

STRATA TITLES ACT.

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 68, 1973.

An Act to facilitate the subdivision of land into strata and the disposition of titles thereto; to amend the Real Property Act, 1900, the Conveyancing Act, 1919, the Local Government Act, 1919, the Land Tax Management Act, 1956, and certain other Acts in certain respects; to repeal the Conveyancing (Strata Titles) Act, 1961, and certain other Acts; and for purposes connected therewith. [Assented to, 18th October, 1973.]

BF

No. 68, 1973 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title. 1. This Act may be cited as the "Strata Titles Act, 1973".

Commence-
ment. 2. This Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, that day being a day after the passing of the resolutions referred to in section 159 (5) (c).

Act binds
Crown. 3. This Act binds the Crown.

Division
of Act. 4. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—LAND IN STRATA SCHEMES.

DIVISION 1.—*Creation of Lots and Common Property*
—ss. 7–17.

DIVISION 2.—*Common Property*—ss. 18–28.

DIVISION 3.—*Compulsory Acquisition of Lots and Common Property*—ss. 29–35.

DIVISION 4.—*Certificates of Approval of Local Councils*—ss. 36–40.

DIVISION 5.—*Powers and Duties of Registrar-General*
—ss. 41–49.

PART

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 PART III.—VARIATION OR TERMINATION OF STRATA No. 68, 1973
 SCHEMES—ss. 50–53.

PART IV.—MANAGEMENT.

DIVISION 1.—*Bodies Corporate*—ss. 54–70.

DIVISION 2.—*Councils*—ss. 71–77.

DIVISION 3.—*Managing Agents*—ss. 78, 79.

DIVISION 4.—*Proprietors and Other Occupiers of Lots*—ss. 80, 81.

DIVISION 5.—*Insurance*—ss. 82–88.

DIVISION 6.—*Rating and Taxation*—ss. 89–96.

PART V.—DISPUTES.

DIVISION 1.—*Strata Titles Commissioner*—ss. 97, 98.

DIVISION 2.—*Applications for Orders*—ss. 99–103.

DIVISION 3.—*Orders by Commissioner*—ss. 104–115.

DIVISION 4.—*Orders by Boards*—ss. 116–127.

DIVISION 5.—*Appeals*—ss. 128–131.

DIVISION 6.—*Powers and Duties of Boards*—ss. 132–138.

DIVISION 7.—*Miscellaneous*—ss. 139–145.

PART VI.—GENERAL—ss. 146–160.

SCHEDULES.

SCHEDULE 1.—BY-LAWS.

SCHEDULE 2.—MEETINGS, AND VOTING AT MEETINGS, OF BODY CORPORATE.

SCHEDULE 3.—REPEALS AND AMENDMENTS OF ACTS.

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No. 68, 1973 **5.** (1) In this Act, except in so far as the context or
 Interpretation. subject-matter otherwise indicates or requires—

“administrative fund”, in relation to a body corporate, means the fund established by that body corporate under section 68 (1) (1);

“aggregate unit entitlement”, in relation to lots the subject of a strata scheme, means the sum of the unit entitlements of those lots;

“approved insurer”—

(a) in relation to a bond referred to in section 79 (2), means a person, or a person belonging to a class of persons, approved by the Minister under section 156 for the purposes of that section; and

(b) in relation to a contract of insurance referred to in Division 5 of Part IV, means a person, or a person belonging to a class of persons, approved by the Minister under section 156 for the purposes of that Division;

“Board” means a Strata Titles Board referred to in subsection (6);

“body corporate” means a body corporate constituted under section 54 (1);

“building”, in relation to a strata scheme or a proposed strata scheme, means a building containing a lot or proposed lot or part of a lot or of a proposed lot the subject of that scheme or proposed scheme;

“by-laws”, in relation to a strata scheme, means the by-laws in force in respect of that strata scheme;

“Commissioner”

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“Commissioner” means the Strata Titles Commissioner No. 68, 1973 appointed under section 97 (a);

“common property” means so much of a parcel as from time to time is not comprised in any lot;

“council”, in relation to a body corporate, means the council of that body corporate;

“current plan” means a current plan as defined in section 327AA (1) of the Local Government Act, 1919, which is registered in the office of the Registrar-General, but does not include a strata plan, a strata plan of subdivision or a strata plan of consolidation;

“enrolled mortgagee”, in relation to a lot the subject of a strata scheme, means a person notice of whose mortgage has been given to the body corporate for that strata scheme and whose name has been entered on the strata roll for that strata scheme as a mortgagee of that lot, but does not include such a person—

(a) during any period during which his rights, as mortgagee, under that mortgage are, by reason of a sub-mortgage, suspended; or

(b) whose rights, as mortgagee, under that mortgage have, by reason of any other instrument, terminated,

if particulars of that sub-mortgage or other instrument have been entered on the strata roll for that strata scheme;

“floor” includes a stairway or ramp;

“floor area”, in relation to a cubic space, means the area occupied on a horizontal plane by the base of that cubic space;

“floor

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“floor plan” means a plan consisting of one or more sheets, which sheet or each of which sheets relates to the whole or part of one or more strata of land separately illustrated and specified on the sheet and—

(a) defines by lines the base of each vertical boundary of every cubic space forming the whole of a proposed lot, or the whole of any part of a proposed lot, within any stratum or part of a stratum to which that sheet relates; and

(b) shows—

(i) the floor area of any such cubic space; and

(ii) where any such cubic space forms part only of a proposed lot, the aggregate of the floor areas of every cubic space that forms part of the proposed lot;

“general account”, in relation to a body corporate, means the account, if any, established by that body corporate under section 68 (1) (o);

“initial period”, in relation to a body corporate, means the period commencing on the day on which that body corporate is constituted and ending on the day on which there are proprietors of lots the subject of the strata scheme concerned (other than the original proprietor) the sum of whose unit entitlements is at least one-third of the aggregate unit entitlement;

“local

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“local council”, in relation to land, means the council No. 68, 1973 of the area under the Local Government Act, 1919, in which the land is situated;

“location plan” means a plan, consisting of one or more sheets, which relates to land and delineates the perimeter of that land and, in relation to that perimeter, the location of any building erected on that land and of any proposed lots or part of proposed lots not within any such building;

“lot” means one or more cubic spaces forming part of the parcel to which a strata scheme relates, the base of each such cubic space being designated as one lot or part of one lot on the floor plan forming part of the strata plan, a strata plan of subdivision or a strata plan of consolidation to which that strata scheme relates, being in each case cubic space the base of whose vertical boundaries is as delineated on a sheet of that floor plan and which has horizontal boundaries as ascertained under subsection (2), but does not include any structural cubic space unless that structural cubic space has boundaries described as prescribed and is described in that floor plan as part of a lot;

“mortgage” means a charge, other than a statutory interest, on a lot for securing money or money’s worth;

“notice of resumption” means a notice, notification or other instrument publication of which effects a vesting of the land described therein in a resuming authority by way of resumption;

“occupier”, in relation to a lot, means any person in lawful occupation of that lot;

“original

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“original proprietor”, in relation to a strata scheme, means the person by whom the parcel the subject of that scheme was held in fee simple or under a perpetual lease from the Crown at the time of registration of the strata plan to which the scheme relates;

“parcel” means—

- (a) except as provided in paragraph (b), the land from time to time comprising the lots and common property the subject of a strata scheme; and
- (b) in relation to a plan lodged for registration as a strata plan, the land comprised in that plan;

“proprietor”. in relation to a lot, means—

- (a) except as provided in paragraph (b) or (c), a person for the time being recorded in the Register as entitled to an estate in fee simple or under perpetual lease from the Crown in that lot;
- (b) a person notice of whose entitlement to that lot as disponee thereof has been given to the body corporate pursuant to section 81 (2) and whose name has been entered on the strata roll as a proprietor; or
- (c) a person notice of whose entitlement to that lot has been given to the body corporate pursuant to section 81 (9) and whose name has been entered on the strata roll as a proprietor;

“public

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“public place” means land vested in a local council, No. 68, 1973
being a public place or public reserve, as defined in
section 4 of the Local Government Act, 1919, a
drainage reserve referred to in section 340B of that
Act or land held for drainage purposes as referred
to in section 340E of that Act;

“registered” means registered in the office of the
Registrar-General in accordance with this Act;

“registered mortgagee” means a mortgagee registered as
such under the Real Property Act, 1900;

“registered surveyor” means a surveyor registered under
the Surveyors Act, 1929;

“regulations” means regulations made under this Act;

“resumption” means the compulsory acquisition of land
under the provisions of any Act or Act of the
Parliament of the Commonwealth authorising
compulsory acquisition of land;

“schedule of unit entitlement”, in relation to a strata
scheme, means—

- (a) except as provided in paragraph (b), the
schedule recorded as the schedule of unit
entitlement on the folio of the Register
comprising the common property the subject
of that strata scheme; or
- (b) where a plan referred to in section 30 (3)
relating to the parcel the subject of that
strata scheme has been registered by the

Registrar-General

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Registrar-General and the resumption of the land referred to in that plan has taken effect—

- (i) if that plan is a strata plan of subdivision—the schedule of unit entitlement which accompanied that plan when it was registered; or
- (ii) if that plan is a current plan—the schedule of unit entitlement, if any, which the Supreme Court, on making an order under section 32 or, pursuant to an application made under section 32 (7), under section 50, ordered to be substituted for a previous schedule of unit entitlement;

“sinking fund”, in relation to a body corporate, means the fund established by that body corporate under section 68 (1) (m);

“special resolution” means a resolution which is passed at a duly convened general meeting of a body corporate and against which not more than one-quarter in value, ascertained in accordance with clause 11 (3) and (4) of Schedule 2, of votes is cast;

“statutory interest” means a charge or other proprietary interest, created by this or any other Act or by any Act of the Parliament of the Commonwealth, affecting a lot or common property and enforceable against a proprietor for the time being or the body corporate, whether or not it has been recorded in the Register;

“strata roll”, in relation to a strata scheme or a strata scheme which has been terminated, means the roll referred to in section 69 which relates to that scheme;

“strata

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“strata scheme” means—

- (a) the manner of division, from time to time, of a parcel into lots or into lots and common property and the manner of the allocation, from time to time, of unit entitlements among the lots; and
- (b) the rights and obligations, between themselves, of proprietors, other persons having proprietary interests in or occupying the lots and the body corporate, as conferred or imposed by this Act or by anything done under the authority of this Act and as in force from time to time;

“structural cubic space” means—

- (a) cubic space occupied by a vertical structural member, not being a wall, of a building;
- (b) any pipes, wires, cables or ducts in a building not for the exclusive enjoyment of one lot; and
- (c) any cubic space enclosed by a structure enclosing any such pipes, wires, cables or ducts;

“Supreme Court” means the Supreme Court of New South Wales;

“unanimous resolution” means a resolution which is passed at a duly convened general meeting of a body corporate and against which no vote is cast;

“unit entitlement”, in relation to a lot, means the unit entitlement of that lot shown on the schedule of unit entitlement;

“wall” includes a door, window or other structure dividing a lot from common property or from another lot.

(2)

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No. 68, 1973 (2) The boundaries of any cubic space referred to in paragraph (a) of the definition of "floor plan" in subsection (1)—

(a) except as provided in paragraph (b)—

(i) are, in the case of a vertical boundary, where the base of any wall corresponds substantially with any line referred to in paragraph (a) of that definition—the inner surface of that wall; and

(ii) are, in the case of a horizontal boundary, where any floor or ceiling joins a vertical boundary of that cubic space—the upper surface of that floor and the under surface of that ceiling; or

(b) are such boundaries as are described on a sheet of the floor plan relating to a stratum or part of a stratum which includes that cubic space (those boundaries being described in the prescribed manner by reference to a wall, floor or ceiling in a building to which that plan relates or to structural cubic space within that building).

(3) A reference in this Act to cubic space includes a reference to space contained in any three-dimensional geometric figure which is not a cube.

(4) The fact that any boundary is defined in a plan in terms of or by reference to—

(a) a wall that is not vertical; or

(b) a floor or ceiling that is not horizontal,

does not prevent that plan from being a floor plan.

(5) A reference in this Act—

(a) to a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan is a reference to a plan registered as such; or

(b)

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(b) to a notice of conversion is a reference to a notice No. 68, 1973 registered as such,

together with any endorsements required to be made on or any plans and documents required to accompany the plan or notice so registered before it may be registered.

(6) Every Fair Rents Board for the time being constituted under the Landlord and Tenant (Amendment) Act, 1948, shall also be a Strata Titles Board.

(7) A reference in this Act to a subdivision of a lot or common property is a reference to the alteration of the boundaries of—

- (a) one or more lots so as to create only two or more different lots;
- (b) one or more lots so as to create one or more different lots and common property;
- (c) one or more lots and common property so as to create one or more different lots or one or more different lots and common property; or
- (d) common property so as to create one or more lots,

but does not include a reference to the consolidation of two or more lots into one or more lots or the conversion of one or more lots into common property.

(8) Except in so far as the context or subject-matter otherwise indicates or requires, it is a sufficient compliance with any provision of this Act requiring an instrument to be accompanied by another instrument if that other instrument is endorsed on that firstmentioned instrument.

(9) Where, in any provision of this Act, reference is made to any person, body, matter or thing (including land) and that provision has effect in relation to a strata scheme, a reference in that provision to any other person, body, matter or thing (including land) is a reference to that other person, body, matter or thing (including land) in connection with that strata scheme.

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Construction
of Act.

6. (1) This Act shall be read and construed with the Real Property Act, 1900, as if it formed part thereof.

(2) The Real Property Act, 1900, applies to lots and common property in the same way as it applies to other land except in so far as any provision of that Act is inconsistent with this Act or is incapable of applying to lots or common property.

PART II.—LAND IN STRATA SCHEMES.

DIVISION 1.—*Creation of Lots and Common Property.*

Subdivision. 7. (1) In this section—

“current plan lot” means a lot or portion referred to in section 327AA (2) of the Local Government Act, 1919 (not being a lot as defined in section 5 (1) of this Act);

“land” means land under the Real Property Act, 1900, held in fee simple (other than land comprised in a qualified certificate of title) or under perpetual lease from the Crown, being—

- (a) land consisting of one current plan lot or of two or more contiguous current plan lots;
- (b) land to which section 327AA (2) of the Local Government Act, 1919, does not apply by virtue of section 327AA (4) of that Act and every part of which is contiguous to another part thereof; or
- (c) land part of which comprises land, as defined in paragraph (a), and the remainder of which comprises land, as defined in paragraph (b), contiguous to that firstmentioned part.

(2)

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(2) Land may be subdivided into lots or into lots and common property by the registration of a plan as a strata plan. No. 68, 1973

(3) The provisions of section 88B of the Conveyancing Act, 1919, apply to a strata plan in the same way as they apply to a plan referred to in that section relating to land under the provisions of the Real Property Act, 1900, except in so far as that section authorises the creation of easements or restrictions as to user burdening or benefiting land not under those provisions.

8. (1) A plan relating to land shall not be registered as a strata plan unless— Registration
of plans.

(a) it consists of—

- (i) a location plan; and
- (ii) a floor plan,

in respect of that land;

(b) that floor plan relates to two or more strata which together contain two or more proposed lots and each of which contains at least one proposed lot or part of a proposed lot;

(c) there is endorsed on that location plan the address at which documents may be served on the body corporate to be constituted upon registration of that plan;

(d) that location plan is accompanied by a schedule showing as a whole number, in respect of each lot into which the land is proposed to be subdivided, the proposed unit entitlement and showing the proposed aggregate unit entitlement;

(e) that location plan is accompanied by a certificate given by the local council in accordance with section 37 (1); and

(f)

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(f) that location plan is accompanied by a certificate given by a registered surveyor certifying—

- (i) that any wall, the inner surface or any part of which corresponds substantially with any line shown on the floor plan relating to any building erected on that land as a boundary of a proposed lot, exists;
- (ii) that any floor or ceiling, the upper or under surface or any part of which forms a boundary of a proposed lot, exists;
- (iii) that any wall, floor, ceiling or structural cubic space, by reference to which any boundary of a proposed lot is to be ascertained, exists; and
- (iv) that the building erected on that land and each proposed lot shown on that location plan are wholly within the perimeter of that land except to the extent of any encroachment referred to in section 38 (1) (b) or, where eaves or guttering encroach on land other than a public place, that an appropriate easement exists.

(2) The Registrar-General may, by instrument in writing served on the person who lodged a plan for registration as a strata plan, require that person to deposit in the office of the Registrar-General a plan, being a plan of survey within the meaning of the Survey Practice Regulations, 1933, of the proposed parcel (showing, if the Registrar-General so requires, the relationship by measurement of the building to the perimeter of the proposed parcel), together with such number of copies of that plan as may be specified in the instrument.

(3) The Registrar-General may refuse to register a plan as a strata plan unless any requisition made under subsection (2) in respect of that plan is complied with.

(4)

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(4) Subsection (1) (e) does not apply to or in respect of a plan lodged for registration as a strata plan by a person or body who or which, but for section 3, would not be bound by this Act. No. 68, 1973

9. (1) Lots or common property or lots and common property may be subdivided by the registration of a plan as a strata plan of subdivision. Subdivision of lots and common property.

(2) A reference in subsection (1) to common property does not include a reference to common property the subject of a lease accepted under section 19 (2).

(3) A plan shall not be registered as a strata plan of subdivision unless—

- (a) it consists of a floor plan;
- (b) that floor plan is accompanied by a certificate given by the local council—
 - (i) where the plan is a plan illustrating a proposed subdivision referred to in section 5 (7) (a)—in accordance with section 37 (3); or
 - (ii) where the plan is a plan illustrating a proposed subdivision referred to in section 5 (7) (b), (c) or (d)—in accordance with section 37 (4);
- (c) that floor plan is accompanied by a certificate given by a registered surveyor certifying—
 - (i) that any wall, the inner surface or any part of which corresponds substantially with any line shown on the floor plan relating to the proposed subdivision as a boundary of a proposed lot, exists;
 - (ii) that any floor or ceiling, the upper or under surface or any part of which forms a boundary of a proposed lot, exists;

(iii)

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(iii) that any wall, floor, ceiling or structural cubic space, by reference to which any boundary of a proposed lot is to be ascertained, exists; and

(iv) that every lot illustrated by that floor plan is wholly within the perimeter of the parcel except to the extent of any encroachment referred to in section 38 (1) (b) or, where eaves or guttering encroach on land other than a public place, that an appropriate easement exists,

but any such certificate shall not certify as to the matters referred to in subparagraph (i), (ii) or (iii) in respect of any wall, floor, ceiling or structural cubic space if the inner, upper or under surface or any part of that wall, floor or ceiling was, immediately before the subdivision, a boundary of any lot the subject of the proposed subdivision or if the boundary of any such lot was, immediately before the subdivision, ascertained by reference to any wall, floor, ceiling or structural cubic space; and

(d) except where the land comprised in the plan is held otherwise than by the original proprietor or a certificate under this paragraph or section 13 (2) (b) or 28 (4) (b) has been previously lodged in the office of the Registrar-General, that floor plan is accompanied by—

(i) a certificate under the seal of the body corporate certifying that the certificate referred to in paragraph (b) was given after the expiration of the initial period; or

(ii) a certified or office copy of the minute of an order made under section 67 (4) authorising the registration of the plan.

(4) The provisions of section 8 (2) and (3) apply to the registration, as a strata plan of subdivision, of a plan illustrating a proposed subdivision referred to in section 5 (7) (c) or (d) in the same way as they apply to the registration of a plan as a strata plan.

(5)

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(5) Subsections (3) (b) and (3) (d) do not apply to **No. 68, 1973** or in respect of a plan lodged for registration as a strata plan of subdivision by a person or body who or which, but for section 3, would not be bound by this Act.

10. (1) A plan illustrating a proposed subdivision referred to in section 5 (7) (a) shall not be registered as a strata plan of subdivision unless it is accompanied by a schedule showing as a whole number, in respect of— **Unit entitlement of lots created by subdivision of lots.**

(a) each lot comprised in the parcel other than the lot or lots the subject of the proposed subdivision; and

(b) each proposed lot,

the proposed unit entitlement of that lot or proposed lot, and showing the proposed aggregate unit entitlement.

(2) A number shown as referred to in subsection (1) in respect of a lot other than a proposed lot shall bear to the proposed aggregate unit entitlement so shown the same proportion as the unit entitlement of that lot bore, immediately before the plan was registered, to the aggregate unit entitlement.

(3) The sum of the numbers shown as referred to in subsection (1) in respect of the proposed lots shall bear to the proposed aggregate unit entitlement so shown the same proportion as the unit entitlement or the sum of the unit entitlements of the lot or lots the subject of the proposed subdivision bore, immediately before the plan was registered, to the aggregate unit entitlement.

11. A plan illustrating a proposed subdivision referred to in section 5 (7) (b), (c) or (d) shall not be registered as a strata plan of subdivision unless it is accompanied by— **Unit entitlements of lots in subdivisions involving common property.**

(a) a schedule showing as a whole number, in respect of—

(i) each lot comprised in the parcel other than any lot or lots the subject of the proposed subdivision; and

(ii)

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(ii) each proposed lot,
the proposed unit entitlement of that lot or proposed
lot, and showing the proposed aggregate unit
entitlement; and

- (b) a certificate under the seal of the body corporate
concerned certifying that it has, by the special
resolution referred to in section 37 (4) (a), agreed
to each proposed unit entitlement and the proposed
aggregate unit entitlement shown in the schedule
referred to in paragraph (a).

**Consolida-
tion of
lots.**

12. Two or more lots may be consolidated into one lot by
the registration of a plan as a strata plan of consolidation.

**Conversion
of lots
into
common
property.**

13. (1) One or more lots may be converted into common
property by the registration, as a notice of conversion, of a
notice executed by the proprietor or proprietors of that lot
or those lots and by the body corporate.

(2) A notice shall not be registered as a notice of
conversion unless—

(a) it is accompanied by a certificate in respect of the
lot or lots to which it relates given by the local
council in accordance with section 37 (5);

(b) except where the land to which the notice of
conversion relates is held otherwise than by the
original proprietor or a certificate under this
paragraph or section 9 (3) (d) or 28 (4) (b)
has been previously lodged in the office of the
Registrar-General, it is accompanied by—

(i) a certificate under the seal of the body
corporate certifying that the certificate
referred to in paragraph (a) was given after
the expiration of the initial period; or

(ii) a certified or office copy of the minute of
an order made under section 67 (4)
authorising the registration of the notice;
and

(c)

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- (c) every mortgage, encumbrance, current lease or caveat recorded on the folio of the Register comprising the lot, or each lot, to which the notice relates has, in so far as it affects any such lot, been discharged or surrendered, or withdrawn or otherwise disposed of, as the case may be.

(3) Subsections (2) (a) and (2) (b) do not apply to or in respect of a notice lodged for registration as a notice of conversion by a person or body who or which, but for section 3, would not be bound by this Act.

14. (1) Where a building is altered—

- (a) by demolishing any wall, floor, ceiling or structural cubic space, and any boundary of a lot was, immediately before the alteration, the inner surface or any part of that wall, the upper surface or any part of that floor or the under surface or any part of that ceiling or was defined in terms of or by reference to that wall, floor, ceiling or structural cubic space; or
- (b) by constructing any wall, floor or ceiling so that a boundary of a lot coincides with the inner surface or any part of that wall, the upper surface or any part of that floor or the under surface or any part of that ceiling,

Alteration
of building
affecting
lot
boundary.

the proprietor of that lot shall, within one month after the completion of the demolition or construction, lodge in the office of the Registrar-General for registration as a building alteration plan a plan which—

- (c) defines by lines the base of each vertical boundary of that lot after the alteration of the building; and
- (d) is accompanied by a certificate given by a registered surveyor certifying—
- (i) that the wall, floor, ceiling or structural cubic space has been demolished or constructed, as the case may be;

(ii)

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- (ii) whether any wall, floor or ceiling referred to in paragraph (b) is wholly within the perimeter of the parcel except to the extent of any encroachment referred to in section 38 (1) (b) or, where eaves or guttering encroach on land other than a public place, whether an appropriate easement exists; and
- (iii) any such encroachment and its nature and extent are shown on the plan.

