that unit, notwithstanding that no mention of such share of the equitable estate is made in the instrument evidencing or giving effect to such dealing.

(5) Subject to this Part, the corporation may, if authorized in that behalf by a unanimous resolution of the corporation, execute a transfer of any part of the common property (other than an easement to which section 223ni of this Act applies), but the Registrar-General shall not register any such transfer if—

- (a) the transfer is not accompanied by a certificate of approval by the Director and a certificate of the council within whose area the common property lies, signed by the town clerk or other officer of the council duly authorized by the council in that behalf, certifying that the transfer in effect does not contravene and is not inconsistent with any authorized development plan within the meaning of the Planning and Development Act, 1966-1967, or any law for the administration or enforcement of which the council is responsible or has power to act ;
- (b) such other documents and particulars as are required by the regulations to be lodged with the Registrar-General together with the transfer have not been so lodged ;
- (c) it appears to the Registrar-General that the transfer in effect does not comply with, or contravenes, or is inconsistent with, any provision of this Part ;

or

(d) in the case where any of the units defined on the relevant deposited strata plan or the part of the common property that is dealt with by the transfer is subject to any existing registered estate or interest which, in the opinion of the Registrar-General, ought to be cancelled and discharged before or at the same time as the registration of the transfer, such estate or interest is not cancelled or discharged by an appropriate instrument registered or accepted for registration by him.

(6) Upon the registration by the Registrar-General of a transfer of any land constituting part of the common property, the land shall cease to form part of the parcel and shall also cease to form part of the common property and the Registrar-General shall—

(a) amend the relevant deposited strata plan by deleting therefrom that part of the land shown on the plan which is comprised in the transfer ;

and

(b) issue in the name of the transferee a certificate for the land transferred and thereupon such land shall be freed from any rights and easements created and existing over the land by virtue of section 223ni of this Act and from any trust referred to in subsection (1) of this section.

(7) The receipt in writing of the corporation for any moneys payable to the corporation under the terms of any transfer of any part of the common property and registered by the Registrar-General shall be a sufficient discharge to the person or persons who have paid those moneys and shall effectually exonerate him or them from seeing to the application or from being answerable for any loss or misapplication thereof.

(8) Any purchase moneys received by the corporation on the sale of any part of the common property shall be paid into the funds of the corporation to be used by the corporation to meet outstanding administrative expenses of the corporation and other expenses incurred by it in the control, management and administration of the common property and on account of premiums of insurance and other obligations of the corporation, and the balance, if any, remaining out of such purchase moneys shall, if the corporation by unanimous resolution so resolve, be paid to the registered proprietors of the units defined on the strata

plan in amounts proportional to the unit entitlements for the time being of their respective units, but the corporation may, from any amount payable to a registered proprietor under this subsection, retain such sum as may then be lawfully due to the corporation from that registered proprietor.

**Easements.**

223ni. (1) The corporation may, if it so resolves by unanimous resolution—

(a) grant, or execute any instrument granting, an easement over any portion of the common property ;

or

(b) acquire or accept an easement granted for the benefit of the parcel or any portion thereof,

upon such terms and for such purposes as are approved by such resolution.

(2) When any grant of easement over common property is registered by the Registrar-General, the Registrar-General shall indicate on the relevant deposited strata plan, in such manner as he deems appropriate, the extent of such easement.

(3) By virtue of this section, the owner of each unit defined on a deposited strata plan and of the common property shall, in respect of that unit or the common property, as the case may be, and for the reasonable use and enjoyment thereof, have over any other unit or the common property, as the case may require, such rights of support, shelter and protection and such rights for the passage of garbage and for the connection, passage and provision of water, sewerage, drainage, gas, electricity and naturally or artificially heated or cooled air, and other services of whatsoever nature (including telephone, radio and television services) through or by means of pipes, wires, cable, ducts or other reasonable means as may from time to time be necessary, together with all ancillary rights necessary to make such rights effective (including rights of entry by himself or his agents, servants and workmen at all reasonable times for the purpose of inspecting, maintaining, repairing, replacing, renewing or restoring any pipe, wire, cable, duct, or other material used by virtue of any right vested in him) and the owner of any unit or of the common property over which any such right exists shall be under and subject to a corresponding duty, and such rights may be enjoyed and enforced accordingly by the persons



in whom they are vested as if they are easements, but any person exercising such rights shall be liable to make good any damage done in the course thereof.