Penalty : \$500.

(2) Upon registration as a building alteration plan of a plan showing an encroachment on a public place, the Registrar-General shall forward two copies of the plan to the local council.

(3) A copy of a plan forwarded under subsection (2) may be on a scale the same as or different to the original.

(4) The provisions of this Act, other than those relating to ownership and certification of title, apply to any encroachment referred to in subsection (1) (d) (iii) as if it were common property.

Certificates of title to be lodged with plans of subdivision or consolidation, notices of conversion and building alteration plans.

15. (1) Where—

- (a) a plan is lodged in the office of the Registrar-General for registration as a strata plan of subdivision or a strata plan of consolidation;
- (b) a notice is lodged in that office for registration as a notice of conversion; or
- (c) a plan is lodged in that office for registration as a building alteration plan,

and the body corporate either—

- (d) has not, within a period of twenty-one days after notice in writing served on it by the person so lodging the plan or notice, lodged in the office of the Registrar-General the certificate of title comprising the common property; or

(e)

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- (e) has not, within that period, made due application No. 68, 1973 under section 111 of the Real Property Act, 1900, and does not thereafter duly prosecute that application,

the certificate of title comprising the common property shall, for the purposes of Part XV of that Act, be deemed to be wrongfully retained.

(2) The Registrar-General may refuse to register any plan or notice lodged as referred to in subsection (1) unless it is accompanied by—

- (a) the certificate of title comprising the common property; or
- (b) evidence to the satisfaction of the Registrar-General of the service of the notice referred to in subsection (1) (d).

16. Where—

- (a) a plan is lodged in the office of the Registrar-General for registration as a strata plan, as a strata plan of subdivision or as a strata plan of consolidation;
- (b) a notice is lodged in that office for registration as a notice of conversion; or
- (c) a plan is lodged in that office for registration as a building alteration plan,

Plans and notices of conversion to be signed.

it shall not be registered unless it is signed by every person having a sufficient estate or interest to transfer the land comprised in the plan or notice.

17. A provision of this Division prohibiting the registration of a plan or a notice of conversion in circumstances specified in that provision is in addition to any other provision of this Division prohibiting the registration of a plan or a notice of conversion in circumstances specified in that other provision.

Provisions prohibiting registration to operate cumulatively.

DIVISION

No. 68, 1973

DIVISION 2.—*Common Property.*

Vesting
of common
property
upon
registration
of strata
plan.

18. (1) Upon registration of a strata plan any common property shown in that plan vests in the body corporate for the estate or interest evidenced by the folio of the Register comprising the land the subject of that plan immediately before its registration.

(2) The Registrar-General shall, upon registration of a strata plan, issue in the name of the body corporate a certificate of title for any common property in that strata plan.

Acquisition
of addi-
tional com-
mon
property.

19. (1) In this section, "land" means land under the Real Property Act, 1900 (other than land comprised in a qualified certificate of title) but does not include a leasehold interest in land evidenced by a lease not registered under that Act.

(2) A body corporate may, pursuant to a unanimous resolution, accept a transfer or lease of land, not being a lot within the parcel, which is contiguous to the parcel for the purpose of creating, or creating additional, common property and upon so doing shall forthwith cause the dealing evidencing the transaction to be registered under the Real Property Act, 1900.

(3) A transfer or lease referred to in subsection (2) shall not be registered under the Real Property Act, 1900, unless—

(a) it is accompanied by—

- (i) the certificate of title or Crown grant comprising the land described in the transfer or lease or, in the case of a transfer of a lease or sub-lease, the registered lease referred to in the transfer or sub-lease; and
- (ii) the certificate of title comprising the common property;

(b)

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(b) it is accompanied by a certificate under the seal of No. 68, 1973 the body corporate certifying that the resolution authorising the acceptance of the transfer or lease was a unanimous resolution; and

(c) in the case of a transfer, other than a transfer of a lease, where any land (in this paragraph referred to as "the original parcel") comprised in the parcel before the registration of the transfer was held in fee simple or under perpetual lease from the Crown and is contiguous to the land comprised in the transfer there has been lodged in the office of the Registrar-General for registration under the Conveyancing Act, 1919, a plan showing as a single lot the land comprised in the transfer and the original parcel.

(4) Upon the registration under the Real Property Act, 1900, of any such transfer, other than a transfer of a lease—

(a) the land comprised therein becomes common property and is subject to the provisions of this Act relating to common property; and

(b) the Registrar-General shall make an appropriate recording on the folio of the Register comprising the common property.

(5) Upon the registration under the Real Property Act, 1900, of any such lease, transfer of a lease or sub-lease—

(a) the leasehold interest becomes common property and thereupon is subject to such of the provisions of this Act relating to common property as are applicable to a leasehold interest;

(b)

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(b) the body corporate is responsible for all payments and the performance of all duties required of the lessee by the terms of the lease or sub-lease, as the case may be; and

(c) the Registrar-General shall make an appropriate recording on the folio of the Register comprising the common property to the effect that during the term of the lease or sub-lease the demised land is incorporated with, and as part of, the common property.

(6) A body corporate may, pursuant to a unanimous resolution and with the concurrence of the lessor, surrender a lease accepted by it under this section.

(7) Upon the registration under the Real Property Act, 1900, of any such surrender the Registrar-General shall make an appropriate recording on the folio of the Register comprising the common property.

Body corporate to hold common property as agent for proprietors.

20. The estate or interest of a body corporate in common property vested in it or acquired by it shall be held by the body corporate as agent—

(a) where the same person or persons is or are the proprietor or proprietors of all of the lots the subject of the strata scheme concerned—for that proprietor or those proprietors; or

(b) where different persons are proprietors of each of two or more of the lots the subject of the strata scheme concerned—for those proprietors as tenants in common in shares proportional to the unit entitlements of their respective lots.

Common property to be dealt with only under this Act.

21. Common property shall not be capable of being dealt with except in accordance with the provisions of this Act.

22.

Strata Titles.

22. (1) Where no part of a parcel is common property the Registrar-General shall, upon registration of a strata plan, issue to the body corporate a certificate which shall—

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 Certificate
 to be issued
 where no
 common
 property.

- (a) be in the prescribed form;
- (b) certify that the strata plan does not contain any common property; and
- (c) certify that, upon a recording referred to in section 19 (4) (b) being made on the folio of the Register referred to in subsection (3), the body corporate shall become the registered proprietor of the land comprised in the transfer.

(2) Where, subsequent to the registration of a strata plan, the strata scheme concerned ceases to contain any common property held in fee simple or under perpetual lease from the Crown, the Registrar-General shall—

- (a) cancel the folio of the Register corresponding to the certificate of title referred to in section 18 (2) or subsection (5), as the case may be; and
- (b) issue to the body corporate a certificate which shall—
 - (i) be in the prescribed form;
 - (ii) certify that that strata scheme does not contain any common property held in fee simple or under perpetual lease from the Crown;
 - (iii) certify that, upon a recording referred to in section 19 (4) (b) being made on the folio of the Register referred to in subsection (3), the body corporate shall become the registered proprietor of the land comprised in the transfer; and
- (c) transcribe on to the certificate referred to in paragraph (b) any recordings on the folio of the Register referred to in paragraph (a) except such

of

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of those recordings as do not relate solely to the land which formerly comprised the common property.

(3) Upon the issue of a certificate under subsection (1) or (2), the Registrar-General shall record particulars thereof in the Register and any particulars so recorded shall constitute a folio of the Register.

(4) A reference—

(a) in this Act to a certificate of title comprising common property or a folio of the Register corresponding to such a certificate includes a reference to a certificate issued under subsection (1) or (2) or the folio referred to in subsection (3), respectively; and

(b) in the Real Property Act, 1900, to a certificate of title or a folio of the Register includes a reference to a certificate issued under subsection (1) or (2) or the folio referred to in subsection (3), respectively, except in so far as any provision of that Act is incapable of applying to a certificate issued under subsection (1) or (2) or a folio referred to in subsection (3), as the case may be.

(5) Upon a recording referred to in section 19 (4) (b) being made upon a folio of the Register corresponding to a certificate issued under this section, that certificate shall be deemed to be a certificate of title.

**Certificates
of title for
common
property.**

23. (1) In any certificate of title for common property it shall be sufficient that the land therein comprised be described as the common property in a designated strata plan without definition of its area or dimensions, and a certificate of title so issued shall be construed as certifying title to the common property, other than common property the subject of a lease accepted or acquired under section 19, in the strata scheme concerned as that common property may exist from time to time.

(2)

Strata Titles.

(2) When issuing a certificate of title comprising common property the Registrar-General shall record thereon—

- (a) the name of the body corporate;
- (b) the address for service of notices on the body corporate;
- (c) the schedule of unit entitlement in force in respect of the strata scheme concerned; and
- (d) any easement benefiting or burdening the parcel and any restriction as to user burdening the parcel,

and following registration of any such certificate the Registrar-General shall record on the corresponding folio of the Register—

- (e) any change from time to time in the address for service of notices on the body corporate, evidenced by a notice prepared and lodged in accordance with section 61;
- (f) any amendment, addition or repeal of or to the by-laws from time to time in force notification of which has been lodged in accordance with section 58 (3); and
- (g) any other recording which, by this or any other Act, he is required or authorised to make.

(3) Notwithstanding the provisions of the Real Property Act, 1900, the Registrar-General shall not record any easement referred to in section 26 (1) (a) or (b), any easement acquired by resumption to the extent that it affects common property or any restriction as to user referred to in section 26 (1) (a) on the folio of the Register comprising a lot the subject of the strata scheme concerned but shall record the easement or restriction on the folio of the Register comprising the common property, and any such easement or restriction shall affect any such lot to the extent that it is capable of affecting that lot and as if it were recorded by the Registrar-General on the folio of the Register comprising that lot.

(4)

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(4) Notwithstanding the provisions of the Real Property Act, 1900, the Registrar-General shall not record any encumbrance, not being an easement or restriction as to user, on the folio of the Register comprising the common property but any such encumbrance recorded on the folio of the Register comprising a lot the subject of the strata scheme concerned affects the estate or interest in the common property which is vested in the body corporate as agent for the proprietor of that lot in the same way as if that encumbrance were recorded by the Registrar-General on the folio of the Register comprising that common property.

Dealings
with lots
include
common
property.

24. In any dealing relating to a lot, a reference to that lot includes a reference to any estate or interest in common property which is vested in the body corporate as agent for the proprietor of that lot without express reference to the common property and without that dealing being recorded on the folio of the Register comprising the common property.

Transfer
or lease
of common
property.

25. (1) A body corporate may, pursuant to a unanimous resolution, execute a transfer or lease of common property other than common property the subject of a lease accepted or acquired by the body corporate under section 19 (2).

(2) A body corporate, pursuant to a unanimous resolution, may, if not prevented by the terms of the lease, transfer a lease of common property accepted or acquired by the body corporate under section 19 (2) or grant, by way of sub-lease, a lease of its estate or interest in common property the subject of a lease so accepted or acquired.

(3) A body corporate may, pursuant to a unanimous resolution, accept a surrender of a lease, or, if otherwise empowered so to do, re-enter under a lease, granted under subsection (1) or (2).

(4)

Strata Titles.

(4) The Registrar-General shall record any dealing referred to in subsection (1), or any dealing referred to in subsection (3) which relates to common property, other than common property the subject of a lease accepted or acquired by the body corporate under section 19 (2), on the folio of the Register comprising the common property and where the dealing is a transfer of any such common property shall issue a new certificate of title to the transferee. No. 68, 1973

(5) The Registrar-General shall record any dealing referred to in subsection (2), or any dealing referred to in subsection (3) which relates to common property the subject of a lease accepted or acquired by the body corporate under section 19 (2), on the registered lease and shall make an appropriate recording on the folio of the Register comprising the common property.

26. (1) A body corporate may, pursuant to a unanimous resolution— Creation of easements and restrictions.

- (a) execute a dealing creating an easement which burdens the common property or a restriction as to user which burdens the common property or the whole parcel;
- (b) accept a dealing creating an easement which, or a restriction as to user which, benefits the common property or the whole parcel;
- (c) execute a dealing releasing an easement which, or a restriction as to user which, benefits the common property or the whole parcel; or
- (d) accept a dealing releasing an easement which burdens the common property or a restriction as to user which burdens the common property or the whole parcel.

(2)

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(2) Subsection (1) does not authorise a body corporate to execute or accept a dealing relating to common property the subject of a lease accepted or acquired by the body corporate under section 19 (2) that, apart from subsection (1), it is not entitled to execute or accept as a lessee or, by the terms of the lease, it is prevented from executing or accepting.

(3) A body corporate may, pursuant to a unanimous resolution, join in or consent to the execution or acceptance of a dealing referred to in subsection (1) relating to common property the subject of a lease accepted or acquired by the body corporate under section 19 (2).

**Dedication
of common
property.**

27. (1) In this section—

“drainage reserve” means a drainage reserve referred to in section 340B of the Local Government Act, 1919, or land held for drainage purposes as referred to in section 340E of that Act;

“public road” and “public reserve” have the same meanings as they respectively have in the Local Government Act, 1919.

(2) A body corporate may, pursuant to a unanimous resolution, affix its seal to a plan which bears a statement of intention in respect of designated common property—

- (a) to open or widen a public road;
- (b) to create a public reserve; or
- (c) to create a drainage reserve.

(3) A body corporate shall only affix its seal to a plan referred to in subsection (2) which relates to common property the subject of a lease accepted or acquired by the body corporate under section 19 (2) if that plan has been signed in accordance with section 196 (5) of the Conveyancing Act, 1919, and it does so pursuant to a unanimous resolution that the body corporate join in or consent to the registration of that plan.

(4)

Strata Titles.

(4) Upon registration under the Conveyancing Act, No. 68, 1973 1919, of a plan referred to in subsection (2) relating to common property other than common property the subject of a lease accepted or acquired by the body corporate under section 19 (2), the opening or widening of the public road, or the creation of the public reserve or drainage reserve, referred to in the plan, shall be recorded on the folio of the Register comprising the common property.

(5) Upon registration under the Conveyancing Act, 1919, of a plan referred to in subsection (2) relating to common property the subject of a lease accepted or acquired by the body corporate under section 19, the Registrar-General shall make an appropriate recording on the folio of the Register comprising the common property.

28. (1) In this section "dealing" includes a plan referred to in section 27 (2). Effect of dealings under this Division.

(2) A dealing executed by a body corporate for the purposes of the exercise of any of its powers under this Division shall be as valid and effective as it would be if it were also executed by the proprietors of all the lots the subject of the strata scheme concerned and the receipt of the body corporate for purchase money, rent, premium or other moneys payable to the body corporate in respect of the dealing shall be a sufficient discharge and shall exonerate every person paying any such moneys from any responsibility for their application.

(3) A body corporate shall not execute a dealing for the purposes of this Division—

(a) whereby the estate or interest of the body corporate or of the proprietors or any of them in the parcel or in any part thereof is diminished unless—

(i) all persons (other than the body corporate and the proprietors) having interests recorded in the Register in the parcel or

that

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that part, as the case may be, have released them in so far as they affect the land the subject of the dealing or the dealing may properly be, and has been, made subject to those interests; and

(ii) all persons having interests (other than interests referred to in subparagraph (i) or statutory interests) in the parcel or that part, as the case may be, being interests which have been notified to the body corporate, have released them as against the person taking under the dealing, not being a plan, or benefiting by the registration of the dealing, being a plan; or

(b) unless any by-law referred to in section 58 (7) and relating to the land the subject of the dealing has been—

(i) repealed; or

(ii) amended in so far as it would, but for the amendment, have detracted from the interest passing under the dealing.

(4) A dealing lodged for registration under the Real Property Act, 1900, or the Conveyancing Act, 1919, for the purposes of this Division shall not be registered under either such Act unless it is accompanied by a certificate under the seal of the body corporate—

(a) certifying that—

(i) the resolution authorising the execution of the dealing was a unanimous resolution; and

(ii) the requirements of subsection (3) (a) (ii) were complied with; and

(b)

Strata Titles.

- (b) except where a certificate under this paragraph or No. 68, 1973 section 9 (3) (d) or 13 (2) (b) has been previously lodged in the office of the Registrar-General, certifying that the resolution referred to in paragraph (a) was passed after the expiration of the initial period, or a certified or office copy of an order made under section 67 authorising the registration of the dealing,

and the certificate under the seal of the body corporate given for the purposes of this subsection shall be conclusive evidence of the facts stated therein in favour of the Registrar-General and any person taking under the dealing, not being a plan, or benefiting by the registration of the dealing, being a plan.

DIVISION 3.—*Compulsory Acquisition of Lots and Common Property.*

29. In this Division, “land” does not include an easement. Interpretation.

30. (1) Notwithstanding the provisions of any other Act, Resumptions affecting parcels. it shall not be competent for a resuming authority to resume land—

- (a) comprising solely common property unless the resumed land is defined in the notice of resumption as a lot in a current plan;
- (b) comprising or including all the lots the subject of a strata scheme unless the resumed land also includes all the common property the subject of that scheme and the notice of resumption contains a statement referred to in subsection (2) (a) or (b) in respect of the resumed land and, where that notice contains a statement referred to in subsection (2) (a), unless the resumed land is defined in that notice as a lot in a current plan; or

(c)

Strata Titles.

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(c) in a parcel where some part of the resumed land does not consist of common property and the resumed land does not comprise or include all the lots and all the common property the subject of the strata scheme concerned unless the notice of resumption contains a statement referred to in subsection (2) (a) or (b) in respect of that part and—

(i) where that notice contains a statement referred to in subsection (2) (a), unless the resumed land is defined in that notice as a lot in a current plan; or

(ii) where that notice contains a statement referred to in subsection (2) (b), unless any part of the resumed land that is common property is defined in that notice as a lot in a current plan and any part of the resumed land that is not common property is defined in that notice as one or more lots in a strata plan, a strata plan of subdivision or a strata plan of consolidation.

(2) For the purposes of subsection (1) (b) or (c), the statement to be included in a notice of resumption is a statement that the part of the resumed land that is not common property—

(a) is excluded from the strata scheme concerned; or

(b) remains subject to that strata scheme.

(3) A plan relating to a parcel and lodged by a resuming authority in the office of the Registrar-General for the purpose of effecting a resumption referred to in subsection (1) shall not be registered unless there is endorsed on it a statement that registration of the plan is required for that purpose and—

(a) in the case of a plan lodged for registration as a strata plan of subdivision, it is accompanied by a statement that it is intended that any part of the

land

Strata Titles.

land to be resumed which does not consist of common property will remain subject to the strata scheme concerned; or

- (b) in the case of a plan lodged for registration as a current plan which does not relate solely to common property, it is accompanied—
- (i) by a statement that it is intended that the land to be resumed will be excluded from the strata scheme concerned; and
 - (ii) except in the case of a current plan relating to all the lots and all the common property the subject of a strata scheme, by a certified or office copy of the minute of an order made by the Supreme Court under section 32, 50 or 51 in respect of the resumption or of an order so made dismissing the application for the order in respect of the resumption or, in the case of a current plan relating to all the lots and all the common property the subject of a strata scheme, by a certified or office copy of the minute of an order made by the Supreme Court under section 51 in respect of the resumption.
- (4) For the purposes of—
- (a) section 16, a plan lodged in the office of the Registrar-General for registration as a strata plan of subdivision; or
 - (b) section 196 (5) of the Conveyancing Act, 1919, a plan lodged in the office of the Registrar-General for registration as a current plan,

and bearing a statement referred to in subsection (3) (a) or (b) shall be deemed to have been signed by every person having a sufficient estate or interest to transfer the lot or lots or the land to which the plan relates if it has been signed or sealed by or on behalf of a resuming authority.

Strata Titles.

No. 68, 1973 **31.** (1) Except in the case of a resumption referred to in section 30 (1) (b) the notice of which contained a statement referred to in section 30 (2) (b), upon the resumption of any land which immediately before the resumption was common property, that land ceases to be common property and the provisions of this Act cease to apply thereto.

Effect of
resumption.

(2) Where a notice of resumption referred to in section 30 (1) (b) contains a statement referred to in section 30 (2) (a) or a notice of resumption referred to in section 30 (1) (c) contains such a statement in respect of that part of the resumed land which does not consist of common property (either such statement corresponding to the statement referred to in section 30 (3) (b) (i)), the part of the resumed land that does not consist of common property ceases to be subject to the strata scheme concerned and the provisions of this Act cease to apply thereto.

(3) Where a notice of resumption referred to in section 30 (1) (b) contains a statement referred to in section 30 (2) (b), the provisions of this Act apply, notwithstanding the provisions of any other Act, to and in respect of the resuming authority and the resumed land in all respects, except as to the recording by the Registrar-General of the resumption, as if the resuming authority had acquired the lots comprised in the resumed land by registration under the Real Property Act, 1900, of a transfer.

(4) Where a notice of resumption referred to in section 30 (1) (c) contains a statement referred to in section 30 (2) (b), the provisions of this Act apply, notwithstanding the provisions of any other Act, to and in respect of the resuming authority and any part of the resumed land which, immediately before the resumption, did not consist of common property in all respects, except as to the recording by the Registrar-General of the resumption, as if the resuming authority had acquired that part by registration under the Real Property Act, 1900, of a transfer.

*Strata Titles.***32. (1) Where—****No. 68, 1973**

- (a) a resuming authority proposes to resume land in a parcel and that land does not consist solely of common property or of all the lots and all the common property comprised in that parcel; and
- (b) the resuming authority intends that that land will be excluded from the strata scheme concerned,

Readjustment of strata scheme for purposes of resumption.

the resuming authority may make an application to the Supreme Court for an order under subsection (4).

(2) Notice of an application under subsection (1) shall be served, in accordance with the rules of court—

- (a) on every registered proprietor and registered mortgagee of a lot the subject of the strata scheme concerned;
- (b) on the body corporate;
- (c) where part of a lot is intended to be resumed and the local council has not approved of a plan referred to in section 30 (3) (b) relating to that part, on that local council;
- (d) on the Registrar-General; and
- (e) on such other persons as the Supreme Court may direct.

(3) Any person referred to in subsection (2) (whether or not he has been served with a notice of the application), the resuming authority and any proprietor or enrolled mortgagee shall be entitled to appear and be heard on the hearing of the application.

(4) The Supreme Court may, on application made under subsection (1), make an order for or with respect to any one or more of the following matters :—

- (a) the substitution for the existing schedule of unit entitlement of a new schedule of unit entitlement;

(b)

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-
- (b) where part of a lot is intended to be resumed and the resuming authority intends that that part will be excluded from the strata scheme concerned, the designation as a lot of the residue of any such lot;
 - (c) requiring the resuming authority, when resuming the land referred to in its application under subsection (1), also to resume any residue referred to in paragraph (b) so that that residue will either be excluded from the strata scheme concerned or remain subject to that strata scheme, according to the terms of the order;
 - (d) with the consent of the proprietor of a lot part of which is intended to be resumed, the vesting of any other part of that lot in the body corporate as common property; and
 - (e) any matter in respect of which it is, in the opinion of the Supreme Court, just and equitable, in the circumstances of the case, to make provision in the order.

(5) An order made under subsection (4) shall take effect upon the day on which the resumption referred to in the order takes effect.

(6) An order made under subsection (4) shall have effect according to its tenor.

(7) Where, on an application made under subsection (1), the Supreme Court is of the opinion that an order should not be made under subsection (4)—

- (a) it may, upon application made by any person entitled to appear and be heard on the hearing of the application made under subsection (1) or of its own motion, direct that the application under subsection (1) be treated as an application for an order under section 50 or 51; and

(b)

Strata Titles.

(b) where it makes such a direction—

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- (i) the application the subject of the direction shall be deemed to be an application made under section 50 (1) or 51 (1), as the case may be, by a person entitled to make the application; and
- (ii) the applicant under subsection (1), as well as any other person entitled to appear and be heard under section 50 (1) or 51 (1), as the case may be, is entitled to appear and be heard on the hearing of the application.

(8) The costs of any proceedings under this section shall be payable by the resuming authority, unless the Supreme Court otherwise orders.

33. A resuming authority does not acquire any interest in common property the subject of a strata scheme by reason only of its resuming the whole or part of a lot which immediately before the resumption was the subject of that scheme if the notice of resumption contains a statement referred to in section 30 (2) (a). Common property not to pass with lot or part of lot in certain circumstances.

34. For the purposes of any Act relating to the payment of compensation upon the resumption of land— Severance of lots by resumption.

- (a) where any part of a lot is resumed that part shall be deemed to be severed from every other part of that lot, whether or not that part and any such other part are contiguous; and
- (b) where the resumed land or any part of the resumed land is common property, the beneficial interests of the proprietors in that common property shall, for the purposes of any claim for or the payment of compensation in respect of the resumption of those interests, be deemed to be vested in the body corporate to the exclusion of the proprietors.

35.

No. 68, 1973
Resump-
tions where
resuming
authority
not bound
by this Act.

35. Where any part of a parcel is resumed by a resuming authority which is not bound by the provisions of this Act and does not comply with the provisions of this Division, the body corporate or a person affected by the resumption may apply to the Supreme Court for an order under section 50, as if the building had been damaged or destroyed, or under section 51.

DIVISION 4.—Certificates of Approval of Local Councils.

Other Acts
not to apply
to sub-
divisions
under
Division 1.

36. Except as otherwise provided in this Act, any provision contained in the Local Government Act, 1919, the Conveyancing Act, 1919, or any other Act, being a provision relating to the manner of dividing land or any matter incidental thereto, does not apply to a subdivision effected under Division 1.

Approval of
proposed
strata
plans,
certain
subdivisions
and
conversions
of lots into
common
property.

37. (1) Subject to this Division, a local council shall, on application made to it for a certificate of approval of a proposed strata plan, issue to the applicant a certificate of approval of that plan if it is satisfied as to the matters specified in either of the following paragraphs:—

(a) that—

- (i) the provisions of section 306 of the Local Government Act, 1919, have been complied with with respect to the erection of any building containing any proposed lots to which that plan relates or that any departure from those provisions is such as need not be rectified ;
- (ii) the proposed lots illustrated by that plan substantially correspond with parts of any such building shown in the building plans accompanying the application made to the local council for its approval of the erection of any such building and designated in those building plans as being intended for separate occupation ; and

(iii)

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-
- (iii) any such building was completed not more than twelve months, or such longer period as the local council may in any particular case fix, before the application for the certificate of approval under this subsection was lodged with the local council; or
- (b) that—
- (i) separate occupation of the proposed lots illustrated by that plan will not contravene the provisions of Part XIIA of the Local Government Act, 1919, or of any scheme prescribed thereunder;
 - (ii) any consent or approval required under that Part or any such scheme has been given in relation to the separate occupation of the proposed lots illustrated by that plan; and
 - (iii) having regard to the circumstances of the case and the public interest, the subdivision to which the plan relates will not interfere with the existing or likely future amenity of the neighbourhood.

(2) A local council, on application made to it for a certificate of approval of a plan illustrating a proposed subdivision referred to in section 5 (7) (a), shall, unless the application was accompanied by a certificate under the seal of the body corporate certifying that by resolution passed at a general meeting it agrees to the proposed subdivision, send, by certified mail, notice of the proposed subdivision to the body corporate concerned inviting it to express its views upon the proposed subdivision within a time (being not less than twenty-one days after the notice was sent) specified in the notice.

(3) A local council may after the expiration of the time specified in the notice sent under subsection (2) and after taking into consideration—

- (a) any representations made to the local council by the body corporate to which the notice was sent;
- (b)

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(b) whether the proposed subdivision would be likely—

- (i) to detract from the external appearance of the building containing the lot the subject of the proposed subdivision;
- (ii) to render inadequate existing services to other lots the subject of the strata scheme concerned ; or
- (iii) by increasing the number and decreasing the size of lots within that building, to detract from the amenity or value of any other lot the subject of the strata scheme concerned; and

(c) the matters specified in subsection (1) (b), as if the reference in subsection (1) (b) to a proposed strata plan were a reference to the plan to which the notice relates,

issue a certificate of approval of the plan to which the notice relates.

(4) A local council, on application made to it for a certificate of approval of a plan illustrating a proposed subdivision referred to in section 5 (7) (b), (c) or (d), may—

- (a) if that plan, upon lodgment with the local council, was accompanied by a certificate under the seal of the body corporate concerned certifying that it has, by special resolution, consented to the proposed subdivision ; and
- (b) after taking into consideration the matters specified in subsection (1) (b), as if the reference in subsection (1) (b) to a proposed strata plan were a reference to the plan illustrating the proposed subdivision,

issue the certificate of approval applied for.

(5)

Strata Titles.

(5) A local council, on application made to it for a certificate of approval of a proposed notice of conversion, may—

- (a) if that notice, upon lodgment with the local council, was accompanied by a certificate under the seal of the body corporate concerned certifying that it has, by special resolution, consented to the proposed conversion; and
- (b) if, having regard to the circumstances of the case and the public interest, it is satisfied that the proposed conversion will not interfere with the existing or likely future amenity of the neighbourhood,

issue the certificate of approval applied for.

38. (1) The local council may refuse to approve of a proposed strata plan or strata plan of subdivision if any building illustrated by that plan encroaches on to a public place but may approve of such a plan if it is satisfied that—

- (a) the plan clearly indicates the existence of the encroachment and its nature and extent;
- (b) the encroachment consists only of part of a roof or a wall or part of a wall, or of material attached externally thereto; and
- (c) retention of the encroachment in its existing state will not endanger public safety or unreasonably interfere with the amenity of the neighbourhood.

(2) Where a proposed strata plan or strata plan of subdivision illustrating a building referred to in subsection (1) has been approved by the local council—

- (a) the local council shall not issue a certificate of approval under section 37 (1), (3) or (4) unless the certificate refers to the existence of the encroachment and indicates that the local council does not object thereto; and

(b)

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- No. 68, 1973 (b) the provisions of this Act, other than those relating to ownership and certification of title, apply to the encroachment as if it were common property.

Utility
lots.

39. (1) Where the registration of a plan submitted to a local council for its approval would result in the creation of one or more utility lots (being lots designed to be used primarily for storage or accommodation of boats, motor vehicles or goods and not for human occupation as a residence, office, shop or the like), the local council may qualify any certificate of approval issued under section 37 in respect of that plan by attaching a condition restricting user of that utility lot or those utility lots to use by a proprietor or occupier of a lot or proposed lot, not being such a utility lot, the subject of the strata scheme concerned.

(2) A restriction on user imposed pursuant to subsection (1)—

- (a) shall designate each utility lot burdened by the restriction; and
- (b) shall describe the restriction by reference to this section.

(3) Section 88 of the Conveyancing Act, 1919, does not apply to a restriction imposed pursuant to subsection (1).

(4) The local council, upon an application made by the proprietor or a registered mortgagee of a utility lot the subject of a restriction referred to in subsection (1), may, by instrument in writing, release that lot from that restriction.

Appeal
against
local
council
refusing
approval.

40. (1) In this section “application” means an application to a local council for a certificate of approval of—

- (a) a proposed strata plan;
- (b) a proposed strata plan of subdivision; or
- (c) a notice of conversion.

(2)

Strata Titles.

(2) A local council to which an application is made shall cause notice of its decision on the application to be given to the applicant. No. 68, 1973

(3) A notice of refusal by a local council to approve of an application shall—

- (a) specify the grounds of refusal; and
- (b) indicate that the applicant has a right to appeal under subsection (4) against the refusal.

(4) Upon any refusal by a local council to approve of an application, upon approval by a local council of an application subject to a condition referred to in section 39 (1) or upon failure by a local council to notify its approval of an application to the applicant within forty days—

- (a) except as provided in paragraph (b), after receiving the application; or
- (b) in the case of an application for a certificate of approval referred to in section 37 (2) where a notice was sent under section 37 (2), after the expiration of the time referred to in the notice,

the applicant may appeal to the Local Government Appeals Tribunal constituted under Part XII B of the Local Government Act, 1919.

(5) The decision of the Local Government Appeals Tribunal upon any appeal under subsection (4) shall be deemed to be the final decision of the local council and shall be given effect to accordingly.

DIVISION 5.—Powers and Duties of Registrar-General.

41. (1) The Registrar-General may, subject to and for the purposes of this Act, register under this Act a plan or other instrument lodged for registration in his office. Registration of plans and notices.

(2)

Strata Titles.

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(2) A plan is registered as a strata plan, strata plan of subdivision or strata plan of consolidation when the Registrar-General records thereon a certificate of registration.

(3) A notice is registered as a notice of conversion when the Register has been altered to give effect thereto.

(4) A plan is registered as a building alteration plan when the Registrar-General makes an appropriate recording on the folio of the Register comprising the common property indicating that the plan has been registered.

(5) Notwithstanding any other provision of this Act, a plan shall not be registered as a strata plan, strata plan of subdivision, strata plan of consolidation, or building alteration plan and a notice shall not be registered as a notice of conversion unless it is accompanied by such other plans and documents, if any, as may be prescribed.

Provisions
applying
to strata
plans, etc.

42. (1) The provisions of section 196 (9) (paragraphs (e) and (f) excepted) and section 196 (13) of the Conveyancing Act, 1919, apply to and in respect of a plan lodged in the office of the Registrar-General for registration as a strata plan, strata plan of subdivision, strata plan of consolidation or building alteration plan in the same way as they apply to plans referred to in those provisions.

(2) For the purposes only of subsection (1), section 196 (13) of the Conveyancing Act, 1919, shall be deemed to be amended by inserting after the word "relates" the words "or where he considers it necessary or desirable to do so".

(3) The Registrar-General may cause a true copy of any plan registered under this Act, or of a copy of such a plan prepared under this subsection, to be prepared and a copy so prepared and certified by the Registrar-General as a true copy shall, for all purposes, have the like validity and effect as the original plan to which it relates and shall be deemed to be an original document within the meaning of the Evidence (Reproductions) Act, 1967.

(4)

Strata Titles.

(4) The Registrar-General may destroy any plan, or copy of a plan, a copy of which he has caused to be made under subsection (3). No. 68, 1973

43. (1) Where a quotient that is a whole number is obtained by dividing by a whole number the unit entitlements of the lots and proposed lots shown on a schedule referred to in section 8 (1) (d), 10 (1) or 11 (a) which accompanies a plan lodged in the office of the Registrar-General for registration, the Registrar-General may, of his own motion when registering the plan, record on the folio of the Register comprising the common property—

- (a) as the unit entitlement of each lot, the quotient obtained in respect of that lot; and
- (b) as the aggregate unit entitlement, the appropriate aggregate unit entitlement.

(2) Where a quotient that is a whole number is obtained by dividing by a whole number the unit entitlement of each lot the subject of a strata scheme, the Registrar-General may, of his own motion, amend the schedule of unit entitlement recorded on the folio of the Register comprising the common property—

- (a) by substituting for the unit entitlement of each lot a unit entitlement equal to the quotient obtained in respect of that lot; and
- (b) by substituting for the aggregate unit entitlement the appropriate aggregate unit entitlement.

(3) The Registrar-General shall, upon making a recording pursuant to subsection (1) or an amendment pursuant to subsection (2), notify the body corporate concerned of the unit entitlements and aggregate unit entitlement recorded.

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No. 68, 1973 **44.** (1) Where a certificate issued by a local council under section 37 is qualified by attaching, in accordance with section 39, a condition restricting user of a lot, the Registrar-General shall, when issuing a certificate of title for the lot, suitably record the condition thereon.

Recording of condition restricting user imposed by local council.

(2) A condition recorded pursuant to subsection (1) is an interest recorded in the Register within the meaning of section 42 of the Real Property Act, 1900.

(3) Upon registration of an instrument referred to in section 39 (4), the utility lot referred to in that instrument is released from the restriction so referred to.

45. Where the Registrar-General registers a strata plan of subdivision or a current plan relating to a parcel on which are endorsed or which is accompanied by the relevant statements referred to in section 30 (3), he shall not—

Prohibition on recordings in the Register in certain circumstances.

(a) issue a certificate of title for any lot comprised in that strata plan of subdivision or any current plan lot, as defined in section 7 (1), in that current plan; or

(b) make any recording in the Register by reference to any such lot or current plan lot,

until he makes a recording in the Register under section 31A (3) of the Real Property Act, 1900, with respect to that lot or any other lot in that strata plan of subdivision or with respect to that current plan lot or any other such current plan lot in that current plan.

46. (1) Where the Registrar-General registers a strata plan of subdivision that is not a plan referred to in section 45, or where he registers a strata plan of consolidation, he shall—

Certain recordings to be made by Registrar-General.

(a) cancel the folio of the Register comprising any former lot subdivided or consolidated by the registration of the plan;

(b)

Strata Titles.

-
- (b) issue a new certificate of title for each new lot **No. 68, 1973** created by the subdivision or consolidation; and
- (c) amend, in the manner prescribed by subsection (3), the schedule of unit entitlement recorded on the folio of the Register comprising the common property the subject of the strata scheme concerned.
- (2) Where the Registrar-General registers a notice of conversion of a lot into common property, he shall—
- (a) record the notice on the folio of the Register comprising the converted lot and on the folio of the Register comprising the common property;
- (b) cancel the folio of the Register comprising the converted lot; and
- (c) amend, in the manner prescribed by subsection (3), the schedule of unit entitlement recorded on the folio of the Register comprising the common property the subject of the strata scheme concerned.
- (3) For the purposes of subsections (1) (c) and (2) (c), the manner of amending a schedule of unit entitlement is, subject to section 43—
- (a) in the case of a subdivision—by amending the schedule to correspond in all respects with the schedule of proposed unit entitlement that accompanied the strata plan of subdivision;
- (b) in the case of a consolidation—
- (i) by striking out the references in the schedule to the lots that have been consolidated and their unit entitlements; and
- (ii) by recording in the schedule a reference to the consolidated lot and, as its unit entitlement, the sum of the unit entitlements of the lots consolidated to create it; and

(c)

No. 68, 1973

(c) in the case of conversion of a lot to common property—

- (i) by striking out the references in the schedule to that lot and its unit entitlement; and
- (ii) by striking out the references in the schedule to the aggregate unit entitlement and by recording instead the appropriate aggregate unit entitlement.

Duties of Registrar-General where resumed land remains subject to strata scheme.

47. (1) Where the whole of a lot (not being a lot in a strata plan of subdivision referred to in section 45) is resumed and the notice of resumption contains a statement referred to in section 30 (2) (b), any recording in the Register that the Registrar-General is, under section 31A (3) of the Real Property Act, 1900, authorised or required to make with respect to the resumption shall be made on the folio of the Register comprising the resumed lot.

(2) Where the whole of a lot in a strata plan of subdivision referred to in section 45 is resumed and the notice of resumption contains a statement referred to in section 30 (2) (b) corresponding to the statement referred to in section 30 (3) (a), the Registrar-General shall, after making a recording in the Register under section 31A (3) of the Real Property Act, 1900, with respect to that resumption—

- (a) cancel the folio of the Register comprising the subdivided lot;
- (b) issue a new certificate of title for each new lot; and
- (c) amend, in the manner prescribed by section 46 (3) (a), the schedule of unit entitlement recorded on the folio of the Register comprising the common property the subject of the strata scheme concerned.

48.

48. (1) Where land consisting solely of common property is resumed, any recording in the Register that, under section 31A (3) of the Real Property Act, 1900, the Registrar-General is authorised or required to make shall be made on the folio of the Register comprising the common property.

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Duties of Registrar-General where resumed land is excluded from strata scheme.

(2) Where the whole of a parcel or any part of a parcel that does not consist of common property is resumed and the notice of resumption contains a statement referred to in section 30 (2) (a) corresponding to the statement referred to in section 30 (3) (b) (i), the Registrar-General shall, where he makes a recording in the Register under section 31A (3) of the Real Property Act, 1900, with respect to the resumption, make such recordings in the Register and issue such certificates of title as appear to him to be necessary or proper to give effect to the order of the Supreme Court made under section 32, 50 or 51 with respect to the land resumed and the strata scheme concerned.

49. (1) Upon registration of a strata plan, a strata plan of subdivision (not being a strata plan of subdivision referred to in section 45) or a strata plan of consolidation, the Registrar-General shall forward two copies of the plan to the valuing authority referred to in section 89, to each rating authority so referred to which is authorised to make and levy rates on the land the subject of the strata scheme concerned and to the Commissioner for Land Tax.

Documents to be forwarded by Registrar-General to certain authorities.

(2) The Registrar-General shall, upon making a recording in the Register under section 31A (3) of the Real Property Act, 1900, with respect to the resumption of a lot in a strata plan of subdivision referred to in section 45, forward two copies of the plan to each authority referred to in subsection (1) and to the Commissioner for Land Tax.

(3) Upon recording a schedule of unit entitlement on a folio of the Register comprising common property or upon amending any such schedule, the Registrar-General

shall

No. 68, 1973 shall forward to each authority referred to in subsection (1), to the Commissioner for Land Tax and to the body corporate two copies of the schedule of unit entitlement or of the amended schedule of unit entitlement, as the case may be.

(4) A copy of a plan or schedule forwarded under this section may be on a scale the same as or different to the original.

PART III.

VARIATION OR TERMINATION OF STRATA SCHEMES.

**Variation
of strata
scheme
consequent
upon
damage
to or
destruction
of building.**

- 50.** (1) Where a building is damaged or destroyed—
- (a) any proprietor, registered mortgagee or enrolled mortgagee of a lot the subject of the strata scheme concerned; or
 - (b) the body corporate,

may make an application to the Supreme Court for an order under subsection (4).

(2) Notice of an application under subsection (1) shall be served, in accordance with the rules of court, on—

- (a) every person referred to in subsection (1), other than the applicant;
- (b) the local council;
- (c) the Registrar-General; and
- (d) such other persons as the Supreme Court may direct.

(3) The applicant and any person referred to in subsection (2) (whether or not he has been served with a notice of the application) shall be entitled to appear and be heard on the hearing of the application.

(4)

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(4) The Supreme Court may, on an application **No. 68, 1973** made under subsection (1), make an order for or with respect to the variation of the existing strata scheme or the substitution for the existing strata scheme of a new strata scheme.

(5) An order made under subsection (4) shall take effect—

- (a) except as provided in paragraph (b), on such day as may be specified in the order; and
- (b) where it is made pursuant to an application made under section 32 which, under section 32 (7) or under sections 32 (7) and 51 (8), is treated as an application for an order under this section or pursuant to an application authorised by section 35, on the day on which the resumption referred to in the order takes effect.

(6) Without limiting the generality of subsection (4), an order made under that subsection may include directions for or with respect to any one or more of the following matters :—

- (a) the substitution for the existing schedule of unit entitlement of a new schedule of unit entitlement;
- (b) the reinstatement in whole or in part of the building;
- (c) the transfer or vesting of the interests of proprietors of lots which have been wholly or partly destroyed to or in the body corporate;
- (d) the application of any insurance moneys received by the body corporate in respect of the damage to or destruction of the building;
- (e) the payment of moneys to or by the body corporate or the proprietors or any one or more of them;
- (f) any matter in respect of which it is, in the opinion of the Supreme Court, just and equitable, in the circumstances of the case, to make provision in the order;

(g)

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- (g) where the order is made pursuant to an application made under section 32 which, under section 32 (7) or under sections 32 (7) and 51 (8), is treated as an application for an order under this section, any matter referred to in section 32 (4); and
- (h) where the application for the order is authorised by section 35, any matter referred to in section 32 (4) (a), (b) or (d).

(7) An order made under subsection (4) shall have effect according to its tenor.

(8) Where the Supreme Court is of the opinion that an order should not be made under subsection (4)—

- (a) it may, upon application made by any person entitled to appear and be heard on the hearing of the application made under subsection (1) or of its own motion, direct that the application be treated as an application for an order under section 51; and
- (b) where it makes such a direction—
 - (i) the application the subject of the direction shall be deemed to be made under section 51 by a person entitled to make the application; and
 - (ii) the applicant under subsection (1), as well as any other person entitled to appear and be heard under section 51, is entitled to appear and be heard on the hearing of the application.

(9) The costs of any proceedings under this section pursuant to an application made under section 32 which, under section 32 (7) or under sections 32 (7) and 51 (8), is treated as an application for an order under this section shall be payable by the resuming authority, unless the Supreme Court otherwise orders.

(10)

(10)

Strata Titles.

(10) The Supreme Court may, from time to time, vary any order made under subsection (4) on the application of any person entitled to appear and be heard on the hearing of the application for that order. No. 68, 1973

51. (1) An application to the Supreme Court for an order under subsection (4) may be made by— Termination
of strata
scheme.

- (a) any proprietor, registered mortgagee or enrolled mortgagee of a lot the subject of a strata scheme; or
- (b) the body corporate.

(2) Notice of an application under subsection (1) shall be served, in accordance with the rules of court, on—

- (a) every person referred to in subsection (1), other than the applicant;
- (b) the local council;
- (c) the Registrar-General; and
- (d) such other persons (including creditors of the body corporate) as the Supreme Court may direct.

(3) The applicant and any person referred to in subsection (2) (whether or not he has been served with a notice of the application) shall be entitled to appear and be heard on the hearing of the application.

(4) The Supreme Court may, on an application made under subsection (1), make an order terminating the strata scheme concerned.

(5) An order made under subsection (4) shall take effect—

- (a) except as provided in paragraph (b), on such day as may be specified in the order; or
- (b) where it is made pursuant to an application made under section 32 which, under section 32 (7) or under sections 32 (7) and 50 (8), is treated as an application for an order under this section, pursuant to an application under subsection (1) in relation to a proposed resumption of all the lots and all the common property the subject of a strata **scheme**

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scheme or pursuant to an application authorised by section 35, on the day on which the resumption referred to in the order takes effect.

(6) An order made under subsection (4) shall include directions for or with respect to the following matters :—

- (a) the sale or disposition of any property of the body corporate;
- (b) the discharge of the liabilities of the body corporate;
- (c) the persons liable to contribute moneys required for the discharge of the liabilities of the body corporate and the proportionate liability of each such person;
- (d) the distribution of the assets of the body corporate and the proportionate entitlement of each person under that distribution;
- (e) the administration, powers, authorities, duties and functions of the body corporate;
- (f) the voting power at meetings of the body corporate of persons referred to in paragraph (c) or (d);
- (g) any matter in respect of which it is, in the opinion of the Supreme Court, just and equitable, in the circumstances of the case, to make provision in the order; and
- (h) the winding up of the body corporate (including the appointment, powers, authorities, duties and functions of any person to carry out the winding up).

(7) Upon an order under this section taking effect—

- (a) the estate or interest of the former proprietors in that part of the former parcel which consisted of common property vested in the body corporate as agent for the former proprietors vests in the body corporate as principal, subject only to any estate or interest recorded on the folio of the Register, or on any registered lease or registered sub-lease,

evidencing

Strata Titles.

evidencing the estate or interest of the body corporate in that common property or on the relevant folio of the Register constituted under section 22 (3);

- (b) the estates or interests of every person in that part of the former parcel which did not consist of common property vest in the body corporate as principal, subject only to any estate or interest recorded on—
- (i) the folio of the Register evidencing the estate or interest of the body corporate in the common property comprised in that former parcel; or
 - (ii) on the relevant folio of the Register constituted under section 22 (3),

to the extent that the estate or interest so recorded was capable of affecting any former lot;

- (c) the persons who, immediately the order took effect, were proprietors of lots the subject of the strata scheme concerned cease to be proprietors of lots the subject of that scheme; and
- (d) the persons whose estates or interests are divested by paragraph (b) have instead such rights and liabilities as are conferred or imposed upon them by the order.