223nj. (1) Subject to this Part—

Constitution  
of the  
corporation.

(a) the corporation and the members thereof shall be bound by the constitution of the corporation as contained in its articles to the same extent as if they respectively had agreed with each other under seal to be bound thereby and as if the constitution contained covenants on the part of the corporation and each member to observe all the provisions of the articles that are applicable to them respectively, whether the reference to a member therein were a reference to him as the registered proprietor of a unit or otherwise ;

and

(b) where any articles of the corporation relate to the manner in which or the purposes for which any unit, unit subsidiary or part of the common property is to be used, any person who uses or occupies such unit, unit subsidiary or common property shall be bound to comply therewith.

(2) The corporation or any member thereof may, subject to the rules of the Court, apply to the Court for, and the Court may make, an order enforcing the performance or restraining the breach of any of the articles of the corporation by any person bound thereby or bound to comply therewith.

(3) Upon the incorporation of the corporation by virtue of section 223nc of this Act, the articles set out in the twenty-sixth schedule to this Act shall, subject to this section, be the first articles of the corporation.

(4) Subject to this Part, the corporation may, by special resolution, amend its constitution by varying, amending, rescinding or adding to its articles or making any articles in place of any article so rescinded but no such resolution shall have effect unless and until a copy of the resolution certified as prescribed is lodged with the Registrar of Companies.

(5) Subject to this Part, the articles of the corporation may regulate and control the corporation, the committee of the corporation and the affairs of the corporation and the management, administration, use and enjoyment of the

units, the unit subsidiaries and the common property that are comprised in the relevant deposited strata plan.

(6) If any provision of the articles of the corporation is inconsistent with any provision of this Act, the latter provision shall prevail and the former provision shall, to the extent of the inconsistency, have no force or effect.

(7) If any provision of the articles of a corporation—

(a) confers any power or imposes any duty on the corporation which is not incidental to or necessarily consequential on the performance of the powers or duties imposed or conferred on it by this Part ;

or

(b) prohibits or restricts the devolution of any unit or the equitable estate of the registered proprietor of a unit in the common property or the transfer, lease or mortgage thereof or other dealing therewith or destroys or modifies any right or easement implied or created by this Act,

such provision has no force or effect.

(8) The corporation shall, on the application of a member thereof or a mortgagee of a unit defined on the relevant deposited strata plan, or any person authorized in that behalf in writing by such a member or mortgagee, make the constitution of the corporation available to him for inspection at any reasonable time.

**Insurance.**

223nk. (1) Where—

(a) the buildings and other improvements on a parcel are insured by a corporation for the replacement value thereof ;

and

(b) a registered proprietor of a unit within the parcel has mortgaged the unit,

the registered proprietor may insure against any damage to the unit in a sum not exceeding the amount for the time being secured by the mortgage or mortgages on the unit that are noted on the relevant policy of insurance.

(2) Where any such policy of insurance is in force, payment when due thereunder shall, in accordance with the terms and conditions of the policy, be made by the insurer

to the mortgagees whose interests are noted thereon in the order of their respective priorities as appear from the Register Book but, subject to the terms and conditions of the policy, the insurer's liability thereunder is limited to—

- (a) the sum insured as stated in the policy ;
  - (b) the amount of the loss ;
- or
- (c) the amount sufficient at the date of the loss to discharge the mortgage or mortgages on the unit noted on the policy,

whichever is the least amount.