(8) The provisions of an order made under this section shall have effect notwithstanding any provision of this Act, other than this section.

(9) An order made under subsection (4) shall have effect according to its tenor.

(10) Where the Supreme Court is of the opinion that an order should not be made under subsection (4)—

- (a) it may, upon application made by any person entitled to appear and be heard on the hearing of the application made under subsection (1) or of its own motion, direct that the application be treated as an application for an order under section 50; and
- (b)

*Strata Titles.*No. 68, 1973

(b) where it makes such a direction—

- (i) the application the subject of the direction shall be deemed to be an application made under section 50 by a person entitled to make the application; and
- (ii) the applicant under subsection (1), as well as any other person entitled to appear and be heard under section 50, is entitled to appear and be heard on the hearing of the application.

(11) The costs of any proceedings under this section—

- (a) pursuant to an application made under section 32 which, under section 32 (7) or under sections 32 (7) and 50 (8), is treated as an application for an order under this section; or
- (b) pursuant to an application under subsection (1) in relation to a proposed resumption of all the lots and all the common property the subject of a strata scheme,

shall be payable by the resuming authority, unless the Supreme Court otherwise orders.

(12) The Supreme Court may, from time to time, vary any order made under subsection (4) on the application of any person who was entitled to appear and be heard on the hearing of the application for that order.

Interchange-
ability of
notices.**52.** Any notice served under section 32, 50 or 51 shall, where it relates to an application which is required to be treated as an application under another of those sections, be deemed to be a notice served under that other section.Conse-
quences
of making
an order
under
section 50
or 51.**53.** (1) Except as provided in section 48 (2), upon receipt of a certified or office copy of the minute of an order made under section 50 or 51, the Registrar-General shall make appropriate recordings in the Register of the effect of the order.

(2)

Strata Titles.

(2) Where, pursuant to the receipt of a certified or office copy of the minute of an order made under section 51, the Registrar-General has made recordings in accordance with subsection (1)—

- (a) the folio of the Register of which the body corporate is registered as proprietor becomes the registered title of the former parcel; and
- (b) the Registrar-General shall, as soon as practicable after making the recordings, cancel each folio of the Register which evidences title to a lot the subject of the strata scheme.

PART IV.

MANAGEMENT.

DIVISION 1.—*Bodies Corporate.*

54. (1) The proprietors of the lots from time to time the subject of a strata scheme constitute a body corporate under the name "The Proprietors—Strata Plan No. (the number to be specified being the registered number of the strata plan to which that strata scheme relates).

Constitution
of bodies
corporate.

(2) The Companies Act, 1961, does not apply to or in respect of a body corporate constituted under this Act.

(3) In respect of any strata scheme, the body corporate shall have the powers, authorities, duties and functions conferred or imposed on it by or under this Act, or the by-laws and, subject to this Act, shall have the control, management and administration of the common property.

(4) Notwithstanding the provisions of section 51, a body corporate for a strata scheme which has been terminated under that section continues in existence until it is wound

up

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No. 68, 1973 up in accordance with the order made under that section and, while it so continues in existence, is constituted of the persons referred to in section 51 (6) (c) and (d).

Seal of body corporate. **55.** (1) The common seal of a body corporate shall be kept—

- (a) where the body corporate is constituted by one proprietor—by that proprietor; or
- (b) where the body corporate is constituted by two or more proprietors—by such proprietor or member of the council as the body corporate determines or, in the absence of any such determination, by the secretary of the council.

(2) The common seal of the body corporate shall only be affixed to an instrument or document in the presence of—

- (a) where the body corporate is constituted by one or two proprietors—that proprietor or those proprietors, as the case may be; or
- (b) where the body corporate is constituted by more than two proprietors—such two persons, being proprietors or members of the council, as the body corporate determines or, in the absence of any such determination—the secretary and any other member of the council,

who shall attest the fact and date of the affixing of the seal by their signatures.

(3) Notwithstanding subsections (1) and (2), a managing agent shall, for the purpose of exercising or performing any of his powers, authorities, duties or functions, be entitled to have the custody of the common seal of the body corporate and to affix it to any instrument or document and, where he so affixes it, shall attest the fact and date of the affixing of the seal by his signature.

Strata Titles.

56. Sections 38 (I) (d) and 38 (II) of the Interpretation Act, 1897, do not apply to a body corporate.

Certain provisions of Interpretation Act, 1897, not to apply to bodies corporate.

57. (1) Within one month after the expiration of the initial period, the original proprietor, whether or not he is a proprietor at the time he does so, shall, in the prescribed manner, convene a meeting of the body corporate to be held within that month.

Meetings of body corporate.

Penalty : \$1,000.

(2) The agenda for a meeting convened under subsection (1) shall consist of the following items :—

- (a) to decide whether insurances effected by the body corporate should be confirmed, varied or extended ;
- (b) to decide whether any amounts determined under section 68 (1) (j) and (k) should be confirmed or varied ;
- (c) where there are more than three proprietors, to determine the number of members of the council and to elect the council ;
- (d) to decide what matters, if any, shall be restricted matters for the purposes of section 75 ; and
- (e) to decide whether the by-laws in force immediately before the holding of the meeting should be amended, added to or repealed.

(3) The meeting convened under subsection (1) shall be the first annual general meeting of the body corporate.

(4) An original proprietor shall not fail or neglect to deliver to the body corporate at its first annual general meeting—

- (a) all plans, specifications, certificates (other than certificates of title for lots), diagrams and other documents (including policies of insurance) obtained

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obtained or received by him and relating to the parcel or building; and

- (b) if they are in his possession or under his control, the certificate of title for the common property, the strata roll, the books of account and any notices or other records relating to the strata scheme,

other than any such documents which exclusively evidence rights or obligations of the original proprietor and which are not capable of being used for the benefit of the body corporate or any of the proprietors, other than the original proprietor.

Penalty : \$1,000.

(5) Schedule 2 applies to and in respect of meetings of, and voting at meetings of, the body corporate, other than the first annual general meeting.

By-laws.

58. (1) Except as provided in this section the by-laws set forth in Schedule 1 shall be the by-laws in force in respect of each strata scheme.

(2) Except as provided in subsection (7) or (11), a body corporate, pursuant to a special resolution, may, for the purpose of the control, management, administration, use or enjoyment of the lots or the lots and common property the subject of the strata scheme concerned, make by-laws amending, adding to or repealing the by-laws set forth in Schedule 1 or any by-laws made under this subsection.

(3) An amendment of, addition to or repeal of the by-laws has no force or effect until the Registrar-General has, pursuant to a notification in the prescribed form lodged in his office by the body corporate, recorded the notification on the folio of the Register comprising the common property.

(4) A lease of a lot or common property shall be deemed to contain an agreement by the lessee that he will comply with the by-laws for the time being in force.

(5)

Strata Titles.

(5) Without limiting the operation of any other **No. 68, 1973** provision of this Act, the by-laws for the time being in force bind the body corporate and the proprietors and any mortgagee in possession (whether by himself or any other person), or lessee or occupier, of a lot to the same extent as if the by-laws had been signed and sealed by the body corporate and each proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of the by-laws.

(6) No amendment of or addition to a by-law shall be capable of operating to prohibit or restrict the devolution of a lot or a transfer, lease, mortgage, or other dealing therewith.

(7) Without limiting the generality of any other provision of this section, a body corporate may, with the consent in writing of the proprietor of a lot, pursuant to a unanimous resolution make a by-law in respect of that lot conferring on that proprietor the exclusive use and enjoyment of, or special privileges in respect of, the common property or any part thereof upon such terms and conditions (including the proper maintaining and keeping in a state of good and serviceable repair of the common property or that part of the common property, as the case may be, and the payment of money by that proprietor to the body corporate) as may be specified in the by-law.

(8) Any by-law referred to in subsection (7) shall, while it remains in force, enure as appurtenant to, and for the benefit of, the lot in respect of which it was made.

(9) The proprietor for the time being of a lot in respect of which a by-law referred to in subsection (7) is in force—

- (a) is, subject to section 70 (3), liable to pay to the body corporate any moneys referred to in the by-law in accordance with the by-law; and

(b)

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(b) is, unless excused by the by-law, responsible for the performance of the duty of the body corporate under section 68 (1) (b) (i) in respect of the common property, or the part of the common property, to which the by-law relates.

(10) Any moneys payable by a proprietor to the body corporate under a by-law referred to in subsection (7) may be recovered, as a debt, by the body corporate in any court of competent jurisdiction.

(11) Where an order made under Division 4 of Part V has effect as if its terms were a by-law, that by-law shall not be capable of being amended, added to or repealed except by a by-law made pursuant to a unanimous resolution.

Levies
by body
corporate
on pro-
priators.

59. (1) A body corporate may levy the contributions determined by it in accordance with section 68 (1) (j) and (k) and contributions referred to in section 68 (1) (p) by serving on the proprietors notice in writing of the contributions payable by them in respect of their respective lots.

(2) A notice under subsection (1) levying a contribution to the sinking fund shall indicate each specific purpose for which the contribution is levied and the portion of the contribution levied for each such purpose.

(3) Contributions levied by a body corporate shall be levied in respect of each lot and shall be payable, subject to this section, by the proprietors in shares proportional to the unit entitlements of their respective lots.

(4) In respect of any contribution levied under subsection (1) a proprietor of a lot is, subject to section 70 (3), liable, jointly and severally with any person who was liable to pay that contribution when that proprietor became the proprietor of that lot, to pay such part of that contribution as was unpaid when he became the proprietor of that lot.

(5)

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(5) Regular periodic contributions to the administrative fund of a body corporate referred to in section 68 (4) shall be deemed to have been duly levied on a proprietor of a lot notwithstanding that notice levying the contributions was not served on him. No. 68, 1973

(6) Without affecting the liability of a proprietor of a lot in respect of any contribution levied under this section, where a mortgagee is in possession (whether by himself or any other person) of a lot he shall be liable jointly and severally with the proprietor of the lot of which he is in possession for any contribution levied on that proprietor in accordance with this Act but shall not be so liable in respect of any such contribution (other than regular periodic contributions to the administrative fund referred to in section 68 (4)) unless notice in writing of the levy of the contribution has been served on him.

(7) Any contribution levied under this section—

- (a) becomes due and payable to the body corporate in accordance with the decision of the body corporate to make the levy ;
- (b) if not paid when it becomes due and payable bears interest at the rate of ten per centum per annum simple interest, unless, pursuant to a special resolution, the body corporate determines (either generally or in a particular case) that an unpaid contribution shall bear no interest or interest at a lesser rate; and
- (c) may be recovered, as a debt, by the body corporate in any court of competent jurisdiction.

60. (1) Where a notice has been served on the proprietor of a lot by a public authority or local council requiring that proprietor to carry out any work on or in relation to that lot and the notice is not complied with the body corporate may carry out the work. Power of body corporate to carry out work.

(2)

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(2) Where a proprietor, mortgagee in possession, lessee or occupier of a lot fails or neglects to carry out any work—

- (a) required to be carried out by him under a term or condition of a by-law referred to in section 58 (7); or
- (b) necessary to remedy a breach of the duty imposed on him by section 80 (a),

the body corporate may carry out that work.

(3) Where the body corporate carries out any work on or in relation to a lot or common property pursuant to subsection (1) or (2), it may, subject to section 70 (3), recover the cost of so doing, as a debt—

- (a) from the proprietor, mortgagee in possession, lessee or occupier referred to in subsection (1) or (2); or
- (b) where the work is carried out pursuant to—
 - (i) subsection (1) or (2) (b), from any person who, after the work is carried out, becomes the proprietor of the lot on or in relation to which the work was carried out; or
 - (ii) subsection (2) (a), from any person who, after the work is carried out, becomes the proprietor of the lot in respect of which the by-law referred to in subsection (2) (a) was made.

(4) Where an order has been made under Part V and the order is not complied with, the body corporate may carry out any work specified in the order and recover from the person against whom the order was made the cost of so doing, as a debt, in any court of competent jurisdiction.

(5) Where—

- (a) any part of a building comprised in a lot contains any structural defect which affects or is likely to affect the support or shelter provided by that lot for another lot in that building or the common property ; or

(b)

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- (b) any defect occurs in any pipes, wires, cables or ducts referred to in section 80 (a) (ii) within a lot, No. 68, 1973

and the defect is not due to any breach of the duty imposed on any person by section 80 (a), the body corporate may, at its own expense, carry out such work as is necessary to rectify the defect.

61. (1) A body corporate may, in general meeting, decide that the address, as recorded on the folio of the Register comprising the common property, for the service of notices on the body corporate shall be changed. Change of body corporate's address.

(2) Where—

- (a) a body corporate has, under subsection (1), decided that the address for the service of notices on it shall be changed;
- (b) notice in the prescribed form of the change of address has been lodged in the office of the Registrar-General; and
- (c) the Registrar-General has made such recording on the folio of the Register comprising the common property as he considers appropriate,

the address for service of notices on the body corporate shall, notwithstanding any other provision of this Act, be the address recorded on that folio.

62. (1) Subject to subsections (2) and (4), whenever a body corporate is of the opinion that the moneys standing to the credit of the administrative fund or the sinking fund exceed the amount required for the purposes of either such fund, the body corporate may, pursuant to a unanimous resolution, distribute the surplus to the proprietors in shares proportional to the unit entitlements of their respective lots. Distribution of surplus moneys in administrative fund, sinking fund or general account.

AND

(2)

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(2) Where a lot is subject to a mortgage shown on the strata roll, any moneys that but for this subsection would be paid under subsection (1) to the proprietor of that lot shall be paid—

- (a) where the mortgagee furnishes to the body corporate a consent in writing executed by the proprietor and any other enrolled mortgagee of that lot for the payment to be made to the firstmentioned mortgagee—to the firstmentioned mortgagee ; or
- (b) where the proprietor furnishes to the body corporate a consent in writing executed by each enrolled mortgagee of that lot for the payment to be made to the proprietor—to the proprietor.

(3) Where a body corporate has passed a unanimous resolution referred to in subsection (1) and neither the proprietor of a lot the subject of a mortgage shown on the strata roll nor any enrolled mortgagee of that lot has executed a consent referred to in subsection (2) (a) or (b), the proprietor or any such enrolled mortgagee may make an application to the appropriate court for an order under subsection (4).

(4) The appropriate court may, on an application made under subsection (3), make an order for the payment of the moneys referred to in the application—

- (a) to the proprietor referred to in the application ;
- (b) to any enrolled mortgagee; or
- (c) to the proprietor so referred to and any enrolled mortgagee in such proportions as are specified in the order,

as to the court seems just, and the body corporate shall, upon receipt of a certified or office copy of the minute of the order, pay the moneys in accordance with the order of the court.

(5) Subject to subsections (6), (8) and (9) and to any agreement made under section 63, a body corporate may,

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may, pursuant to a unanimous resolution, from time to time **distribute** any moneys in its general account to the proprietors **in** shares proportional to the unit entitlements of their **respective** lots. No. 68, 1973

(6) A body corporate shall not distribute any moneys in its general account—

- (a) unless it has served on each proprietor and enrolled mortgagee notice in writing informing them of the amount standing to the credit of the general account and of the amount which the body corporate has, pursuant to the unanimous resolution, decided to distribute and that he is entitled, within twenty-one days after the service on him of the notice, to apply to the appropriate court for an order under subsection (9) for the distribution of the amount proposed to be distributed and a period of twenty-one days has elapsed since the last such notice was served on a proprietor or enrolled mortgagee; or
- (b) if a proprietor or enrolled mortgagee has, within a period of twenty-one days after the service on him of such a notice, applied for an order under subsection (9) and has within that period given notice in writing to the body corporate that he has applied for such an order, until the application for the order has been dealt with or withdrawn.

(7) A proprietor or enrolled mortgagee of a lot the subject of a strata scheme may, within twenty-one days after the service on him of a notice under subsection (6) (a), make an application to the appropriate court for an order under subsection (9).

(8) Where, in respect of any moneys in its general account, a body corporate has complied with subsection (6) (a) and—

- (a) the body corporate has not been given a notice under subsection (6) (b) by any proprietor or mortgagee; or

(b)

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- No. 68, 1973 (b) an application made by each person who has given such a notice has been withdrawn,

it shall distribute, among the proprietors in shares proportional to the unit entitlements of their respective lots—

- (c) where the unanimous resolution referred to in subsection (5) relates to all moneys standing to the credit of the general account—those moneys; or
- (d) where that unanimous resolution relates to part of the moneys standing to the credit of that account—that part.

(9) The appropriate court may, on an application made under subsection (7), make an order for the distribution of the moneys to which the application relates among the proprietors or mortgagees of lots the subject of the strata scheme concerned in such shares as to that court seem just and the body corporate shall, upon receipt of a certified or office copy of the minute of the order, distribute those moneys in accordance with the order of the court.

(10) A reference in this section to an appropriate court is a reference—

- (a) in the case of an application under—
- (i) subsection (3) where the amount of the payment does not exceed \$500; or
- (ii) subsection (7) where the unanimous resolution relates to the distribution of an amount not exceeding \$500,

except where the title to land is in question otherwise than incidentally—to such court of petty sessions as may be agreed upon by the applicant and the respondent or, in the absence of any such agreement, the court of petty sessions nearest to the parcel;

(b)

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(b) in the case of an application under— No. 68, 1973

(i) subsection (3) where the amount of the payment does not exceed \$500; or

(ii) subsection (7) where the unanimous resolution relates to the distribution of an amount not exceeding \$500,

and the title to land is in question otherwise than incidentally—to the District Court of New South Wales;

(c) in the case of an application under—

(i) subsection (3) where the amount of the payment exceeds \$500 but does not exceed \$10,000; or

(ii) subsection (7) where the unanimous resolution relates to the distribution of an amount exceeding \$500 but not exceeding \$10,000,

except where the title to land is in question otherwise than incidentally—to the District Court of New South Wales; and

(d) in any other case, to the Supreme Court.

63. A body corporate may, pursuant to a unanimous resolution, make an agreement with a proprietor with respect to the payment to him of the whole or any part of the consideration under any transaction proposed to be entered into by the body corporate under Division 2 of Part II or of any moneys payable to the body corporate under a by-law referred to in section 58 (7). Agreement for payment to a proprietor of consideration on transfer or lease of common property.

64. (1) For the purpose of carrying out— Power of entry.

(a) pursuant to section 60 (1), (2), (4) or (5), any work;

(b)

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- No. 68, 1973
- (b) any work referred to in section 68 (1) (b) or (c) ;
or
 - (c) any work necessary to repair or renew any pipes,
wires, cables or ducts referred to in section 80 (a)
(ii),

the body corporate may, by its agents, servants or contractors, enter upon any part of the parcel for the purpose of carrying out the work—

- (d) in the case of an emergency, at any time ; or
- (e) in any other case, at any reasonable time on notice given to any occupier of that part of the parcel.

(2) A person shall not obstruct or hinder a body corporate in the exercise of its power under subsection (1).

Penalty : \$200.

Miscellaneous powers of body corporate.

65. A body corporate may—

- (a) invest any moneys in its administrative fund or sinking fund in any manner permitted by law for the investment of trust funds or in any prescribed investment;
- (b) borrow moneys and secure the repayment thereof and of any interest in such manner as may be agreed upon by the body corporate and the lender, otherwise than by charging the repayment on the common property; and
- (c) enter into an agreement with a proprietor or occupier of a lot for the provision of amenities or services by it to the lot or to the proprietor or occupier thereof.

Statutory restrictions on powers of bodies corporate.

66. (1) Notwithstanding any other provision of this Act, a body corporate shall not, during the initial period—

- (a) amend, add to or repeal the by-laws in such a manner that a right is conferred or an obligation

is

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is imposed on one or more, but not all, proprietors No. 68, 1973
or in respect of one or more, but not all, lots;

- (b) alter any common property forming part of the building or erect any structure on the common property;
- (c) borrow moneys or give securities; or
- (d) appoint a managing agent to hold office as such for a period extending beyond the expiration of the initial period,

unless the doing of that thing is authorised by an order under section 67.

(2) Without affecting any other remedy available against the original proprietor, if a body corporate contravenes subsection (1), the original proprietor is liable for any loss suffered by the body corporate or any proprietor as a result of the contravention and the body corporate or any proprietor may recover from the original proprietor, as damages for breach of a statutory duty, any loss suffered by it or him.

67. (1) An application to the Supreme Court for an order under subsection (4) may be made by the body corporate or, where the application relates to a proposed subdivision of a lot, by the original proprietor.

Supreme Court's power to authorise certain acts during initial period.

(2) Notice of an application under subsection (1) shall be served, in accordance with the rules of court, on—

- (a) the body corporate and the proprietor of every lot the subject of the strata scheme concerned, unless it or he is the applicant;
- (b) the registered mortgagee and enrolled mortgagee of every such lot; and
- (c) such other persons as the Supreme Court may direct.

(3)

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(3) The applicant and any person referred to in subsection (2) (whether or not he has been served with a notice of the application) shall be entitled to appear and be heard on the hearing of the application.

(4) The Supreme Court may, on an application made under subsection (1), make an order authorising—

(a) the registration of—

(i) a plan as a strata plan of subdivision, notwithstanding that the certificate of the local council referred to in section 9 (3) (b) was given during the initial period;

(ii) a notice as a notice of conversion, notwithstanding that the certificate of the local council referred to in section 13 (2) (a) was given during the initial period; or

(iii) a dealing referred to in section 28 (3), notwithstanding that the resolution authorising the execution of the dealing was passed during the initial period; or

(b) the doing of any thing referred to in section 66 (1), notwithstanding that the decision of the body corporate to do that thing was made during the initial period.

Duties
of body
corporate.

68. (1) A body corporate shall, for the purposes of the strata scheme concerned—

(a) control, manage and administer the common property for the benefit of the proprietors;

(b) properly maintain and keep in a state of good and serviceable repair—

(i) the common property; and

(ii) any personal property vested in the body corporate;

(c)

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-
- (c) where necessary, renew or replace any fixtures or fittings comprised in the common property and any personal property vested in the body corporate; No. 68, 1973
- (d) cause to be constructed and maintained at or near the street alignment of the parcel a receptacle suitable for the receipt of mail and other documents with the name of the body corporate clearly shown thereon;
- (e) effect insurance in accordance with Division 5;
- (f) cause proper records to be kept of notices given to the body corporate under this or any other Act, of any orders under Part V served on the body corporate and of any orders made by a court and served on the body corporate;
- (g) cause proper books of account to be kept in respect of moneys received or expended by the body corporate showing the items in respect of which the moneys were received or expended;
- (h) cause to be prepared, from the books referred to in paragraph (g), a proper statement of accounts of the body corporate in respect of each period commencing on the date of registration of the strata plan or the date up to which the last previous such statement was prepared and ending on a date not earlier than one month before each annual general meeting;
- (i) convene annual general meetings in accordance with clause 1 (1) of Schedule 2;
- (j) not later than seven days after the constitution of the body corporate and from time to time thereafter, determine the amounts necessary in its opinion to be raised by way of contributions for the purpose of meeting its actual or expected liabilities incurred or to be incurred under paragraph (b) or for the payment of insurance premiums or any other liability of the body corporate, other than amounts referred to in paragraph (k) or (p);

(k)

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- No. 68, 1973
- (k) from time to time after the expiration of one month after the constitution of the council or one year after the constitution of the body corporate, whichever first happens, determine the amounts necessary in its opinion to be raised by way of contribution for the purpose of meeting its actual or expected liabilities—
- (i) for painting or repainting any part of the common property which is a building or other structure;
 - (ii) for the acquisition of any personal property;
 - (iii) under paragraph (c); and
 - (iv) for any other expenditure, other than expenditure to meet a liability referred to in paragraph (j) or (p);
- (l) upon determining the amounts referred to in paragraph (j), establish, as its administrative fund, a fund for the depositing therein of those amounts, the proceeds of the sale or other disposal of any personal property of the body corporate and any fees received by it under section 70;
- (m) upon determining the amounts referred to in paragraph (k), establish, as its sinking fund, a fund for the depositing therein of those amounts;
- (n) from time to time, levy, in accordance with section 59, on each person liable therefor a contribution to raise the amounts referred to in paragraphs (j) and (k);
- (o) whenever it receives any moneys, other than contributions levied on proprietors, pay those moneys into an account established, as its general account, in a bank in the name of the body corporate separate from any account in which any other moneys of the body corporate are kept;

(p)

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- (p) if the body corporate becomes liable to pay any moneys and is not required, under paragraph (n), to levy contributions to meet that liability, forthwith levy, in accordance with section 59, contributions to raise those moneys; and
- (q) implement the decisions of the body corporate.