(3) Payment by the insurer to a mortgagee under any such policy shall not entitle the mortgagor to a discharge of the mortgage but, upon such payment by the insurer to the mortgagee—

- (a) if the amount of the payment equals the amount necessary to discharge the mortgage held by the mortgagee upon the unit, the insurer is entitled to obtain from the mortgagee a transfer of that mortgage ;

or

- (b) if the amount of the payment is less than the amount necessary to discharge the mortgage held by the mortgagee upon the unit, the insurer is entitled to obtain from the mortgagee, a transfer of such undivided share of the mortgagee's estate and interest in the mortgage as the amount of the payment bears to the amount that was owing under the mortgage immediately before the payment.

(4) Where the buildings and other improvements on a parcel are not insured by the corporation, or have been insured to less than their replacement value, a registered proprietor of a unit within the parcel may—

- (a) insure against any damage to the unit in a sum not exceeding the amount of the replacement value of that unit less the amount (if any), calculated in accordance with subsection (6) of this section, to which the unit is, in accordance with that subsection, deemed to be insured under the policy or policies of insurance effected on the buildings and other improvements by the corporation ;

and

(b) notwithstanding any existing policies of insurance, insure against any damage to the unit in a sum not exceeding the amount for the time being secured by mortgages (if any) on the unit that are noted on the relevant policy of insurance.

(5) The provisions of subsections (2) and (3) of this section apply and have effect to and in relation to a policy of insurance of a kind referred to in paragraph (b) of subsection (4) of this section, to and in relation to the insurer thereunder and any payment to be made or made by the insurer thereunder and the mortgages which, and the mortgagees whose interests, are noted thereon as fully and effectually as if they were, respectively, a policy of insurance, the insurer, a payment to be made or made by the insurer, the mortgages and mortgagees and any estates and interests of mortgagees to and in relation to which and whom those provisions expressly apply and have effect.

(6) For the purposes of paragraph (a) of subsection (4) of this section, the amount to which the unit referred to therein is deemed to be insured under the policy or policies of insurance (if any) effected on the buildings and other improvements by the corporation shall be calculated by multiplying the amount, as stated in that policy, or the aggregate amount, as stated in those policies, to which the buildings and other improvements are insured by the unit entitlement of the unit and dividing the product so obtained by the aggregate unit entitlement of all the units included in the parcel.

(7) Nothing in this section shall restrict the right of the registered proprietor of a unit to effect a policy of insurance against risks other than damage to his unit.

(8) The moneys received by a registered proprietor under a policy of insurance effected by him under or pursuant to paragraph (a) of subsection (4) of this section shall not be liable to be brought into contribution with moneys received under any other policy of insurance except another policy of insurance effected by him under or pursuant to that paragraph.

(9) This section shall apply and have effect notwithstanding any other law relating to insurance.

Cancellation of  
deposited  
strata plan.

223nl. (1) An application in the prescribed form for the cancellation of a deposited strata plan may be made to the Registrar-General—

(a) by the registered proprietor (if only one) or all the registered proprietors (if more than one) of all the units defined on the plan ;

or

(b) by a person who, upon application to the Court in accordance with the rules of the Court, has obtained from the Court an order declaring that the Court is satisfied that, having regard to the rights and interests of all persons who have interests in the parcel, it is just and equitable that the plan should be cancelled.

(2) The Court may grant or refuse an application referred to in paragraph (b) of subsection (1) of this section and when, or at any time after, granting the application, may by order impose such conditions and give such directions (including directions for the payment of money or that any consent referred to in this section be dispensed with) as it thinks fit, for the purpose of adjusting, as between all or any of the persons whose rights will be affected by the cancellation of the plan, the respective rights and duties of those persons so far as they may be affected by the granting of the application.

(3) There must be lodged with the Registrar-General in support of every application for the cancellation of a deposited strata plan, unless the Registrar-General dispenses with the production thereof—

(a) the duplicate certificate for every unit and the common property to which the plan relates ;

(b) the duplicate instrument (if any) evidencing or creating every registered estate or interest relating to each of those units and to the common property ;

and

(c) a copy of each order (if any) referred to in paragraph (b) of subsection (1) and in subsection (2) of this section verified or certified as prescribed.

(4) Where—

(a) the Court makes an order of a kind referred to in paragraph (b) of subsection (1) of this section ;

and

(b)—

(i) the person having the custody or control of any duplicate certificate or instrument required for the purposes of an

application or proposed application for the cancellation of a deposited strata plan refuses or neglects, when requested in writing by an applicant or a person proposing to make the application, to produce that duplicate to him or to the Registrar-General for the purposes of the application ;

or

- (ii) the production of any such duplicate certificate or instrument cannot be obtained as the person last known to have the custody or control thereof is dead, or is not in the State or cannot be found, or the production thereof is impracticable to obtain for any other reason,

the Court may, on the application of any person who has a registered estate or interest in the parcel or any part thereof, and on such terms and conditions as it thinks fit, by order, direct the Registrar-General to dispense with the production thereof or, in its discretion in any case to which subparagraph (i) of paragraph (b) of this subsection applies, order the person referred to in that subparagraph to produce the duplicate to the Registrar-General in accordance with the order.

(5) Subject to this Part, upon acceptance by the Registrar-General of an application for the cancellation of a deposited strata plan, the Registrar-General shall, if he is satisfied—

- (a) that all duplicate certificates and instruments that are required to be lodged with him in connection with or in support of the application have been so lodged ;
- (b) that, at the date of the application, the registered proprietor of every unit and the common property to which the plan relates and the administrator, if any, of the corporation, and every person who has a registered estate or interest in any unit or in the whole or any part of the common property have consented in writing to the cancellation of the strata plan (except where the Court has by order directed that any such consent be dispensed with, which order the Court has power to make upon such terms and conditions as it thinks fit) ;

- (c) that the conditions and directions, if any, imposed or given by any order of the Court made under subsection (2) of this section have been complied with ;

and

- (d) that notice in a form approved by him of the applicant's or the applicants' intention to make the application had, not less than two weeks nor more than four weeks before the receipt by him of the application, been published at least once in the *Gazette* and once either in a daily newspaper circulating generally throughout the State or in a newspaper generally circulating in the area in which the parcel lies,

cancel the deposited strata plan by making and signing an endorsement to that effect on the strata plan and making a memorandum of such cancellation in the Register Book on every certificate affected thereby.

- (6) Upon the cancellation of the deposited strata plan—

- (a) the land which, immediately prior to the cancellation, constituted the parcel shall vest in fee simple in the persons who then were the registered proprietors of the units defined on the plan as tenants in common, in undivided shares proportional to the unit entitlements of their respective units, but—

- (i) the estate in such land so vested in each of them shall thereupon be subject to such estates and interests as, immediately prior to the cancellation, were notified on the original certificate for each unit of which he was the registered proprietor, but had not been discharged or extinguished ;

and

- (ii) the land shall be free from any rights that, prior to the cancellation, existed over the parcel by virtue of subsection (3) of section 223ni of this Act and from any trust referred to in subsection (1) of section 223nh of this Act,

and the Registrar-General shall cancel the certificates for the units and the common property and issue the certificates in respect of the parcel accordingly ;

- (b) the corporation, the members of which, immediately prior to the cancellation, were the

registered proprietors of the units defined on the deposited strata plan shall, by force of this subsection, be dissolved ;

and

- (c) the Registrar-General shall notify the Registrar of Companies of the cancellation and the Registrar of Companies shall thereupon cancel the registration of the corporation and make an entry in his records accordingly.

(7) Where any building or other improvement on a parcel is damaged or destroyed, but the deposited strata plan relating thereto is not cancelled pursuant to subsection (5) of this section and an application for the cancellation thereof is not pending, the Court may, subject to the rules of Court, and the provisions of the Building Act, 1923-1965, the Planning and Development Act, 1966-1967, and the by-laws or regulations thereunder, by order settle a scheme—

- (a) for the re-instatement in whole or in part of the building or improvement ;
- (b) for the transfer of specified estates or interests of registered proprietors of any of the units or the common property defined on the plan to registered proprietors of other units defined thereon or the corporation ;

and

- (c) for such other matters incidental thereto as the Court considers fair and equitable.