(2) A body corporate shall not disburse any moneys—

- (a) except as provided in paragraph (b)—
- (i) from its administrative fund, otherwise than for the purpose of meeting its liabilities referred to in subsection (1) (j) or in accordance with section 62 ;
 - (ii) from its sinking fund, otherwise than for the purpose of meeting its liabilities referred to in subsection (1) (k) or in accordance with section 62 ; or
 - (iii) from its general account, otherwise than in accordance with section 62 ; or
- (b) from its administrative fund, its sinking fund or its general account, otherwise than for the purpose of carrying out its powers, authorities, duties and functions under this Act or the by-laws or meeting any liability referred to in subsection (1) (p).

(3) A body corporate which disburses any moneys from its general account for the purpose of meeting any liability referred to in subsection (1) (j) or (k) shall recoup the general account from contributions levied under section 59 as if those contributions were contributions to the sinking fund.

(4) A determination made by a body corporate under subsection (1) (j) may specify that the amounts to be raised for the purposes referred to in subsection (1) (j) shall be raised by such regular periodic contributions as may be specified in the determination.

(5)

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No. 68, 1973 (5) If a body corporate fails or neglects to convene an annual general meeting within the period required by subsection (1) (i), the annual general meeting held next after the expiration of that period shall be an annual general meeting of the body corporate.

Strata roll. **69.** (1) A body corporate shall prepare and maintain a roll in accordance with this section.

(2) The roll shall be kept in the form of a book (either bound or loose-leaf) which shall contain one or more pages in respect of each lot the subject of the strata scheme concerned.

(3) The body corporate shall record the following information on a page of the roll relating to the lot to which the information relates—

- (a) the unit entitlement of the lot, as shown from time to time on copies of schedules of unit entitlement forwarded under section 49 (3) and received by the body corporate;
- (b) the name and address of the original proprietor, as shown on the folio of the Register comprising the lot upon registration of the strata plan and the name of and address for the service of notices on the proprietor of that lot as shown in notices given to the body corporate under section 81 (2) and (9);
- (c) the name of any mortgagee of the lot notice of whose mortgage has been given to the body corporate under section 81 (3), the address for the service of notices on him as shown in that notice and any other mortgages which are specified in that notice as having priority over his mortgage;
- (d) the discharge, transfer, assignment or sub-mortgage of any mortgage, referred to in paragraph (c), as shown in a notice given to the body corporate under section 81 (4) or (5) and, except in the case of

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- a discharge, the address for the service of notices on the transferee, assignee or sub-mortgagee as shown in that notice; No. 68, 1973
- (e) the entry into possession of the lot by a mortgagee as shown in a notice given to the body corporate under section 81 (6);
 - (f) the name and address of any lessee of the lot notice of the granting of whose lease has been given to the body corporate under section 81 (7) and the address for the service of notices on the lessor and lessee as shown in that notice;
 - (g) the termination or assignment of any lease, referred to in paragraph (f), as shown in a notice given to the body corporate under section 81 (8) and, in the case of an assignment, the name of the assignee and the address for the service of notices on him as shown in that notice;
 - (h) the name of any person who has become entitled, otherwise than as a transferee, to the lot, and notice of whose entitlement has been given to the body corporate under section 81 (9) and the address for the service of notices on him as shown in that notice; and
 - (i) the address for the service of notices on any person as shown in a notice given to the body corporate under section 81 (1).

70. (1) A body corporate shall, upon application made to it in writing in respect of a lot the subject of the strata scheme concerned by a proprietor or mortgagee of that lot or by a person authorised in writing by such a proprietor or mortgagee and on payment of the prescribed fee, do such one or more of the following things as are required of it in the application—

Supply of information and certificates by body corporate.

- (a) inform the applicant of the name and address of each person who is a member of the council and of any person who has been appointed under section 78 or 127 as managing agent;

(b)

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(b) make available for inspection by the applicant or his agent—

- (i) the strata roll;
- (ii) the notices and orders referred to in section 68 (1) (f);
- (iii) the plans, specifications, certificates, diagrams and other documents delivered under section 57 (4);
- (iv) if in its custody or under its control, the certificate of title comprising the common property;
- (v) the minutes of general meetings of the body corporate and of the council;
- (vi) the books of account of the body corporate;
- (vii) a copy of the statement of accounts of the body corporate last prepared by the body corporate in accordance with section 68 (1) (h);
- (viii) every current policy of insurance effected by the body corporate and the receipt for the premium last paid in respect of each such policy; and
- (ix) any other record or document in the custody or under the control of the body corporate,

at such time and place as may be agreed upon by the applicant or his agent and the body corporate and, failing agreement, at the parcel at a time and on a date fixed by the body corporate under subsection (2); or

(c)

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(c) certify, as at the date of the certificate, in respect of the lot in respect of which the application is made—

- (i) the amount of any regular periodic contributions determined by the body corporate under section 68 (1) (j) and (4) and the periods in respect of which those contributions are payable;
- (ii) whether there is any amount unpaid of any contribution determined under section 68 (1) (j) and of any contribution determined by the body corporate under section 68 (1) (k) and, if so, the amount thereof and, in the case of a contribution levied under section 68 (1) (k), the date on which any such contribution was levied;
- (iii) whether there is any amount unpaid of any contribution levied under section 68 (1) (p) and, if so, the amount thereof and the date on which it was levied;
- (iv) whether there is any amount unpaid by a proprietor under a by-law referred to in section 58 (7);
- (v) whether there is any amount unpaid of any contribution levied under section 150 (2) and, if so, the amount thereof and the date on which it was levied;
- (vi) whether there is any amount recoverable from the proprietor of that lot under section 60 (3) or (4) and, if so, the amount thereof; and
- (vii) any amount and rate of interest payable under section 59 (7) in respect of any unpaid contribution referred to in this paragraph.

(2)

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(2) Where an applicant and a body corporate fail to reach an agreement referred to in subsection (1) (b) within three days after the receipt of the application by the body corporate, the body corporate shall forthwith send by post to the applicant a notice fixing a time, specified in the notice, between nine o'clock in the morning and eight o'clock in the night on a date so specified, being a date not later than ten days after the receipt of the application by the body corporate for the making of the inspection referred to in subsection (1) (b).

(3) In favour of a person taking for valuable consideration an estate or interest in any lot a certificate given under subsection (1) (c) by the body corporate in respect of that lot is conclusive evidence, as at the date of the certificate, of the matters stated therein.

DIVISION 2.—*Councils.*

**Constitution
of councils.**

71. (1) After the first annual general meeting of a body corporate, there shall be a council.

(2) Where there are not more than three proprietors the council shall consist of those proprietors or their respective nominees.

(3) Where there are more than three proprietors, the council shall consist of such number of persons, being not less than three nor more than the number of proprietors or seven, whichever is the lesser, as is determined by the body corporate.

(4) The members of a council referred to in subsection (3) shall be elected at each annual general meeting of the body corporate or, if the number of proprietors increases to more than three, at an extraordinary general meeting convened for the purpose.

(5)

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(5) A person shall not be eligible for election as a member of a council unless he is a proprietor or a person nominated for election by a proprietor who is not a candidate for election. **No. 68, 1973**

(6) A member of a council may, with the consent of the council, appoint a proprietor to act in his place as a member of the council at any meeting of the council and any proprietor so appointed shall, when he is so acting, be deemed to be a member of the council.

(7) A proprietor may be appointed under subsection (6) whether or not he is a member of the council.

(8) If a person appointed under subsection (6) is a member of the council he may, at any meeting of the council, separately vote in his capacity as such a member and on behalf of the member in whose place he has been appointed to act.

72. (1) A person elected as a member of a council vacates his office as such a member—

Vacation
of office
of member
of council.

- (a) if, where he was a proprietor at the time of his election, he ceases to be a proprietor;
- (b) if, where he was nominated for election by a person who was a proprietor at the time of his election, that person ceases to be a proprietor or notifies the body corporate, in writing, that the office, as a member of the council, of the person so nominated is vacated;
- (c) upon the receipt by the body corporate from him of notice in writing of his resignation as a member of the council;

(d)

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- (d) upon the election of the members of the council at the annual general meeting next following his election as a member of the council;
- (e) where he is a member referred to in section 71 (2) and the number of proprietors increases to more than three, upon the election of the members of the council at the annual general meeting, or the extraordinary general meeting referred to in section 71 (4); or
- (f) if the body corporate, pursuant to a special resolution, determines that his office as a member of the council is vacated.

(2) Upon the occurrence of a vacancy in the office of a member of a council, otherwise than by reason of subsection (1) (d) or (e), the body corporate shall appoint a person eligible for election as a member of the council to fill the vacancy, and any person so appointed shall, subject to this section, hold office for the balance of his predecessor's term of office.

**Chairman,
secretary
and
treasurer of
council.**

73. (1) The members of a council shall, at the first meeting of the council after they assume office as such members, appoint a chairman, a secretary and a treasurer of the council.

(2) A person—

- (a) shall not be appointed to an office referred to in subsection (1) unless he is a member of the council; and
- (b) may be appointed to one or more of those offices.

(3) A person appointed to an office referred to in subsection (1) shall hold office until—

- (a) he ceases to be a member of the council; or
- (b) another person is appointed by the council to hold that office,

whichever first happens.

(4)

Strata Titles.

(4) The chairman shall preside at all meetings of the council at which he is present and, if he is absent from any such meeting, the members of the council present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairman. **No. 68, 1973**

(5) A person shall not exercise or perform any of the powers, authorities, duties or functions of the body corporate or the treasurer of the body corporate, being powers, authorities, duties or functions relating to the receipt or expenditure of, or accounting for, moneys, or the keeping of the books of account, of the body corporate, unless he is—

- (a) a member of the body corporate or of the council and is the treasurer of the body corporate or of the council; or
- (b) a managing agent who is empowered to exercise or perform that power, authority, duty or function.

Penalty: \$500.

74. (1) At any meeting of a council a quorum consists, where there is only one member of a council, of that member or, where there are two or more members of a council, of the majority of the members of the council. **Meetings of councils.**

(2) Subject to this Act, the decision on any matter, where there is only one member of a council, of that member or, where there are two or more members of a council, of the majority of the members voting on that matter shall be the decision of the council at any meeting at which a quorum is present.

(3) A decision of a council has no force or effect if, before that decision is made, notice in writing is given to the secretary of the council by one or more proprietors, the sum of whose unit entitlements exceeds one-half of the aggregate unit entitlement, that the making of the decision is opposed by those proprietors.

(4) A council shall cause a record of its decisions, of any notices given to its secretary under subsection (3) and full and accurate minutes of its meetings to be kept.

75.

Strata Titles.

No. 68, 1973 **75.** (1) In this section, "restricted matter", in relation to a council, means—

Council's
decisions
to be
decisions
of body
corporate.

- (a) any matter a decision on which may, in accordance with any provision of this Act or the by-laws, only be made by the body corporate pursuant to a unanimous resolution or a special resolution or in general meeting of the body corporate; and
- (b) any matter referred to in section 77 and specified in a resolution of that body corporate passed for the purposes of that section.

(2) Subject to this Act, the decision of a council on any matter, other than a restricted matter, shall be the decision of the body corporate.

(3) Notwithstanding that a council holds office, the body corporate may in general meeting continue to exercise or perform all or any of the powers, authorities, duties and functions conferred or imposed on it by this Act or the by-laws.

Statutory
restrictions
on powers
of councils.

76. (1) Unless otherwise determined pursuant to a special resolution of the body corporate or, in an emergency, authorised by the Commissioner, the council shall not, in any one case, undertake expenditure exceeding the sum obtained by multiplying the prescribed amount by the number of lots the subject of the strata scheme.

(2) Where proposed expenditure would exceed an amount calculated in accordance with subsection (1) the council shall—

- (a) submit the proposal for determination at an extraordinary general meeting of the body corporate convened for the purpose of, or for purposes which include, consideration of the proposal; and
- (b) if the proposed expenditure is in respect of work to be performed or the purchase of personal property submit at least two tenders to that meeting with the proposal.

(3)

Strata Titles.

(3) Subsection (1) does not apply to the expenditure No. 68, 1973 of moneys—

- (a) in payment of any premium of insurance effected by or on behalf of the body corporate;
- (b) to comply with a notice or order served on the body corporate by any public authority or local council; or
- (c) in discharge of any liability incurred in respect of an obligation of the body corporate authorised by the body corporate in general meeting.

77. The body corporate may in general meeting decide what matters or class of matters, if any, shall be determined only by the body corporate in general meeting.

Restrictions imposed on council by body corporate.

DIVISION 3.—*Managing Agents.*

78. (1) A council may, by instrument in writing, appoint a managing agent and may, by instrument in writing, delegate to him—

- (a) all of its powers (other than this power of delegation), authorities, duties and functions;
- (b) any one or more of its powers (other than this power of delegation), authorities, duties and functions specified in the instrument; or

(c)

No. 68, 1973

(c) all of its powers (other than this power of delegation), authorities, duties and functions except those specified in the instrument,

and may, in like manner, revoke wholly or in part the delegation.

(2) A power, authority, duty or function the exercise or performance of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised from time to time in accordance with the delegation.

(3) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise or performance of all or any of the powers, authorities, duties or functions, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under subsection (1), the council may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a managing agent while acting in the exercise of a delegation under subsection (1) has the same force and effect as if it had been done or suffered by the council and shall be deemed to have been done or suffered by the council.

(6) Where the instrument of his appointment so provides, a managing agent shall have and may exercise and perform all the powers, authorities, duties and functions of the chairman, secretary or treasurer of the council or such of those powers, authorities, duties and functions as may be specified in the instrument.

Strata Titles.

79. A person shall not accept appointment or act as managing agent unless he has lodged with the Commissioner a bond, approved by the Commissioner, in the prescribed form and for the prescribed amount given by an approved insurer and binding the insurer to make good any loss caused by the managing agent as a result of his failure duly to account to the persons entitled thereto for moneys received or held by him as managing agent.

No. 68, 1973
Managing agent to lodge bond.

Penalty: \$1,000 and \$25 for each day upon which the offence continues.

DIVISION 4.—*Proprietors and Other Occupiers of Lots.*

80. A proprietor, mortgagee in possession (whether by himself or any other person), lessee or occupier of a lot shall not—

Duties of proprietors and other occupiers of lots.

- (a) do any thing or permit any thing to be done on or in relation to that lot so that—
 - (i) any support or shelter provided by that lot for another lot or common property is interfered with; or
 - (ii) the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, heating oil and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being in the lot is interfered with;
- (b) use or enjoy that lot, or permit that lot to be used or enjoyed, in such a manner or for such a purpose as to cause a nuisance or hazard to the occupier of any other lot (whether that person is a proprietor or not); or

(c)

Strata Titles.

- No. 68, 1973** (c) use or enjoy the common property in such a manner or for such a purpose as to interfere unreasonably with the use or enjoyment of the common property by the occupier of any other lot (whether that person is a proprietor or not) or by any other person entitled to the use and enjoyment of the common property.

Notices to
be given by
proprietors
and
mortgagees.

81. (1) An original proprietor and any person who, under this section, has given notice of an address for the service of notices on him may give notice in writing to the body corporate of an address or change of address for the service of notices on him.

(2) After the delivery to a disponent of an executed transfer of a lot, the disponent may give to the body corporate written notice of the transfer which shall identify the lot and—

- (a) specify the name of the disponent in full and the address for the service of notices on the disponent and the date upon which the transfer was so delivered; and
- (b) bear written confirmation by the disponent of the accuracy of the information contained in the notice.

(3) After the delivery to a mortgagee of an executed mortgage of a lot, the mortgagee may give to the body corporate written notice of the mortgage which shall identify the lot and—

- (a) specify the name of the mortgagee in full and the address for the service of notices on the mortgagee and the date on which the mortgage was so delivered;
- (b) specify any mortgages of the lot which have priority over the mortgage referred to in the notice; and

(c)

Strata Titles.

- (c) bear written confirmation by the mortgagor of the **No. 68, 1973** accuracy of the information contained in the notice.

(4) After the delivery to a mortgagor of a discharge of a mortgage of a lot or a discharge of a sub-mortgage of a mortgage of a lot, the mortgagor may give to the body corporate written notice of the discharge which shall identify the lot and the mortgage that has been discharged and—

- (a) specify the date on which the discharge was so delivered; and
(b) bear written confirmation by the mortgagee of the discharge of the mortgage.

(5) After the delivery by a mortgagee of a dealing, being a transfer or sub-mortgage of a mortgage of a lot, the transferee or sub-mortgagee may give to the body corporate written notice of the dealing which shall identify the lot and—

- (a) specify the name of the transferee or sub-mortgagee in full and the address for the service of notices on the transferee or sub-mortgagee and the date on which the transfer or sub-mortgage was so delivered; and
(b) bear written confirmation by the transferor or sub-mortgagor of the information contained in the notice.

(6) After the entry into possession of a lot by a mortgagee, the mortgagee may give to the body corporate written notice which shall identify the lot and specify the date on which he entered into possession.

(7) After granting a lease or sub-lease of a lot or part of a lot, the lessor may give to the body corporate written notice of the granting of the lease which shall identify the lot, specify the name of the lessee in full and the address for the service of notices on him and—

- (a) if the lease is not in writing, specify the date and terms of the lease or, if the lease is in writing, be accompanied by a true copy of the lease; and
(b)

- No. 68. 1973** (b) specify the address for the service of notices on the lessor.

(8) After the termination or assignment of any lease or sub-lease of a lot or part of a lot, the lessor may give to the body corporate written notice of the termination or assignment which shall identify the lot and the lease or sub-lease that has been terminated or assigned and—

- (a) specify the date of the termination or assignment; and
- (b) in the case of an assignment, specify the name of the assignee in full and the address for the service of notices on him.

(9) After a person becomes entitled, otherwise than as a transferee, to be registered under the Real Property Act, 1900, as the proprietor of a lot, he may give to the body corporate written notice, in the form of a statutory declaration, which shall identify the lot and specify—

- (a) by what right he became entitled to the lot; and
- (b) the name of that person, in full, the address for the service of notices on him and the date upon which he became entitled to the lot.

(10) Where—

- (a) a body corporate believes that a person may, under this section, give a notice to it; and
- (b) the body corporate has not received that notice,

the body corporate may serve a notice on that person specifying the capacity in which it believes he is entitled to give the notice and requiring him—

- (c) to state, within fourteen days, whether or not he is a person required to give a notice in that capacity; and
- (d) if he is such a person, to furnish that notice.

Strata Titles.

(11) Where a body corporate has served a notice under subsection (10) on a person whom it believes to be a person entitled to give a notice to the body corporate under this section and that person has not complied with the first-mentioned notice, that person is not entitled to cast a vote at any meeting of the body corporate until he has complied with the firstmentioned notice.

DIVISION 5.—*Insurance.*

82. In this Division—

Interpre-
tation.

“building” does not include proprietors’ fixtures;

“damage policy”, in relation to a building, means a contract of insurance providing, in the event of the building being destroyed or damaged by fire, lightning, explosion or any other occurrence specified in the policy—

(a) for—

- (i) the rebuilding of the building or its replacement by a similar building in the event of its destruction; and
- (ii) the repair of damage to, or the restoration of the damaged portion of, the building in the event of its being damaged but not destroyed.

so that, in the case of destruction, every part of the rebuilt building or the replacement building and, in the case of damage, the repaired or restored portion, is in a condition no worse nor less extensive than that part or portion or its condition when that part or portion was new; and

(b)

No. 68, 1973

- (b) for the payment of expenses incurred in the removal of debris and the remuneration of architects and other persons whose services are necessary as an incident to the rebuilding, replacement, repair or restoration;

“proprietor’s fixture” means any structure or fixture forming part of a building, being a structure or fixture which is exclusively for the use and enjoyment of a lot within or partly within that building but not being a floor, wall or ceiling.

Insurance
of building.

83. (1) The body corporate shall insure the building and keep the building insured under a damage policy with an approved insurer.

(2) The Commissioner may, upon application in writing by a body corporate pursuant to a unanimous resolution, and if the Commissioner considers that in particular circumstances compliance with those provisions is unnecessary or impracticable, by order in writing—

- (a) exempt the body corporate from compliance with those provisions absolutely; or
- (b) with the consent in writing of the body corporate given pursuant to a unanimous resolution, exempt it from compliance with those provisions subject to a condition that it effects such insurance in respect of the building as may be specified in the order.

(3) A body corporate to which an exemption has been granted under subsection (2) is not under a duty to comply with subsection (1) but if the exemption was granted subject to a condition referred to in subsection (2) (b) is under a duty to comply with that condition.

Strata Titles.

84. (1) In addition to insurance effected by a body corporate pursuant to section 83 the body corporate shall effect insurance against the possibility of the proprietors becoming jointly liable by reason of a claim arising in respect of— No. 68, 1973
Further
insurance
by body
corporate.

- (a) any occurrence against which it is required by law to insure, including any insurance required to be effected by reason of the provisions of the Workers' Compensation Act, 1926;
- (b) damage to property, death or bodily injury occurring upon the common property; and
- (c) any other occurrence against which the body corporate, pursuant to a special resolution, decides to insure.

(2) Insurance effected pursuant to subsection (1) (b) shall be for a cover—

- (a) except as provided in paragraph (b)—of \$250,000; or
- (b) where another amount is prescribed for the purposes of this subsection—of that amount.

85. (1) Nothing in this Division limits any right of a proprietor to effect insurance. Insurance
by pro-
priator.

(2) Insurance effected by a proprietor does not affect, and shall not be taken into consideration in determining, the amount payable to a body corporate under a contract of insurance entered into between it and an insurer pursuant to this Division, notwithstanding anything contained in that contract of insurance.

86. (1) A contract of insurance may be entered into by a proprietor in respect of damage to his lot in a sum equal to Insurance of
mortgaged
lot.

the

Strata Titles.

No. 68, 1973 the amount secured at the date of the contract by mortgages of his lot and where such a contract is in force—

- (a) subject to the terms and conditions of the contract—
 - (i) any payment to be made under that contract by the insurer in respect of damage shall be made to the mortgagees whose interests are noted thereon in order of their respective priorities; and
 - (ii) the amount of the payment shall be the amount stated in the contract, the amount of the loss, or an amount sufficient, at the date of the loss, to discharge mortgages of the lot, whichever is the least amount;
- (b) where the amount so paid by the insurer equals the amount necessary to discharge a mortgage of the lot, the insurer shall be entitled to an assignment of that mortgage; and
- (c) where the amount so paid by the insurer is less than the amount necessary to discharge a mortgage of the lot, the insurer shall be entitled to a sub-mortgage of that mortgage to secure the amount so paid on terms and conditions agreed upon as provided in subsection (2) or, failing agreement, on the same terms and conditions as those contained in the mortgage by the proprietor.

(2) For the purposes of subsection (1) (c), any insurer and mortgagee may at any time, whether before or after a contract of insurance referred to in subsection (1) has been entered into by a proprietor, agree upon the terms and conditions of the sub-mortgage.