(8) In the exercise of its powers under subsection (7) of this section, 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 corporation in respect of damage to the building or received by the registered proprietor of a unit in respect of damage to the unit ;
- (b) directing the payment of money by or to the corporation or by or to any other person ;
- (c) directing such amendment of the deposited strata plan as the Court thinks fit ;

and

- (d) imposing on any person who is a party to the scheme such terms and conditions as the Court thinks fit.



(9) An application to which subsection (2) of this section applies or for an order referred to in subsection (7) of this section may be made to the Court by the corporation, an administrator of the corporation, or a registered proprietor or a mortgagee or an encumbrancee of a unit defined on the strata plan and, upon making the application, the applicant shall serve a copy thereof on the Registrar-General who shall thereupon make an endorsement on the deposited strata plan that the application has been made.

(10) In any proceedings relating to any application to the Court referred to in subsection (9) of this section, any person claiming to have any estate or interest in the parcel or in any part of the parcel and any insurer with whom any insurance has been effected on the buildings or other improvements on the parcel or any part thereof and any other persons whose evidence would, in the opinion of the Court, be material in the determination of the application shall have the right to appear and be heard.

(11) The Court may, from time to time, by order, cancel, vary, modify or discharge any order made by it under this section subject to such terms and conditions as it thinks fit and, on making any such order, shall send a copy thereof to the Registrar-General.

(12) Upon the dissolution of the corporation, unless the Court upon application and in such cases as it deems just, otherwise orders, the persons who, immediately prior to the dissolution were the members thereof become jointly and severally liable for the payment of any debt lawfully incurred by the corporation in the course of the exercise of any of its powers or functions or the carrying out of its duties or obligations prior to the dissolution and of any pecuniary penalty imposed on the corporation prior to the dissolution.

(13) On any application to the Court under this section, the Court may make such order for the payment of costs as it thinks fit.

223nm. (1) A corporation, a creditor of a corporation or any person having an estate or interest in a unit or in the parcel or any part of the parcel shown on a deposited strata plan may make an application to the Court for the appointment of an administrator of the corporation. Administrator.

(2) The Court may, in its discretion and on cause shown, appoint a person to be administrator of the corporation 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 remuneration of the administrator and the expenses incurred by him in the course of the exercise of any of his powers or functions or the carrying out of his duties or obligations as such shall be administrative expenses of the corporation.

(4) The administrator of a corporation has, subject to such directions as the Court may from time to time give by order made upon application by the administrator himself, the corporation, a creditor of the corporation or any other person referred to in subsection (1) of this section, to the exclusion of the corporation and the committee of the corporation, the powers, functions, duties and obligations of the corporation, and, for the purposes of this Part, an amount lawfully incurred by the administrator as such in the course of the exercise of any of his powers or functions or the carrying out of his duties or obligations shall be deemed to be an amount lawfully incurred by the corporation in the course of the exercise of its powers or functions or the carrying out of its duties or obligations, as the case may be.

(5) The administrator may, by writing under his hand, delegate or revoke the delegation of any of the powers or functions vested in him and, until such delegation is so revoked, the powers or functions so delegated may be exercised by the delegate and, when so exercised, shall have the same consequences as if they were exercised by the administrator.

(6) The Court may, in its discretion, on the application of the administrator or any person referred to in subsection (1) of this section, remove or replace the administrator.

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

(8) Forthwith after a person is appointed or ceases to be an administrator of a corporation, he shall furnish the Registrar-General and the Registrar of Companies with notices in the prescribed form together with such other documents as are prescribed.

Penalty : Fifty dollars.

Effect of  
deposit of  
strata plan  
on roads,  
streets and  
reserves shown  
thereon.

223nn. (1) Notwithstanding anything contained in section 223na of this Act, upon the deposit of a strata plan by the Registrar-General in the Lands Titles Registration Office under this Part every road, street or reserve shown

thereon shall, by operation of this section, become vested for the purpose indicated on the plan for an estate in fee simple in the council of the area in which it is situated without compensation or payment to any person, and the Registrar-General shall make on any certificate such entries as he deems necessary to record the vesting accordingly.

(2) Every road or street so vested in a council shall, for all purposes, be a public road.

223no. (1) A corporation shall at or near the front building alignment of the parcel comprised in the relevant deposited strata plan cause to be continuously available a receptacle suitable for the purposes of postal delivery, with the name of the corporation clearly designated thereon.

Service of documents.

Penalty : Fifty dollars.

(2) A document may be served on the corporation, or the committee of the corporation—

(a) by despatching it by post enclosed in a pre-paid letter addressed to the corporation or the committee of the corporation, as the case may be, to the postal address of the building or buildings erected on the parcel ;

or

(b) by placing it in the receptacle referred to in subsection (1) of this section.

(3) As from time to time the postal address of the building or buildings erected on the parcel is altered, the corporation shall forthwith give notice of the alteration in the prescribed form to the Registrar-General and the Registrar of Companies each of whom shall thereupon make appropriate entries in their respective records accordingly.

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

223np. (1) If a corporation or the committee of a corporation commits a breach of any of the provisions of this Part or makes default in complying with any requirement of, or duty imposed on it by, any provision thereof, the corporation and each person who at the time of the breach or default was a member of the committee of the corporation shall be guilty of an offence and liable to a penalty expressly prescribed for such breach or default, or,

Breaches of provisions of this Part.

if no penalty is so prescribed, to a penalty not exceeding fifty dollars.

(2) It shall be a defence to a charge against a member of the committee of a corporation for an offence under any provision of this Part if the defendant satisfies the court before which he is charged that he took all reasonable steps to ensure that the breach or default constituting the offence did not occur or that the breach or default occurred accidentally or through inadvertence.

(3) Proceedings for any offence under this Part shall not be commenced without the consent in writing of the Attorney-General.

(4) Where a requirement or duty is imposed on a corporation by this Part, any person for whose benefit or for the benefit of whose unit that requirement or duty is imposed on the corporation may apply to the Court for an order compelling the 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.

**Powers of entry.**

223nq. Where, by or under any law, a person is authorized or empowered to enter upon any land or part of any land comprised in a deposited strata plan, he is entitled to enter upon any part of the land comprised in that plan to the extent necessary or expedient to enable that person to exercise his authority or powers under that law.

**Regulations.**

223nr. (1) The Governor may make such regulations, not inconsistent with this Act, as are necessary or expedient for the purposes of giving effect to this Part and of any matters incidental thereto.

(2) Without limiting the generality of the provisions of subsection (1) of this section, such regulations may—

- (a) prescribe particulars which strata plans or applications accompanying them must contain and requirements with which strata plans or applications accompanying them must comply for any of the purposes of this Part ;
- (b) prescribe the manner and procedure to be followed in connection with any application under this Part, other than an application to the Court ;
- (c) prescribe, in addition to the grounds set out in section 223md of this Act, any grounds on

- which a council or the Director may refuse an application referred to in subsection (1) or subsection (2) of that section ;
- (d) prescribe conditions subject to compliance with which any such application may be granted ;
  - (e) make such provisions as are required or authorized to be made by regulations under this Part ;
  - (f) modify, but only for the purposes of section 223me of this Act, the effect of any regulation made under subsection (8) of section 27 of the Planning and Development Act, 1966-1967 ;
  - (g) prescribe the matters and returns to be furnished to the Registrar of Companies by the committee of every corporation and the manner in which they are to be furnished ;
  - (h) prescribe the manner in which any document or copy of a document required to be used for the purposes of this Part is to be verified or certified ;
  - (i) prescribe all or any of the forms to be used for the purposes of this Part ;
  - (j) prescribe any fees that are not prescribed under any other Act, but are payable for any of the purposes of this Part ;
  - (k) provide that a breach or contravention of, or non-compliance with, any provision of the regulations is an offence against the regulations punishable by a penalty not exceeding two hundred dollars ;

and

- (l) prescribe or provide for all or any other matters not prescribed or provided for by this Part but which by this Part are required or permitted to be prescribed or provided for by regulation or which may be necessary or convenient to be prescribed or provided for by regulation to give effect to this Part or for more effectually giving effect to matters to which this Part applies.