(3) A contract of insurance entered into as referred to in subsection (1) shall not be liable to be brought into contribution with any other such contract of insurance except another such contract of insurance which—

- (a) is in respect of damage to the same lot; and
- (b) relates to the same mortgage debt,

as

Strata Titles.

as that referred to in the contract of insurance firstmentioned No 68, 1973 in this subsection.

87. Subject to any order made under section 50 or 51, ^{Rebuilding.} where a body corporate receives payment of moneys from an insurer in respect of destruction of or damage to a building, those moneys shall forthwith be applied by the body corporate in rebuilding, replacing, repairing or restoring the building, as the case may require.

88. (1) A body corporate shall be deemed to have an ^{Insurable} insurable interest in the subject-matter of any contract of ^{interest} insurance entered into by it pursuant to this Division. ^{of body} corporate.

(2) This section applies notwithstanding the provisions of section 23 of the Imperial Acts Application Act, 1969, or any other law relating to insurance.

DIVISION 6.—*Rating and Taxation.*

89. In this Division—

“appropriate valuing Act”, in relation to a parcel, ^{Rates and} means— ^{taxes.}

- (a) where the Valuer-General is the valuing authority in respect of the parcel—the Valuation of Land Act, 1916;
- (b) where a local council is the valuing authority in respect of the parcel—the Local Government Act, 1919;
- (c) where the Metropolitan Water Sewerage and Drainage Board is the valuing authority in respect of the parcel—the Metropolitan Water, Sewerage, and Drainage Act, 1924;

(d)

Strata Titles.

No. 68, 1973

(d) where the Hunter District Water Board is the valuing authority in respect of the parcel—the Hunter District Water, Sewerage and Drainage Act, 1938;

(e) where the Broken Hill Water Board is the valuing authority in respect of the parcel—the Broken Hill Water and Sewerage Act, 1938; and

(f) where the Western Lands Commissioner is the valuing authority in respect of the parcel—the Land Tax Management Act, 1956;

“area” has the meaning ascribed thereto in the Local Government Act, 1919;

“rating authority” means an authority authorised to make and levy rates on land;

“value”, in relation to a parcel or a lot, means unimproved value, unimproved capital value, improved value, improved capital value or assessed annual value, as the case may be;

“valuing authority” means—

(a) where the parcel is situated in an area or part of an area in respect of which area or part the Valuer-General has furnished a valuation list to the local council concerned in accordance with the Valuation of Land Act, 1916—the Valuer-General; and

(b) where the parcel is situated in an area or part of an area which area or part is not an area or part in respect of which the Valuer-General has furnished a valuation list to the local council concerned in accordance with the Valuation of Land Act, 1916—the local council of the area concerned,

and

Strata Titles.

and includes, for the purposes of—

No. 68, 1973

- (c) rates levied on a valuation of a lot made by the Metropolitan Water Sewerage and Drainage Board under the Metropolitan Water, Sewerage, and Drainage Act, 1924, or the Hunter District Water Board under the Hunter District Water, Sewerage and Drainage Act, 1938, or the Broken Hill Water Board under the Broken Hill Water and Sewerage Act, 1938, the Metropolitan Water Sewerage and Drainage Board, the Hunter District Water Board or the Broken Hill Water Board, as the case may be; or
- (d) land tax levied on a valuation of a lot made by the Western Lands Commissioner, the Western Lands Commissioner.

90. (1) Where a valuing authority causes a parcel to be valued under and subject to the appropriate valuing Act, the parcel shall, notwithstanding the provisions of that or any other Act, be valued as a single parcel of land and as if it were owned by a single owner and, for the purposes of any such valuation and all purposes incidental thereto (including objection to a valuation) but not otherwise, the parcel and all improvements thereon shall be deemed to be owned by the body corporate and by no other person. Valuation of parcel.

(2) During the period from the registration of a strata plan and until a valuation of the parcel showing the body corporate as owner becomes effective for rating and taxing purposes the valuation in force during that period shall be deemed to be a valuation of the parcel made by the valuing authority as if the body corporate were shown thereon as owner.

(3) A valuing authority is not, for the purposes of the making, levying, imposition, assessment or recovery of rates or taxes referred to in this Division, required to make separate valuations of any parts of a parcel otherwise than if the parcel were owned by a single owner.

91.

Strata Titles.

No. 68, 1973

Particulars
of unit
entitle-
ments
furnished
to rating
or taxing
authority
to be con-
clusive.

91. For all purposes in relation to the making, levying, imposition, assessment or recovery of rates or taxes referred to in this Division in relation to the parcel or any part thereof the particulars of the unit entitlements of the lots the subject of a strata scheme shown on any copy of a schedule last furnished to a rating authority and the Commissioner for Land Tax under section 49 (3) shall be conclusive evidence of those particulars.

Rating
of lots.

92. (1) A reference in this section to a ratable parcel, or a ratable part of a parcel, in relation to any rate, is a reference respectively to a parcel or part of a parcel that is ratable as to that rate or would be so ratable but for any exemption or concession applicable to any portion of that parcel or part, as the case may be (not being, in the case of a rate for water, sewerage or drainage services, an exemption or concession applicable to that portion by reason of its situation in relation to any such services).

(2) A rate on a ratable parcel or a ratable part of a parcel shall not be made or levied on the body corporate but, subject to this section, shall be made and levied in respect of each lot comprised in the parcel as if—

- (a) the proprietor of each such lot were the owner in fee simple in possession of the lot and it were a separate parcel of land having a value equal to the appropriate value apportioned to it under paragraph (c);
- (b) that proprietor were, subject to any exemptions or concessions that may be applicable to him or to the lot of which he is the proprietor, liable for any rate made and levied by the rating authority on the owners of land; and
- (c) the value of any such lot were an amount that bears to the corresponding value ascertained in accordance with section 90 of the ratable parcel or the ratable part of the parcel, as the case may

be

Strata Titles.

be (after deducting therefrom any allowance No. 68, 1973 applicable under section 58 or 58A of the Valuation of Land Act, 1916, or deduction applicable under section 2 (1) or 2A (1) of Schedule 3 to the Local Government Act, 1919) the same proportion as the unit entitlement of that lot bears to the aggregate unit entitlement.

(3) Where part only of a lot is ratable for any rate, the rate in respect of that lot shall be made and levied on the ratable part as if the value of that part were an amount that bears to the appropriate value of the lot, as ascertained under subsection (2) (c), the same proportion as the rental value of the ratable part bears to the rental value of the lot.

93. Charges or fees for water, sewerage or drainage services rendered in respect of a parcel or part of a parcel (otherwise than in respect of a lot exclusively for its use and benefit) shall be calculated as if any rates payable in respect of the lots comprised in that parcel were payable by the body corporate as the ratable person in respect of the parcel and shall be payable by the body corporate. Charges for water, sewerage or drainage services.

94. Where—

- (a) a strata plan of subdivision has been registered; or Certain lots not ratable.
- (b) a plan has been registered in the office of the Registrar-General under the Conveyancing Act, 1919,

for the purpose of effecting a resumption as referred to in Division 3 of Part II, a rate shall not be made or levied on—

- (c) a lot in that strata plan of subdivision; or
- (d) a lot in the plan so registered,

unless that resumption has been effected, but nothing in this section prevents a rate from being made or levied on land of which such a lot forms part.

95.

No. 68, 1973 **95.** (1) In this section, "land tax year" means any period
Land tax. of twelve months in respect of which land tax is leviable and payable under the Land Tax Act, 1956, and the Land Tax Management Act, 1956.

(2) For the purpose of assessing and levying land tax under the Land Tax Act, 1956, and the Land Tax Management Act, 1956, in respect of any land tax year, a reference in this section to—

(a) a residential lot is a reference to—

- (i) a lot designed and intended for occupation or use for the purposes of residence;
- (ii) a lot designed and intended for occupation or use for the purposes of accommodating not more than two motor vehicles in conjunction with the occupation or use of a lot referred to in subparagraph (i); and
- (iii) a lot designed and intended for occupation or use for both of the purposes referred to in subparagraphs (i) and (ii),

which lot has not at any time during the next preceding land tax year been occupied or used otherwise than as referred to in subparagraph (i), (ii) or (iii); and

(b) a non-residential lot is a reference to a lot other than a lot referred to in paragraph (a).

(3) Land tax is not leviable or payable in respect of a parcel or any part thereof except in accordance with this section.

(4) The Commissioner of Land Tax may require the proprietor of a lot or any person who occupied or used a lot during any land tax year to furnish to him within the time and in the manner specified in the requirement a statutory declaration specifying particulars as to the purposes for which the lot was occupied or used by that proprietor or person during that year and the periods during which it was occupied or used.

(5)

Strata Titles.

(5) Any person who fails to furnish particulars in accordance with the requirements of subsection (4) shall, for the purposes of the Land Tax Management Act, 1956, be deemed to have failed or neglected duly to furnish information as and when required by the Commissioner under that Act and to have committed a breach of that Act. No. 68, 1973

(6) Land tax shall be levied and paid—

- (a) subject to subsection (7) but otherwise under and in accordance with the Land Tax Act, 1956, and the Land Tax Management Act, 1956, in respect of each residential lot comprised in a parcel; and
- (b) subject to subsection (7) and this paragraph but otherwise under and in accordance with the Land Tax Act, 1956, and the Land Tax Management Act, 1956, in respect of each non-residential lot comprised in a parcel in an amount which bears to the land tax that would be payable upon the taxable value of the parcel if the parcel were the only land owned by one person the same proportion as the unimproved value of that lot bears to the sum of the unimproved values of all lots comprised in that parcel except lots that are exempt from land tax under section 10 of the Land Tax Management Act, 1956.

(7) For the purposes of—

- (a) subsection (6), the unimproved value of a lot, whether residential or non-residential, comprised in a parcel is an amount that bears to the unimproved value within the meaning of section 54 of the Land Tax Management Act, 1956, of that parcel the same proportion as the unit entitlement of that lot bears to the aggregate unit entitlement; and

(b)

No. 68, 1973

(b) subsection (6) (b), the taxable value of a parcel is the difference between—

- (i) the sum of the unimproved values of all lots comprised in that parcel ascertained in accordance with paragraph (a), except lots that are exempt from land tax under section 10 of the Land Tax Management Act, 1956; and
- (ii) the deductions, if any, applicable to the parcel as a whole under section 9 (3) of that Act.

(8) Nothing in subsection (6) precludes the owner of a non-residential lot from being in addition separately assessed and liable in respect of—

- (a) his individual interest in the lot, together with any other land owned by him in severalty; and
- (b) his individual interests in any other land,

under and in accordance with the Land Tax Act, 1956, and the Land Tax Management Act, 1956.

(9) For the purposes of section 33 of the Land Tax Management Act, 1956—

- (a) the taxpayer in respect of the assessment referred to in subsection (8) shall be deemed to be a secondary taxpayer;
- (b) the taxpayer in respect of his liability under subsection (6) (b) in respect of a non-residential lot shall be deemed to be a primary taxpayer; and
- (c) there shall be deducted from the land tax payable by the secondary taxpayer such amount (if any) as is necessary to prevent double taxation.

(10) A calculation of the land tax payable upon a non-residential lot under subsection (6) (b) shall be deemed to be an assessment within section 14 of the Land Tax Management Act, 1956.

Strata Titles.

96. Where a parcel is situated in an area or part of an area in respect of which area or part the Valuer-General has furnished a valuation list to the local council in accordance with the Valuation of Land Act, 1916, nothing in this Division prevents the Valuer-General from making and entering on the valuation roll a valuation of any estate or interest in the parcel and the improvements thereon, but the valuation shall not be included in a valuation list or supplementary list and shall not be used for any purpose of this Division.

Certain valuations of interests in parcel not to be used for purposes of this Division.

PART V.

DISPUTES.

DIVISION 1.—*Strata Titles Commissioner.*

97. The Governor may, under and subject to the Public Service Act, 1902—

Appointment of Strata Titles Commissioner.

- (a) appoint and employ a person as Strata Titles Commissioner; and
- (b) appoint and employ such officers and employees as may be necessary to enable the Commissioner to exercise and perform the powers, authorities, duties and functions conferred or imposed upon him by or under this or any other Act.

98. (1) The Commissioner may, by instrument in writing, delegate to a person employed under and subject to the provisions of the Public Service Act, 1902, the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed on the Commissioner by or under this or any other Act as may be specified in the instrument, and may, in like manner, revoke wholly or in part the delegation.

Delegation of powers, etc., of Commissioner.

(2)

Strata Titles.

No. 68, 1973

(2) A power, authority, duty or function the exercise or performance of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the delegation.

(3) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise or performance of all or any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under subsection (1), the Commissioner may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under subsection (1) has the same force and effect as if it had been done or suffered by the Commissioner and shall be deemed to have been done or suffered by the Commissioner.

DIVISION 2.—*Applications for Orders.*

Commis-
sioner may
inspect
certain
records.

99. (1) Where application is made for an order under this Part in relation to a strata scheme, the body corporate for the strata scheme has, in relation to the Commissioner, the same duties under section 70 (1) and (2) as it has under that section in relation to a proprietor who is subject to the strata scheme.

(2) A body corporate shall not neglect or fail to perform any duty owed by it to the Commissioner under subsection (1).

Penalty : \$500.

Strata Titles.

100. (1) Application for an order under this Part shall be made to the Commissioner in writing specifying the grounds on which it is made, shall specify the order sought and shall be accompanied by the prescribed fee and the prescribed deposit, if any.

No. 68, 1973
Applications
for orders
to be made
to Com-
missioner.

(2) The Commissioner may refer to a Board any application made to him for an order under Division 3 if he is of the opinion—

- (a) that the application raises matters of legal complexity;
- (b) that the importance of the subject-matter of the application or the possibility of the frequent recurrence of like applications warrants its reference to a Board; or
- (c) that for any other reason it should properly be referred to a Board.

(3) The Commissioner shall refer to a Board any application made to him for an order under Division 4.

(4) The Board to which, pursuant to this section, the Commissioner is required or entitled to refer an application for an order under this Part is the Board that, in the opinion of the Commissioner, is situated nearest to the parcel that is subject to the strata scheme in respect of which the order is sought.

(5) Nothing in this section shall be construed as conferring on an applicant for an order under Division 3 any right to have his application referred to a Board.

101. (1) After receipt of an application for an order under this Part, the Commissioner—

- (a) may require the applicant to provide him with such further information in relation to the application as, in his opinion, may assist the investigation of the application;

Procedure
after
Com-
missioner
receives
application.

(b)

Strata Titles.

- No. 68, 1973
- (b) may refuse to proceed with the application until a requirement made by him pursuant to paragraph (a) has been complied with;
 - (c) shall give written notice of the application to the body corporate for the strata scheme to which the application relates and to any other person, not being the applicant, who, in his opinion, would be affected if the order sought were made;
 - (d) shall, in a notice referred to in paragraph (c), specify the order sought and invite the body corporate and any member thereof and any other person to whom the notice is given to make to him, within a time specified in the notice, a written submission in respect of the matter to which the application relates;
 - (e) shall, in a notice referred to in paragraph (c), further specify that any person to whom the invitation referred to in paragraph (d) is extended will only be entitled to appear before any Board to which the application may be referred if he has made a written submission in response to the notice and in that submission has stated that he wishes so to appear in the event of the application being so referred;
 - (f) may make such other investigations with respect to the application as he thinks fit, including investigations requested by a Board ; and
 - (g) may enter upon any lot the subject of the strata scheme concerned for the purpose of carrying out any investigation with respect to the application at any reasonable time on notice given to any occupier of that lot and may enter upon the common property.

(2) A person shall not obstruct or hinder the Commissioner or his delegate in the exercise of his powers under subsection (1) (g).

Penalty : \$500.

Strata Titles.

102. (1) Where the Commissioner proposes, or is required, to refer an application to a Board he shall, after the expiration of the time limited for the making of written submissions with respect to the application, forward to the Board determined by the Commissioner under section 100 (4)—

No. 68, 1973
Reference
of applica-
tion to
Board.

- (a) the application;
- (b) a copy of the notice given under section 101 (1) (c) or each such notice;
- (c) a list of the names and addresses of the persons to whom the notice or notices was or were given;
- (d) any further information provided by the applicant under section 101 (1) (a);
- (e) any written submissions received by him with respect to the application;
- (f) a written report on any investigations made by him under section 101 (1) (f) with respect to the application; and
- (g) the notices referred to in subsection (2).

(2) The notices that the Commissioner is required by subsection (1) (g) to forward are notices that—

- (a) are addressed to—
 - (i) the applicant for the order;
 - (ii) each person who made written submissions to the Commissioner in respect of the matter to which the application relates; and
 - (iii) the body corporate for the strata scheme concerned; and
- (b) state that the matter to which the application relates will be heard by a specified Board.

(3)

Strata Titles.

No. 68, 1973

(3) The clerk of a Board to which documents are forwarded under subsection (1) shall—

- (a) complete the notices referred to in subsection (1) (g) by specifying therein—
 - (i) the place at which the Board specified in the notices is to determine the matter to which the documents relate; and
 - (ii) a time and day for the determination of that matter; and
- (b) send each notice by posting it by prepaid registered post or by prepaid certified mail to the addressee thereof so that it would, in the ordinary course of post, be received by the addressee not less than seven days before the day specified in the notice pursuant to paragraph (a) (ii).

Body
corporate
to display
and give
certain
notices.

103. A body corporate given a notice under section 101 (1) (c) shall—

- (a) forthwith cause the notice or a copy thereof to be prominently displayed within the building on some part of the common property;
- (b) keep the notice so displayed until the expiration of the time limited by the notice for the making of submissions; and
- (c) forthwith serve a copy of the notice on each person whose name appears on its strata roll.

DIVISION 3.—Orders by Commissioner.

Orders
under this
Division.

104. (1) The Commissioner shall not make an order under this Division until after the expiration of the time specified in the notice under section 101 (1) (c) for the making of written submissions with respect to the application seeking the order.

(2)

Strata Titles.

(2) An order made under this Division may include such ancillary or consequential provisions as the Commissioner thinks fit. No. 68, 1973

(3) For the purposes of this Division, the Commissioner may order a body corporate, a managing agent, a proprietor, any person having an estate or interest in a lot or an occupier of a lot to do, or to refrain from doing, a specified act with respect to a strata scheme.

(4) The Commissioner may, by order, dismiss an application for an order under this Division.

(5) The Commissioner may not, in connection with an application for an order under this Division, make any order for the payment of costs.

(6) An order made by the Commissioner shall not be capable of being varied or revoked by him but this subsection does not prevent a subsequent order being made under this Division.

105. (1) Except in the case of a dispute or complaint to be settled or rectified by an order under Division 4, the Commissioner may, pursuant to an application of a body corporate, a managing agent, a proprietor, any person having an estate or interest in a lot or an occupier of a lot in respect of a strata scheme, make an order for the settlement of a dispute, or the rectification of a complaint, with respect to the exercise or performance of, or the failure to exercise or perform, a power, authority, duty or function conferred or imposed by this Act or the by-laws in connection with that strata scheme on any person entitled to make an application under this subsection or on the chairman, secretary or treasurer of the body corporate or the council. General powers of Commissioner to make orders.

(2) For the purposes of this Division where a body corporate has a discretion as to whether or not it exercises or performs a power, authority, duty or function conferred or imposed on it by this Act or the by-laws, it shall be deemed

Strata Titles.

No. 68, 1973 deemed to have refused or failed to exercise or perform that power, authority, duty or function only if it has decided not to exercise or perform that power, authority, duty or function.

(3) Nothing in subsection (1) empowers the Commissioner to make an order under that subsection for the settlement of a dispute, or the rectification of a complaint, with respect to the exercise or performance of, or the failure to exercise or perform, a power, authority, duty or function conferred or imposed on the body corporate by this Act or the by-laws where that power, authority, duty or function may, in accordance with any provision of this Act or the by-laws, only be exercised or performed pursuant to a unanimous resolution or a special resolution.

(4) Nothing in this Division authorises the Commissioner to make an order of the kind that may be made by the Supreme Court under section 32, 50, 51 or 67.

(5) Nothing in this Division affects the generality of subsection (1), but an order in respect of any matter dealt with in any other section of this Division shall not be made under this section.

Order with respect to certain consents affecting common property.

106. Where, pursuant to an application by a proprietor for an order under this section, the Commissioner considers that the body corporate for the strata scheme to which the application relates has unreasonably refused to consent to a proposal by that proprietor to effect alterations to the common property, the Commissioner may make an order that the body corporate consent to the proposal.

Order consequent upon alteration of building.

107. The Commissioner may, pursuant to an application for an order under this section made by the body corporate for the strata scheme to which the application relates or a proprietor, make an order directing any proprietor who has failed or neglected to comply with the provisions of section 14 (1) to lodge in the office of the Registrar-General within such time as may be specified in the order the plan and certificate referred to in section 14 (1).

108.

Strata Titles.

108. Where, pursuant to an application by a proprietor for an order under this section, the Commissioner considers that an acquisition, or a proposed acquisition, by the body corporate for the strata scheme to which the application relates of personal property is unreasonable, the Commissioner may order—

No. 68, 1973

Order with respect to acquisition of personal property.

- (a) that the personal property acquired be sold or otherwise disposed of by the body corporate within a specified time; or
- (b) that the personal property be not acquired.

109. Where, pursuant to an application by a proprietor for an order under this section, the Commissioner considers that the body corporate for the strata scheme to which the application relates has unreasonably refused to acquire personal property, the Commissioner may order the body corporate to acquire the personal property.

Order to acquire personal property.

110. Where, pursuant to an application by a proprietor for an order under this section, the Commissioner considers that the body corporate for the strata scheme to which the application relates has determined an unreasonable rate as the rate of interest chargeable for the late payment of a contribution levied under section 59, the Commissioner may, in respect of such contributions as are specified in the order, order that no interest be so chargeable or that the rate so chargeable be a rate specified by him in the order instead of the rate so determined.

Order varying certain rates of interest.

111. Where, pursuant to an application for an order under this section, the Commissioner considers that the body corporate for the strata scheme to which the application relates, or a managing agent for that strata scheme, or the chairman, secretary or treasurer of that body corporate has wrongfully withheld from the applicant information to which he is entitled under this Act, the Commissioner may order

Order to supply information.

that

Strata Titles.

No. 68, 1973 that body corporate, managing agent, chairman, secretary or treasurer to supply or make available the information to the applicant.

Order relating to animal kept contrary to by-laws.

112. Where, pursuant to an application by a body corporate, a proprietor, any person having an estate or interest in a lot or an occupier of a lot for an order under this section, the Commissioner considers that a person is keeping an animal on a lot or common property in contravention of the by-laws, the Commissioner may order that person to cause the animal to be removed from the parcel within a specified time, and thereafter to be kept away from the parcel, unless the keeping of the animal on the lot or common property, as the case may be, is subsequently authorised pursuant to the by-laws.

Order relating to animal kept pursuant to by-laws.

113. Where, pursuant to an application by a body corporate, a proprietor, any person having an estate or interest in a lot or an occupier of a lot for an order under this section, the Commissioner considers that an animal kept on a lot or the common property in accordance with the by-laws causes a nuisance or hazard to the proprietor or an occupier of another lot or unreasonably interferes with the use and enjoyment of another lot or of the common property, the Commissioner may—

- (a) order the person keeping the animal to cause the animal to be removed from the parcel within a specified time, and thereafter to be kept away from the parcel; or
- (b) order the person keeping the animal to take, within a time specified in the order, such action so specified as, in the opinion of the Commissioner, will terminate the nuisance, hazard or unreasonable interference.

114.

Strata Titles.

114. (1) Where a person fails to provide written confirmation of a notice under section 81 that is required to bear that confirmation and a body corporate, managing agent, proprietor or other person having or acquiring an estate or interest in a lot applies for an order under this section, the Commissioner may, subject to subsection (2), order the body corporate for the strata scheme concerned to enter the information in the notice in the strata roll notwithstanding that it does not bear that confirmation.