12. Section 227 of the principal Act is amended by striking out therefrom the passage "one hundred pounds" and inserting in lieu thereof the passage "two hundred dollars".

Amendment of principal Act, s. 227—On refusal or neglect of person summoned, Registrar-General may apply to Judge.

Amendment of principal Act, s. 232—  
Penalty for certifying incorrect instruments.

**13.** Section 232 of the principal Act is amended by striking out therefrom the passage “fifty pounds” and inserting in lieu thereof the passage “one hundred dollars”.

Amendment of principal Act, s. 271—  
Registrar-General may licence land brokers.

**14.** Section 271 of the principal Act is amended by striking out therefrom the passage “five pounds” and inserting in lieu thereof the passage “ten dollars”.

Amendment of principal Act, s. 272—Bond to be given and declaration made.

**15.** Subsection (1) of section 272 of the principal Act is amended—

(a) by striking out therefrom the passage “one thousand pounds” and inserting in lieu thereof the passage “two thousand dollars”;

and

(b) by striking out therefrom the passage “five hundred pounds” and inserting in lieu thereof the passage “one thousand dollars”.

Amendment of 2nd, 6th, 7th, 8th, 9th, 10th and 11th schedules to principal Act.

**16.** The second schedule, sixth schedule, seventh schedule, eighth schedule, ninth schedule, tenth schedule and eleventh schedule to the principal Act are amended by striking out therefrom, wherever it occurs in each of those schedules, the symbol “£” and inserting in lieu thereof in each case the symbol “\$”.

Enactment of 24th, 25th and 26th schedules to principal Act.

**17.** The following schedules are enacted and inserted in the principal Act after the twenty-third schedule thereto :—

THE TWENTY-FOURTH SCHEDULE.

Section 73.

FORM 1.

Register Book, vol. , folio

SOUTH [Royal Arms] AUSTRALIA.

*Certificate of Title for Unit defined on a Strata Plan.*

[Refer here to the dealing, if any, pursuant to which the Certificate of Title is issued.]

A.B., of [here insert residence and occupation or other description] is the proprietor of an estate [here describe the estate of freehold] subject nevertheless to such encumbrances, liens and interests as are notified by memorial underwritten or endorsed hereon in UNIT [here state the number of the unit] defined on Strata Plan No. [here state the number of the plan] deposited in the Lands Titles Registration Office on the day of 19 .

In witness whereof I have hereunto signed my name and affixed my seal this day of 19 in the presence of—

Further particulars relating to the title :—

[Here insert such further particulars as are relevant.]

[Signature of Registrar-General] (L.S.)

Registrar-General.

FORM 2.

Register Book, vol. , folio

SOUTH [Royal Arms] AUSTRALIA.

*Certificate of Title for COMMON PROPERTY comprised in a Strata Plan.*

[Refer here to the dealing, if any, pursuant to which the Certificate of Title is issued.]

[Here insert name and address of corporation] is the proprietor of an estate in fee simple in the COMMON PROPERTY comprised in Strata Plan No. [here insert the number of the plan] deposited in the Lands Titles Registration Office on the day of 19 [here refer to any easement to which the common property is subject and to any easement which is appurtenant to the common property.]

In witness whereof I have hereunto signed my name and affixed my seal this day of , 19 in the presence of—

[Signature of Registrar-General] (L.S.)

Registrar-General.

THE TWENTY-FIFTH SCHEDULE.

Schedule to Deposited Strata Plan No.....

Section 223mf.

Unit Entitlement		Office Use Only	
		Current C's of T.	
Unit No.	Unit Entitlement	Vol.	Fol.
Aggregate			

The unit entitlement of each unit as set out herein is approved by me

Commissioner of Land Tax [or other authority appointed by the Governor].

Dated this day of 19

## THE TWENTY-SIXTH SCHEDULE.

*First Articles of a Corporation.*

Section 223aj.

1. In these articles, unless the contrary intention appears—

(a) words and expressions have the same respective meanings as they have in Part XIXB of the Real Property Act, 1886-1967;

and

(b) "the Act" means the Real Property Act, 1886-1967, as amended from time to time and includes the regulations made under any provision thereof.

2. The corporation, its agents and servants shall be permitted by the registered proprietor or occupier of a unit, and shall have the right, at all reasonable times and on giving the registered proprietor or the occupier reasonable notice (except in cases of emergency when no such notice shall be required), to enter upon the unit for the purpose or in the course of carrying out the functions or duties of the corporation or exercising its powers which, without limiting the generality of the foregoing, shall be deemed to include power—

(a) to inspect the unit;

(b) to carry out maintenance repairs or work;

and

(c) to enter upon and inspect any part of the unit for the purpose of ensuring that the Act and these articles are being observed.

3. The registered proprietor of a unit shall do or cause to be done the following:—

(a) upon all rates, taxes, charges, outgoings and assessments in respect of his unit becoming payable, forthwith pay the same;

(b) subject to the Act and these articles, repair and maintain his unit and always keep the same in a state of good repair;

and

(c) notify the corporation forthwith of any change of ownership or of occupancy of his unit.

4. The registered proprietor of a unit and every occupier thereof shall not—

(a) use the common property or permit the same to be used in such a manner as unreasonably to interfere with the use and enjoyment thereof by other members of the corporation or occupiers of units or their families or visitors;

or

(b) use the unit or any unit subsidiary that is appurtenant thereto or permit the same to be used in such a manner or for such purposes as would cause a nuisance or hazard to any other member of the corporation or occupier of any unit or the families or visitors of any such member or occupier.

5. The registered proprietor of a unit and every occupier thereof shall not—

(a) change the use or alter the character of that unit or any unit subsidiary that is appurtenant to that unit;

or

(b) erect or alter any structure of any unit subsidiary that is appurtenant to the unit,

unless express approval for doing so has been obtained by a unanimous resolution of the corporation.

6. The corporation shall—

(a) keep in a state of good and serviceable repair and always properly maintain all chattels, fixtures and fittings (including elevators, stairways and fire escapes, if any) held by the corporation or used or intended, adapted or designed for use in connection with the common property or the enjoyment thereof by the registered proprietors or occupiers of the units or by their families or visitors;

(b) always maintain in good repair and proper working order and renew, where renewal thereof is reasonably necessary, the pipes, wires, cables, ducts and the other apparatus and equipment, if any, of whatsoever nature installed in the building by the corporation or entrusted to its care by these articles or used or intended, adapted or designed for use in connection with or for the provision of any of the services in respect of which rights are, by virtue of section 223aj of the Act, vested in the owner of the common property;

and

(c) at the written request of the registered proprietor or registered mortgagee of a unit, produce for inspection to that registered proprietor or mortgagee or to any person authorized in writing by him, the policy or policies of insurance effected by the corporation and the receipt or receipts for the last premium or premiums in respect thereof.



7. The registered proprietor of a unit and every occupier thereof shall not—
- (a) use the unit or permit the unit to be used for any purpose which may be unlawful;
  - (b) except with and in accordance with the corporation's permission (which the corporation may withdraw at any time by written notice given pursuant to a special resolution), keep any animals in the unit or in the common property;
- or
- (c) make undue noise in or about any unit or the common property.
8. (1) Where the common boundary between any of the units or any part of a unit and the common property or any part of the common property lies within or is the whole or a part of a wall, floor or ceiling of the building or other improvements on the parcel, such wall, floor or ceiling is hereby entrusted to the care of the corporation.
- (2) All fittings and fixtures that had been attached to the parcel before the incorporation of the corporation or which have since been installed in the building by the corporation, but are appurtenant to all the units or to one or more of the units and the common property are hereby entrusted to the care of the corporation.

In the name and on behalf of Her Majesty, I hereby  
assent to this Bill.

EDRIC BASTYAN, Governor.