No. 68, 1973
Order
confirming
information
for strata
roll.

(2) In making an order under subsection (1) the Commissioner may amend in any manner he thinks fit the information in the notice to which the order relates.

(3) The Commissioner shall dismiss an application for an order under this section if he considers that the rights of any person would be prejudiced if he makes the order.

(4) A copy of an order under subsection (1) served on a body corporate shall be deemed to be a notice given to the body corporate under section 81 and information entered on a strata roll pursuant to such an order shall be deemed to have been entered from a notice bearing written confirmation required by that section.

115. An order by the Commissioner shall be made in writing and a copy thereof, certified by the Commissioner to be a true copy, shall be served by the Commissioner on—

Copy of
order to
be served.

- (a) the body corporate for the strata scheme to which the order relates;
- (b) the applicant for the order;
- (c) any person who duly made a written submission to the Commissioner in connection with the application; and
- (d) any person who, by the order, is required to do, or to refrain from doing, a specified act.

DIVISION

No. 68, 1973

DIVISION 4.—*Orders by Boards.*Board may
not order
costs.

116. A Board may not, in making an order under this Division, make any order for the payment of costs.

Variation
or
revocation
of orders
of Boards.

117. (1) An order made by a Board under this Division, except this section, may be varied or revoked by a subsequent order made by that or any other Board on an application made by the body corporate, the applicant for the first-mentioned order, any person who made a written submission with respect to the application for the firstmentioned order pursuant to the invitation in a notice given under section 101 (1) (c) or any other person who is required by the firstmentioned order to do or refrain from doing a specified act.

(2) An application under subsection (1) shall be made in writing, specifying the grounds on which it is made, shall specify the order sought and shall be accompanied by the prescribed fee and the prescribed deposit, if any.

(3) An application under subsection (1) shall be dealt with in all respects as if it were an application for an order under this Part required by section 100 (3) to be referred to a Board.

(4) An order made under subsection (1) has effect, and the provisions of this Act except subsection (1) apply to it, in all respects as if it were an order made under the provision of this Act under which the order which was varied or revoked was made.

Board's
jurisdiction
to deal
with
applications
referred by
Com-
missioner.

118. (1) A Board to which, pursuant to section 100 (2), an application is referred shall have the same powers and duties with respect to the application as the Commissioner would have had if the application had not been so referred in addition to the powers and duties conferred on it by Division 6.

(2)

Strata Titles.

(2) An order made by a Board pursuant to an application referred to in subsection (1) has effect, and the provisions of this Act except section 128 apply to it in all respects, as if it were an order made under the provision of this Act under which the Commissioner could have made an order on that application if that application had not been referred to that Board.

119. Where, pursuant to an application by a proprietor or a body corporate for an order under this section, a Board considers that the allocation of unit entitlements among the lots the subject of the strata scheme concerned was, at the time the strata plan was registered or at the time any strata plan of subdivision was registered, as the case may be, unreasonably made, having regard to the respective values of the lots at that time, the Board may make an order reallocating those unit entitlements in the manner specified in the order.

Order for
reallocation
of unit
entitlements.

120. (1) Where, pursuant to an application by any person entitled to vote at a meeting of the body corporate (including both a first mortgagee and a mortgagor of a lot) for an order under this section, the Board considers that, having regard to the interest of all proprietors in the use and enjoyment of their lots or the common property, an amendment or repeal of a by-law or addition of a new by-law should not have been made or effected, the Board may order that the amendment be revoked, that the repealed by-law be revived or that the additional by-law be repealed.

Order
revoking
amendment
of by-law
or reviving
repealed
by-law.

(2) An order under subsection (1), when recorded under section 141, has effect, subject to any order with respect thereto made by a superior court, as if its terms were a by-law.

(3) When making an order under subsection (1) in respect of a by-law referred to in section 58 (7), the Board may direct the payment by the body corporate of compensation to the proprietor of the lot referred to in the by-law.

(4)

No. 68, 1973

(4) A payment ordered to be made pursuant to subsection (3) is recoverable by the proprietor as a debt in a court of competent jurisdiction.

Order
granting
certain
licence.

121. (1) Pursuant to an application by a proprietor for an order under this section, a Board may, subject to this section, order that the applicant, and any occupier of the lot of which the applicant is the proprietor, may use specified common property in such a manner, for such purposes, and upon such terms and conditions, if any, as are specified in the order.

(2) A Board shall not make an order under subsection (1) unless it is satisfied—

- (a) that the lot of which the applicant is proprietor is incapable of reasonable use and enjoyment by the proprietor or an occupier of the lot unless the order is made; and
- (b) that the body corporate has refused to grant a licence to use common property in such a manner, for such purposes, and upon such terms and conditions as would enable that proprietor or such an occupier reasonably to use and enjoy that lot.

(3) An order under subsection (1), when recorded under section 141, has effect, subject to any order with respect thereto made by a superior court, as if its terms were a by-law.

Order in-
validating
purported
by-law.

122. (1) Where, pursuant to an application by any person entitled to vote at a meeting of the body corporate (including both a first mortgagee and a mortgagor of a lot) for an order under this section, a Board considers that a body corporate did not have the power to make a by-law purporting to have been made by it, the Board may make an order declaring the by-law to be invalid.

(2)

Strata Titles.

(2) An order under subsection (1), when recorded under section 141, has effect, subject to any order with respect thereto made by a superior court, as if its terms were a by-law repealing the by-law to which the order relates. No. 68, 1973

123. Where, pursuant to an application by a proprietor or by a mortgagee in possession (whether by himself or another person) for an order under this section, a Board considers that any amount proposed to be levied by way of contributions under section 59 is inadequate or excessive, or that the manner of payment of contributions is unreasonable, the Board may—

Order for variation of contributions levied or manner of payment thereof.

- (a) order payment of a different amount;
- (b) order payment of contributions in a different manner; or
- (c) make both such orders.

124. (1) Where, pursuant to an application by a person under this section, a Board is satisfied that a particular resolution would not have been passed at a general meeting of a body corporate but for the fact that the applicant—

Order where voting rights denied or due notice of item of business not given.

- (a) was improperly denied a vote on the motion for the resolution; or
- (b) was not given due notice of the item of business pursuant to which the resolution was passed,

the Board may order that the resolution be treated as a nullity on and from the date of the order.

(2) An application for an order under subsection (1) may not be made after fourteen days after the date of the meeting at which the resolution was passed.

(3) Where—

- (a) an order under subsection (1) is made in respect of a resolution making a by-law amending, adding to or repealing another by-law;

(b)

No. 68, 1973 (b) the by-law made pursuant to that resolution is in force; and

(c) the order is recorded as provided by section 141,

the by-laws shall, subject to their having been or being amended, added to or repealed under section 58 and to any order with respect to the order under subsection (1) made by a superior court, have force and effect on and from the date the order is so recorded to the same extent as they would have had if the resolution had not been passed.

Order
varying
amount of
insurance
to be
provided.

125. Where, pursuant to an application by a proprietor or an enrolled mortgagee of a lot for an order under this section, a Board considers that the amount for which the body corporate for the strata scheme concerned has insured under section 83 or 84 (1) (c) is not reasonable, the Board may order the body corporate to vary that amount to a specified amount.

Enforce-
ment of
restriction
on user of
utility lot.

126. Where—

(a) pursuant to an application by a body corporate or a proprietor or occupier of a lot for an order under this section a Board considers there has been a breach of a restriction imposed under section 39 on the user of a utility lot the subject of the strata scheme concerned; or

(b) pursuant to an application for such an order by the local council a Board considers there has been a breach of such a restriction so imposed on the user of a utility lot within the area of the local council,

the Board may order the proprietor of the lot and any other person to refrain from committing a breach of the restriction.

127.

*Strata Titles.***127. (1) Where—**

No. 68, 1973

- (a) in consequence of the making of an order under this Part a duty is imposed on a body corporate;
- (b) a duty is otherwise imposed by this Act or the by-laws on a body corporate;
- (c) a duty is imposed by this Act or the by-laws on the chairman, secretary or treasurer of a body corporate or of the council of a body corporate; or
- (d) a judgment debt is owed by a body corporate,

Order
appointing
managing
agent to
exercise
or perform
certain
powers, etc.

a Board may—

- (e) in the case referred to in paragraph (a)—on the application of the person who obtained the order so referred to;
- (f) in the case referred to in paragraph (b) or (c)—on the application of a person having an estate or interest in a lot the subject of the strata scheme concerned; or
- (g) in the case referred to in paragraph (d)—on the application of the judgment creditor,

by order appoint a managing agent (being a person who has, in accordance with section 79, lodged with the Commissioner a bond and who has consented in writing to the appointment) to perform that duty and any other duty specified in the order or to pay that judgment debt, as the case may require.

(2) Where a Board appoints a managing agent under subsection (1) it may also order that the managing agent shall have and may exercise and perform—

- (a) all the powers, authorities, duties and functions of the body corporate for the strata scheme to which the order relates or of the chairman, secretary or treasurer of that body corporate or the council of that body corporate;
- (b) any one or more of those powers, authorities, duties or functions specified in the order; or

(c)

Strata Titles.

No. 68, 1973 (c) all of those powers, authorities, duties and functions except those specified in the order.

(3) Where a Board makes an order under subsection (1), no person other than the managing agent appointed by the order may, while that managing agent holds office as such, exercise or perform any power, authority, duty or function which the managing agent is authorised to exercise or perform by that order or an order under subsection (2).

(4) The appointment of a managing agent under this section may be made upon such terms and conditions (including terms and conditions relating to his remuneration by the body corporate and the duration of his appointment) as the Board specifies in the order making the appointment.

DIVISION 5.—*Appeals.*

Appeal
against
order of
Commis-
sioner.

128. (1) Where the Commissioner makes an order under Division 3—

- (a) the applicant for the order;
- (b) a person who, in connection with the application for the order, duly made written submissions to the Commissioner; or
- (c) being an order requiring a person to do or refrain from doing a specified act, that person,

may appeal to a Board against the order of the Commissioner by lodging a written notice of appeal with the Commissioner, accompanied by the prescribed fee, not later than twenty-one days after the order takes effect.

(2) A notice of appeal lodged under subsection (1) shall specify—

- (a) the name and address of the appellant;
- (b)

Strata Titles.

- (b) the order appealed against;
- (c) the grounds of the appeal; and
- (d) any other matter prescribed.

No. 68, 1973

(3) The Board to which an appeal lies under this section is the Board to which, pursuant to subsection (4), the Commissioner forwards the notice of appeal.

(4) Where a notice of appeal is lodged under subsection (1), the Commissioner shall forward to the Board that, in his opinion, is nearest to the parcel the subject of the strata scheme to which the order appealed against relates—

- (a) the notice of appeal;
- (b) his records relating to the order appealed against; and
- (c) the notices referred to in subsection (5).

(5) The notices that the Commissioner is required by subsection (4) (c) to forward are notices that—

- (a) are addressed to—
 - (i) the appellant and any other person entitled under subsection (1) to appeal against the order; and
 - (ii) the body corporate for the strata scheme to which the order appealed against relates, unless that body corporate or a person referred to in subparagraph (i) is the appellant;
- (b) are each accompanied by a copy of the notice of appeal; and
- (c) state that the appeal will be heard by a specified Board.

(6)

Strata Titles.

No. 68, 1973

(6) The clerk of a Board to which documents are forwarded under subsection (4) shall—

- (a) complete the notices referred to in subsection (5) by specifying therein—
 - (i) the place at which the Board specified in the notices is to determine the appeal; and
 - (ii) a time and day for the determination of the appeal to which the documents relate; and
- (b) send each notice by posting it by prepaid registered post or by prepaid certified mail to the addressee thereof so that it would, in the ordinary course of post, be received by the addressee not less than seven days before the day specified in the notice pursuant to paragraph (a) (ii).

(7) Where a notice of appeal is accompanied by an application for an order under this subsection—

- (a) the Commissioner, before he forwards to a Board the documents referred to in subsection (4); or
- (b) the Board to which he has sent those documents, may, by order, stay the operation of the order appealed against and, where he or it does so, forward notice of the order made under this subsection to the persons referred to in subsection (5).

Determina-
tion of
appeal
from order
of Com-
missioner.

129. (1) In the determination of an appeal from an order of the Commissioner, a Board—

- (a) may, if it thinks it is proper to do so, admit evidence other than the evidence before the Commissioner when he made the order;
- (b) may, by order, affirm, vary or revoke the order appealed against or substitute its own order for the order appealed against; and
- (c) shall not make any order as to costs.

(2)

Strata Titles.

(2) An order made under subsection (1) (b) has No. 68, 1973 effect, and the provisions of this Act except section 128 apply to it, in all respects as if it were an order made under the provision of this Act under which the order appealed against was made.

130. (1) An appeal lies to the Supreme Court from an order made by a Board under Division 4 or under section 129 in the same cases and in the same way as it would lie under sections 101 to 110, both inclusive, of the Justices Act, 1902, if the order of the Board were a determination, by a Justice or Justices in the exercise of summary jurisdiction, of an information or complaint made at the time the order takes effect under section 144. Appeal to Supreme Court on question of law.

(2) The persons who may appeal under subsection (1) are—

- (a) where the appeal is against the order of a Board under Division 4, except section 117—
 - (i) the applicant for the order appealed against;
 - (ii) a person who, in connection with the application for the order, duly made written submissions to the Commissioner; and
 - (iii) being an order requiring a person to do or refrain from doing any act, that person;
- (b) where the appeal is against the order of a Board made under section 129—
 - (i) the appellant to the Board;
 - (ii) where he was not the appellant to the Board, the applicant for the original order made by the Commissioner;
 - (iii) any person who, in connection with the application to him for the original order, duly made written submissions to the Commissioner; and
 - (iv) being an order requiring a person to do or refrain from doing any act, that person;

(c)

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- (c) where the appeal is against the order of a Board made under section 117—
- (i) the applicant for that order; or
 - (ii) any person who under subsection (2) (a) was entitled to appeal against the order which has been varied or revoked; and
- (d) in any case where the body corporate for the strata scheme to which the appeal relates is not included in paragraph (a), (b) or (c), that body corporate.

Appeal does not lie from Board except as provided in this Division. **131.** Except as provided by this Division, an appeal does not lie from an order made by a Board.

DIVISION 6.—Powers and Duties of Boards.

Board may investigate in any manner it thinks fit. **132.** (1) Before making an order under this Part, except section 128 (7), a Board shall make a thorough investigation without regard to legal forms or solemnities.

(2) A Board is not bound to apply the rules of evidence and, after informing itself in such manner as it thinks fit, may make an order under this Part with or without any hearing and, where a hearing is held, whether or not it is conducted formally.

(3) Notwithstanding subsection (2), a Board shall conduct a hearing where any person entitled or required to appear before the Board on the hearing of the application or appeal so appears.

General provisions relating to orders under Division 4 and on appeal. **133.** (1) An order made by a Board may include such ancillary or consequential provisions as the Board thinks fit.

(2) For the purpose of securing compliance with an order under Division 4 or on appeal, a Board may order a body corporate, the chairman, secretary or treasurer of a
body

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body corporate or its council, a managing agent or a proprietor No. 68, 1973
or other person having an estate or interest in a lot or an
occupier of a lot to do or refrain from doing a specified act
with respect to a strata scheme.

(3) A Board may, by order, dismiss an application
for an order under Division 4 and may dismiss an appeal.

134. (1) An applicant for an order under Division 3 or 4 may appear before any Board dealing with the application for the order or be represented by counsel or a solicitor, or by an agent authorised in writing, who may examine witnesses and address the Board on behalf of the applicant. Representation before a Board.

(2) Where—

- (a) an application for an order under Division 3 or 4 has been referred to a Board, a person has made a written submission with respect to the application pursuant to the invitation in a notice given under section 101 (1) (c) and in the submission that person has stated that he wishes to appear before a Board in the event of the application being so referred; or
- (b) a person has been given notice under section 128 (6),

that person may appear before the Board in connection with the application or, as the case may be, on the hearing of the appeal, or be represented by counsel or a solicitor, or by an agent authorised in writing, who may examine witnesses and address the Board on behalf of that person.

135. (1) An order made by a Board under this Part shall be made in writing and the clerk of that Board shall send to the Commissioner— Copy of order to be served.

(a) the order; and

(b)

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- (b) the records of the Board relating to the application for the order, or to the appeal, as the case may be, including records forwarded to it by the Commissioner when referring that application or appeal to the Board.

(2) Where an order has been sent to the Commissioner under subsection (1), he shall serve a copy of the order, certified by him to be a true copy, on—

- (a) the body corporate for the strata scheme to which the order relates;
- (b) the applicant for the order and the appellant, if any;
- (c) any person who, in connection with the application for the order, made a written submission pursuant to the invitation in a notice under section 101 (1) (c) or who, in the case of an order on appeal, was given notice under section 128 (6) of the time and place for the determination of the appeal; and
- (d) any person who, by the order, is required to do, or to refrain from doing, a specified act.

Witness
may be
summoned
before
Board.

136. (1) The stipendiary magistrate who constitutes a Board or the clerk of a Board authorised by such a stipendiary magistrate either generally or in a particular case may, upon the request of an applicant whose application is or is to be dealt with under Division 4 or a person to whom a notice has been given under section 101 (1) (c) or 128 (6), or the agent of any such applicant or person, under the hand of the stipendiary magistrate or that clerk, summon any person to attend the Board at the time and place specified in the summons and then and there to give evidence and to produce books, documents or writings in his custody or control which he is required by the summons to produce.

(2) The fee payable for the issue of a summons is such amount as may be prescribed.

(3)

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(3) A person served with a summons under subsection (1) shall not, without reasonable excuse, disobey the summons. No. 68, 1973

Penalty : In the case of a corporation, \$1,000 and, in any other case, \$500 or imprisonment for six months or both.

(4) A person is not bound to produce any books, documents or writings not specified or otherwise sufficiently described in the summons or which he would not be bound to produce upon a subpoena for production in the Supreme Court.

(5) A summons under subsection (1) need not be obeyed by a person unless he is tendered his reasonable expenses for attending the Board in accordance with the summons.

137. (1) A Board may administer an oath or affirmation to a person appearing as a witness before a Board, whether or not he has appeared in answer to a summons, and may examine the witness upon oath or affirmation. Board may administer oath.

(2) A person appearing as a witness before a Board—

- (a) shall not refuse to be sworn or to make an affirmation;
- (b) shall not refuse to answer any question relevant to any proceedings before the Board put to him by the Board or by any person entitled to appear before the Board in those proceedings; and
- (c) shall not knowingly give false testimony in any evidence given by him to the Board.

Penalty : \$500 or imprisonment for six months or both.

(3)

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(3) A witness before a Board has—

- (a) the same protection; and
- (b) in addition to the penalties provided by this Act, the same liabilities,

as he would have had if he had been a witness before the Supreme Court instead of the Board.

Contempt of Board.

138. (1) A person shall not wilfully insult or disturb a Board, or interrupt the proceedings of a Board, or by writing or speech use words which are false or defamatory of a Board or otherwise commit any wilful contempt of a Board.

Penalty : \$500 or imprisonment for six months or both.

(2) The stipendiary magistrate who constitutes a Board has, in relation to a contravention of subsection (1) committed in the face of the Board, all the powers of a court of summary jurisdiction sitting in open court in relation to a contempt committed in the face of the court.

DIVISION 7.—*Miscellaneous.*

Refund of prescribed deposit.

139. Upon the final determination of an application made under this Part, the prescribed deposit which accompanied the application shall, unless the Commissioner, the Board or the Supreme Court making that determination otherwise directs on the ground that the application was vexatious or frivolous in its nature, be refunded to the applicant.

Effect of certain orders.

140. (1) The terms of an order—

- (a) made under section 106, 108, 109, 110, 123 or 124 (not being an order referred to in section 124 (3) (a)) or under section 125 or an order

made

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made under section 105 in which the Commissioner No. 68, 1973 declares that it is to have effect as a decision of a body corporate; or

- (b) made under section 117 varying or revoking an order referred to in paragraph (a),

shall be deemed to be a resolution passed by the body corporate for the strata scheme to which the order relates.

(2) Upon service upon it by the Commissioner of a copy of an order referred to in subsection (1), the body corporate shall cause the terms of the order to be recorded in its minute book.

(3) Except in the case of a unanimous resolution, a resolution passed by a body corporate has no force or effect if it purports to rescind or amend a resolution deemed by subsection (1) to have been passed by the body corporate.

(4) Where an order referred to in subsection (1) specifies a period during which a resolution passed by the body corporate has no force or effect if it purports to alter the effect of that order, such a resolution has no force or effect if it is passed during that period—

- (a) unless it is a unanimous resolution; or
- (b) unless, upon an application made as referred to in subsection (5), a Board makes an order under this paragraph authorising the submission to a general meeting of the body corporate of a motion for that resolution.

(5) An application for an order under subsection (4) (b)—

- (a) may be made by any person who, if the application for the order referred to in subsection (1) were made at the time the application referred to in this subsection is made, would be entitled to make the application for the order referred to in subsection (1);

(b)

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- (b) shall specify the order sought;
- (c) shall be made to the Commissioner in writing specifying the grounds on which it is made; and
- (d) shall be accompanied by the prescribed fee and the prescribed deposit, if any.

(6) An application referred to in subsection (5) shall be dealt with in all respects as if it were an application for an order under Division 4 required by section 100 (3) to be referred to a Board.

Recording
in Register
of effect
of certain
orders.

141. (1) Where—

- (a) an order is made under section 119, 120, 121 or 122 or under section 124 (being an order referred to in section 124 (3) (a));
- (b) a copy of the order, certified by the Commissioner as a true copy is lodged in the office of the Registrar-General; and
- (c) the prescribed fee is paid,

the Registrar-General shall record the order on the folio of the Register comprising the common property the subject of the strata scheme to which the order relates.

(2) Where a copy of an order has been lodged as referred to in subsection (1) (b) and the body corporate either—

- (a) has not within a period of twenty-one days after notice in writing served on it by the person so lodging the copy of the order lodged the certificate of title comprising the common property; or
- (b) has not, within that period, made due application under section 111 of the Real Property Act, 1900, and does not thereafter duly prosecute that application,

the certificate of title comprising the common property shall, for the purposes of Part XV of that Act, be deemed to be wrongfully retained.

(3)

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(3) Where, pursuant to subsection (1), the Registrar-General records an order under section 119 on a folio of the Register, he shall amend the schedule of unit entitlement recorded on that folio so that it corresponds to the reallocation of unit entitlements made by the order.

(4) The Registrar-General shall, upon lodgment in his office of a copy of an order made by a superior court with respect to an order under section 119, which copy is certified by the appropriate officer of that court to be a true copy, amend the schedule of unit entitlement recorded on a folio of the Register comprising the common property to the extent necessary to give effect to that order.

(5) The Registrar-General may refuse to register a copy of an order lodged as referred to in subsection (1) (b) unless it is accompanied by—

- (a) the certificate of title comprising the common property; or
- (b) evidence to the satisfaction of the Registrar-General of the service of the notice referred to in subsection (2) (a).

142. (1) A person shall not contravene an order under this Part to do or refrain from doing a specified act.

Penalty: \$100 and, subject to subsection (2), a further penalty not exceeding \$10 for every day during which the contravention continues.

Penalty for
contraven-
tion
of certain
orders.

(2) The maximum amount that may be recovered in any prosecution for an offence under subsection (1) is \$500.

(3) Proceedings for an offence under subsection (1) of contravening an order may only be taken by the applicant for the order or body corporate concerned.

(4)

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(4) In proceedings under this section—

- (a) the imposition of a penalty operates as a judgment under the Courts of Petty Sessions (Civil Claims) Act, 1970, against the defendant and in favour of the prosecutor for the amount of the penalty; and
- (b) an order for a person to pay an amount of costs operates as a judgment for that amount under that Act against that person and in favour of the person whose costs are ordered to be paid.

(5) A penalty imposed under this section or costs referred to in subsection (4) (b) shall not be enforceable or recoverable except as provided in subsection (4).

(6) Any costs awarded against a defendant in proceedings under this section shall include the amount of the fee paid on filing the application for the order contravened.

Protection
of
Commis-
sioner
and Board.

143. The Commissioner, in the exercise and performance of his powers, authorities, duties and functions under this Part, and a Board, in the exercise and performance of its powers, authorities, duties and functions under this Part, have the same protection and immunities as a justice of the peace.

Time at
which order
takes
effect.**144.** Except—

- (a) where express provision is otherwise made by this Act; or
- (b) to the extent that the Commissioner specifies in an order under Division 3 or a Board specifies in an order under Division 4 or 5,

an order takes effect when a copy of the order, certified by the Commissioner to be a true copy, is served—

- (c) except as provided in paragraph (d), on the body corporate for the strata scheme to which the order relates; or

(d)

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- (d) where the order requires a person to do or refrain from doing a specified act, on that person. No. 68, 1973

145. Notwithstanding any other provision of this Part, the Commissioner or a Board shall not have jurisdiction under this Part in any case in which the title to land is in question otherwise than for the purpose of determining any matter before the Commissioner or the Board, as the case may be, and any determination made by the Commissioner or a Board shall not have any force or effect except as provided by this Act.

Commissioner or Board not to have jurisdiction where title to land in question.

PART VI.

GENERAL.

146. (1) Nothing in this Act derogates from any rights or remedies that a proprietor or mortgagee of a lot or a body corporate may have in relation to any lot or the common property apart from this Act.

Other rights and remedies not affected by this Act.

(2) Where the court in which any proceedings to enforce any rights or remedies referred to in subsection (1) is of the opinion that, having regard to the subject-matter of the proceedings, the taking of the proceedings was not, in the circumstances of the case, warranted by reason that Part V makes adequate provision for the enforcement of those rights or remedies, the court shall order the plaintiff to pay the defendant's costs in such amount as may be determined by the court.

147. (1) Where the proprietors of the lots the subject of a strata scheme are jointly entitled to take proceedings against any person or are liable to have proceedings

Body corporate as representative of proprietors in proceedings.

taken

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No. 68, 1973 taken against them jointly (any such proceedings being proceedings for or with respect to common property), the proceedings may be taken by or against the body corporate and any judgment or order given or made in favour of or against the body corporate in any such proceedings shall have effect as if it were a judgment or order given or made in favour of or against the proprietors.

(2) Where a proprietor is liable to make a contribution to another proprietor in respect of a judgment debt arising under a judgment referred to in subsection (1), the amount of that contribution shall bear to the judgment debt the same proportion as the unit entitlement of the lot of the firstmentioned proprietor bears to the aggregate unit entitlement.

Body corporate's power to take proceedings as agent for proprietor in case of structural defects.

148. Where—

- (a) the condition of any lot in a parcel affects or is likely to affect the support or shelter provided by that lot for another lot in the same building or the common property; and
- (b) the proprietor of the lot in that condition has neglected or refused within a reasonable time to take any proceedings under the Builders Licensing Act, 1971, or for the purpose of exercising any other right or enforcing any other remedy available to him to have that condition rectified,

the body corporate may, as agent for the proprietor of the lot in that condition but at its own expense, take any of the proceedings referred to in paragraph (b).

Dividing fences.

149. For the purposes of the Dividing Fences Act, 1951, the body corporate for a strata scheme shall be deemed to be the owner of the parcel the subject of that scheme, other than such part, if any, of that parcel which is the subject of a lease accepted by the body corporate under section 19.

150.

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150. (1) In any proceedings brought by one or more proprietors against the body corporate, the court may order that any moneys (including costs) payable by the body corporate pursuant to an order of the court made in those proceedings shall be paid, only in respect of such lots as are specified in the order and in such proportions as may be so specified, by the body corporate out of contributions levied for the purpose.

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 Costs in proceedings by proprietors against body corporate.

(2) Where a court makes an order under subsection (1) the body corporate shall, for the purpose of paying the moneys ordered to be paid by it, levy contributions in accordance with the terms of the order and shall pay the moneys out of the contributions paid pursuant to that levy, and section 59, subsection (3) excepted, applies to and in respect of contributions levied under this subsection in the same way as it applies to contributions levied under that section.

151. (1) Where by reason of any Act or of anything done under the authority of any Act, any expenditure by a public authority or local council would, if the parcel were not the subject of a strata scheme, be a charge on the land comprised in that parcel, that expenditure is a charge on each lot for an amount bearing to the whole of that expenditure the same proportion as the unit entitlement of that lot bears to the aggregate unit entitlement.

Apportionment of statutory charges.

(2) The proprietor or mortgagee of a lot the subject of a charge referred to in subsection (1) may pay to the authority entitled to the charge the amount thereof and thereupon—

- (a) the lot and the appurtenant beneficial interest in the common property are freed from the charge; and
- (b) the authority has no legal rights against the proprietor or his lot or appurtenant beneficial interest in common property in respect of the subject-matter of the charge.

152.

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Notice of
application
for order
under
section 32,
50, 51 or
67.

152. (1) The Supreme Court may, in respect of any proceedings on an application for an order under section 32, 50, 51 or 67, make either or both of the following orders :—

- (a) order that public notice, by advertisement or otherwise, be given of the proceedings; or
- (b) order that service of notice of the application upon any person be dispensed with.

(2) Subject to the Supreme Court Act, 1970, the Supreme Court shall not make an order referred to in subsection (1) (b) in respect of any person unless the Supreme Court is satisfied that—

- (a) that person cannot be found in New South Wales;
- (b) it is uncertain whether that person is living; or
- (c) service cannot be effected upon that person without expense disproportional to the value, if any, of his interest.

Service of
documents
on body
corporate,
proprietors
and others.

153. (1) A summons or other legal process or a notice or order under Part V may be served on a body corporate by leaving it with the chairman or secretary of the body corporate or of the council or with any member of the council.

(2) A document other than a document referred to in subsection (1) may be served on a body corporate—

- (a) by leaving it with any person referred to in subsection (1) or in the receptacle provided by the body corporate in accordance with section 68 (1) (d); or
- (b) by posting it, by prepaid mail, to the body corporate at its address recorded on the folio of the Register comprising the common property.

(3)

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(3) Subject to this Act, a notice or other document required or authorised by this Act or the by-laws to be served by the Commissioner, a Board, a body corporate, a council or the secretary of a council on a proprietor, lessee, mortgagee or occupier of a lot may be served—

- (a) by leaving it with some person apparently of or above the age of sixteen years—
 - (i) where the person to be served is an occupier of the lot, at the address of the lot; or
 - (ii) where an address for the service of notices on the person to be served is recorded in the strata roll, at the address so recorded;
- (b) by posting it, by prepaid mail, to the person to be served, where an address for the service of notices on that person is recorded in the strata roll, at the address so recorded; or
- (c) in the case of a proprietor, in any manner authorised by the by-laws for the service of notices on proprietors.

154. A public authority or local council which is authorised by any Act to enter upon part of a parcel for the purpose of exercising any power conferred on it may enter upon any other part of that parcel if it is necessary to do so in order to exercise that power.

Powers of entry by public authority or local council.

155. A notice given to a body corporate under Part II, IV or XV of the Real Property Act, 1900, shall be deemed to have been given to each proprietor of a lot the subject of the strata scheme concerned in the absence of evidence that the contents of any such notice were not communicated by the body corporate to any proprietor of such a lot.

Notices under Real Property Act, 1900, to body corporate deemed to be notices to proprietors.

156.

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Approved
insurers.

156. (1) The Minister may, by order in writing, approve of any person or class of persons as an approved insurer for the purposes of section 79 or Division 5 of Part IV.

(2) The Commissioner shall maintain a record of approved insurers.

Proceedings
for
offences.

157. Proceedings for an offence against any provision of this Act may only be taken before a court of petty sessions held before a stipendiary magistrate.

Regula-
tions—
general.

158. (1) The Governor may make regulations not inconsistent with this Act for or with respect to—

- (a) the preparation of plans and documents for the purposes of this Act;
- (b) the plans and documents that under this Act may be lodged in the office of the Registrar-General;
- (c) the registration in that office of plans and documents;
- (d) the fees to be paid in respect of the lodgment and registration in that office of plans and documents;
- (e) the forms to be used for the purposes of this Act;
- (f) the convening of the first annual general meeting of a body corporate;
- (g) the nomination and election of members of councils; and
- (h) any matter which by this Act is required or permitted to be prescribed or is necessary or convenient to be prescribed for carrying out or giving effect to any provision of this Act.

(2)

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(2) A regulation made under subsection (1) may impose a penalty not exceeding \$200 for an offence against the regulation. No. 68, 1973

(3) A regulation made under subsection (1) may make provisions which differ in their application according to such factors as are specified in the regulation.

159. (1) The Governor may, for the purposes of bringing lots, common property, bodies corporate and councils, within the meaning of the Conveyancing (Strata Titles) Act, 1961, under the provisions of this Act and applying the provisions of this Act, with or without modifications, additions or exclusions to or in respect of any such lots, common property, bodies corporate or councils, and for any purposes incidental thereto, make regulations containing such transitional, consequential or savings provisions as to the Governor may appear to be necessary or expedient. Regulations
—transitional.

(2) Without prejudice to the generality of subsection (1), any regulations made under that subsection may—

(a) contain provisions for or with respect to—

- (i) the effect or operation of any provision of this Act in relation to any lot, common property, body corporate or council or proprietor, mortgagee or occupier of a lot, or person having an estate or interest in a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961;
- (ii) the powers, authorities, duties and functions of the Registrar-General in relation to the carrying into effect of the purposes referred to in subsection (1);

(iii)

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- (iii) authorising or requiring any person specified in the regulations to exercise or perform any powers, authorities, duties or functions conferred or imposed on any person appointed under the Conveyancing (Strata Titles) Act, 1961, to exercise or perform any powers, authorities, duties or functions conferred or imposed on him under that Act;
 - (iv) the boundaries of lots and common property, within the meaning of the Conveyancing (Strata Titles) Act, 1961, after any such lots or common property are or is brought under the provisions of this Act; and
 - (v) the assets, rights, liabilities and duties of bodies corporate, within the meaning of the Conveyancing (Strata Titles) Act, 1961; and
- (b) for any of the purposes referred to in subsection (1), make such modifications or additions to, or exclusions of, the provisions of this Act as to the Governor may appear to be necessary or expedient.

(3) A regulation made under this section may make provisions which differ in their application according to such factors as are specified in the regulation.

(4) The provisions of—

- (a) section 32 (II) of the Interpretation Act, 1897, do not apply so as to authorise the rescission, revocation, alteration or variation of a regulation made under this section;
- (b) section 41 of that Act do not apply to such a regulation; and
- (c) the Acts Reprinting Act, 1972, do not apply to or in respect of any modifications, additions or exclusions referred to in subsection (2) (b).

(5)

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(5) The regulations made under this section shall— **No. 68, 1973**

- (a) be published in the Gazette;
- (b) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication; and
- (c) if approved by resolutions passed by both Houses of Parliament, take effect as if they were enacted in this Act upon the day appointed and notified under section 2.

(6) For the purpose of subsection (5), sitting days shall be counted, whether or not they occur during the same session.

160. (1) Each Act specified in Part 1 of Schedule 3 is **Repeals and amendments.**
repealed.

(2) Each Act specified in Column 1 of Part 2 of Schedule 3 is amended in the manner specified opposite that Act in Column 2 of that Part.

SCHEDULE 1.

Sec. 58.

By-Laws.

1. The chairman, secretary and treasurer of the council shall also be respectively the chairman, secretary and treasurer of the body corporate. **Chairman, secretary and treasurer of body corporate.**

2. A council may employ for and on behalf of the body corporate such agents and servants as it thinks fit in connection with the exercise and performance of the powers, authorities, duties and functions of the body corporate. **Council's power to employ agents and servants.**

SCHEDULE

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SCHEDULE 1—*continued.*

Notice-board.

3. A council shall cause a notice-board to be affixed to some part of the common property.

Notice of council meetings.

4. For not less than twenty-four hours ending immediately before a council holds a meeting it shall cause a notice of its intention to hold the meeting, containing the agenda for the meeting, to be displayed on the notice-board.

Voting in writing by members of council.

5. Where—

- (a) the council has complied with by-law 4 with respect to any meeting;
- (b) the council has caused to be served on each member of the council a copy of any motion for a proposed resolution to be submitted at that meeting; and
- (c) any such resolution has been approved in writing by a majority of the members of the council,

the resolution shall, subject to section 74 (3), be as valid as if it had been duly passed at a duly convened meeting of the council, notwithstanding that the meeting was not held.

Proprietors' attendance at council meetings.

6. A proprietor is entitled to attend a meeting of the council but may not address the meeting unless authorised by resolution of the council.

Minute of certain resolutions to be included in council's minutes.

7. The council shall cause to be included in its minutes a minute of all resolutions passed pursuant to by-law 5.

Display of minutes.

8. A council shall cause—

- (a) a copy of the minutes of a meeting of the council to be displayed on the notice-board within forty-eight hours after that meeting; and
- (b) a copy of a minute of any resolution passed pursuant to by-law 5 to be so displayed within forty-eight hours after the passing thereof,

and to be kept so displayed for a period of not less than fourteen days.

SCHEDULE

*Strata Titles.*SCHEDULE 1—*continued.*

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9. Any act or proceeding of a council done in good faith is, notwithstanding that at the time when the act or proceeding was done, taken or commenced there was—

- (a) a vacancy in the office of a member of the council; or
- (b) any defect in the appointment, or any disqualification of any such member,

as valid as if the vacancy, defect or disqualification did not exist and the council were fully and properly constituted.

10. The powers and duties of a secretary of a body corporate include—

- (a) the preparation and distribution of minutes of meetings of the body corporate;
- (b) the giving on behalf of the body corporate of the notices required to be given under this Act;
- (c) the maintenance of the strata roll;
- (d) the supply of information on behalf of the body corporate in accordance with section 70 (1) (a) and (b); and
- (e) the answering of communications addressed to the body corporate.

Acts, etc., of council valid notwithstanding vacancy, etc.
Powers and duties of secretary of body corporate.

11. The powers and duties of a treasurer of a body corporate include—

- (a) the notifying of proprietors of any contributions levied pursuant to this Act;
- (b) the receipt, acknowledgment and banking of and the accounting for any money paid to the body corporate;
- (c) the preparation of any certificate applied for under section 70 (1) (c); and
- (d) the keeping of the books of account referred to in section 68 (1) (g) and the preparation of the statement of accounts referred to in section 68 (1) (h).

Powers and duties of treasurer of body corporate.

12. A proprietor or occupier of a lot shall not upon the parcel create any noise likely to interfere with the peaceful enjoyment of the proprietor or occupier of another lot or of any person lawfully using common property.

Noise.

13. A proprietor or occupier of a lot shall not park or stand any motor or other vehicle upon common property except with the approval of the body corporate.

Vehicles.

SCHEDULE

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SCHEDULE 1—*continued.*

- Obstruction of common property.** 14. A proprietor or occupier of a lot shall not obstruct lawful use of common property by any person.
- Damage to lawns, etc., on common property.** 15. A proprietor or occupier of a lot shall not—
- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated upon common property; or
 - (b) use for his own purposes as a garden any portion of the common property.
- Damage to common property.** 16. A proprietor or occupier of a lot shall not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the approval in writing of the body corporate, but this by-law does not prevent a proprietor or person authorised by him from installing—
- (a) any locking or other safety device for protection of his lot against intruders; or
 - (b) any screen or other device to prevent entry of animals or insects upon his lot.
- Behaviour of proprietors and occupiers.** 17. A proprietor or occupier of a lot when upon common property shall be adequately clothed and shall not use language or behave in a manner likely to cause offence or embarrassment to the proprietor or occupier of another lot or to any person lawfully using common property.
- Children playing on common property in building.** 18. A proprietor or occupier of a lot shall not permit any child of whom he has control to play upon common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain upon common property comprising a laundry, car parking area or other area of possible danger or hazard to children.
- Behaviour of invitees.** 19. A proprietor or occupier of a lot shall take all reasonable steps to ensure that his invitees do not behave in a manner likely to interfere with the peaceful enjoyment of the proprietor or occupier of another lot or of any person lawfully using common property.
- Depositing rubbish, etc., on common property.** 20. A proprietor or occupier of a lot shall not deposit or throw upon the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of the proprietor or occupier of another lot or of any person lawfully using the common property.

SCHEDULE

*Strata Titles.*SCHEDULE 1—*continued.*

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21. A proprietor or occupier of a lot shall not, except with the consent in writing of the body corporate, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the body corporate for the purpose and there only for a reasonable period. Drying of laundry items.
22. A proprietor or occupier of a lot shall keep clean all glass in windows and all doors on the boundary of his lot, including so much thereof as is common property. Cleaning windows, etc.
23. A proprietor or occupier of a lot shall not, except with the approval in writing of the body corporate, use or store upon his lot or upon the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine. Storage of inflammable liquids, etc.
24. A proprietor or occupier of a lot shall not transport any furniture or large object through or upon common property within the building unless he has first given to the council notice of his intention to do so sufficient in the circumstances to enable the council to arrange for its nominee to be present at the time when he does so. Moving furniture, etc., on or through common property.
25. A proprietor or occupier of a lot shall ensure that all floor space within his lot (other than that comprising kitchen, laundry, lavatory or bathroom) is covered or otherwise treated to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of the proprietor or occupier of another lot. Floor coverings.
26. A proprietor or occupier of a lot— Garbage disposal.
- (a) shall maintain within his lot, or on such part of the common property as may be authorised by the body corporate, in clean and dry condition and adequately covered a receptacle for garbage;
 - (b) shall ensure that before refuse is placed in the receptacle it is securely wrapped or, in the case of tins or other containers, completely drained;
 - (c) for the purpose of having the garbage collected shall, not more than twelve hours before the time at which garbage is normally collected, place the receptacle within an area designated for that purpose by the body corporate;

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SCHEDULE 1—*continued.*

- (d) when the garbage has been collected shall promptly return the receptacle to his lot or other area referred to in paragraph (a);
- (e) shall not place any thing in the receptacle of the proprietor or occupier of any other lot except with the permission of that proprietor or occupier; and
- (f) shall promptly remove any thing which he or the garbage collector may have spilled from the receptacle and shall take such action as may be necessary to clean the area within which that thing was so spilled.

Keeping of animals.

27. A proprietor or occupier of a lot shall not, without the approval in writing of the body corporate, keep any animal upon his lot or the common property.

Sec. 57.

SCHEDULE 2.

MEETINGS, AND VOTING AT MEETINGS, OF BODY CORPORATE.

General meetings of body corporate.

1. (1) An annual general meeting of a body corporate shall be held in each year on a date not earlier than one month before nor later than one month after each anniversary of the first annual general meeting.

(2) A general meeting of a body corporate (in this clause referred to as an "extraordinary general meeting"), which is not an annual general meeting, shall be held whenever it is convened by the council.

(3) Without limiting the power of a council under subclause (2), a council shall, as soon as practicable after the receipt by the secretary of the council of a requisition for an extraordinary general meeting signed by one or more persons entitled to vote in respect of one or more lots, the unit entitlement or the sum of the unit entitlements of which is at least one-quarter of the aggregate unit entitlement, convene an extraordinary general meeting of the body corporate.

(4) Notice of a general meeting of a body corporate shall be served on each proprietor and first mortgagee of a lot, as ascertained from the strata roll, at least seven days before the meeting.

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*Strata Titles.*SCHEDULE 2—*continued.*

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- (5) Every such notice for an annual general meeting shall—
- (a) be accompanied by a copy of the statement of accounts of the body corporate last prepared by the body corporate in accordance with section 68 (1) (h);
 - (b) include a form of motion for adoption of those accounts; and
 - (c) be accompanied by a ballot-paper for the election of candidates as members of the council.
- (6) Every such notice for an annual general meeting or an extraordinary general meeting shall—
- (a) include a form of motion for each proposed resolution to be considered at the meeting;
 - (b) be accompanied by a voting-paper in respect of each motion to be considered and determined at the meeting for use by a person entitled to vote if that person wishes to cast his vote in writing; and
 - (c) inform each person to whom the notice is addressed and, where the notice is for an annual general meeting, each person to whom a ballot-paper is given in accordance with subclause (5) (c), that he may vote in respect of each motion and, where relevant, on election of members of the council—
 - (i) in the case of a proprietor of a lot subject to a first mortgage shown on the strata roll, only if the mortgagee fails or neglects to exercise the voting power conferred upon him by this Schedule;
 - (ii) except in the case of a motion requiring a unanimous resolution, only if all contributions levied on the lot, and any other moneys recoverable under this Act by the body corporate from him at the date of the notice (being contributions levied on him, or moneys recoverable from him, in respect of the lot of which he is the proprietor or first mortgagee) have been duly paid before the commencement of the meeting; and
 - (iii) either in person at the meeting, by proxy given to the secretary of the body corporate before a time specified in the notice (being a time not later than the time for the holding of the meeting), in respect of some or all of the motions set out in the notice by casting his vote on the voting-paper referred to in paragraph (b) accompanying the notice, or, where relevant, in

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SCHEDULE 2—*continued.*

respect of the election of members of the council, by casting his vote on the ballot-paper given to him in accordance with subclause (5) (c).

(7) A motion shall not be submitted at a general meeting unless notice of the motion has been given in accordance with this clause.

(8) A reference in subclause (7) to a motion includes a reference to a motion to amend a motion unless there is no vote cast in writing, as referred to in clause 5 (b), in respect of the motion sought to be amended.

Persons
entitled
to vote
at general
meetings.

2. (1) A person is entitled to vote in respect of any lot on any motion submitted at a general meeting of a body corporate or on any election of members of the council only if he is the proprietor of that lot as shown on the strata roll.

(2) Notwithstanding any other provision of this clause, a first mortgagee, as shown on the strata roll, of a lot is entitled to vote in respect of that lot on any motion submitted at a general meeting of a body corporate or on any election of members of the council and, if he votes on that motion, any vote cast by the proprietor of that lot on the motion shall not be counted.

(3) Co-proprietors or co-mortgagees shall only be entitled to cast a vote by a person duly appointed as a proxy by them jointly and if notice of his appointment has been given to the secretary of the body corporate before the commencement of the meeting at which the vote is cast or by furnishing to the secretary of the body corporate a voting-paper referred to in clause 1 (6) (b) indicating their joint vote on that motion or, where relevant, a ballot-paper, duly completed, referred to in clause 1 (5) (c).

(4) Only the proprietor entitled to the first of two or more successive estates in a lot is, subject to this Schedule, entitled to cast a vote on a motion submitted at a general meeting of a body corporate or on any election of members of the council.

(5) A proprietor who is the trustee of a lot is, subject to this Schedule, entitled to cast a vote on a motion submitted at a general meeting of a body corporate or on any election of members of the council and the persons beneficially interested in the trust are not entitled to cast such a vote.

SCHEDULE

*Strata Titles.*SCHEDULE 2—*continued.*

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(6) A person who, but for this subclause, would be entitled to vote on a motion submitted at a general meeting of a body corporate or on any election of members of the council is not, except where the motion is for a resolution which, if it is to be effective, is required by this Act to be a unanimous resolution, entitled so to vote unless all contributions levied in respect of the lot in respect of which he is entitled to vote at the date of the notice given under clause 1 (4) have been duly paid before the commencement of the meeting.

(7) The voting rights conferred by this clause are subject to section 81 (11).

3. (1) A motion submitted at a general meeting of a body corporate shall not be considered at that meeting and an election of the members of the council shall not be held at a meeting of the body corporate unless the number of persons present at that meeting either personally or by proxy and entitled to vote, together with the number of voters whose votes are cast in writing on that motion or election, constitute a quorum for considering that motion or holding that election. Quorum.

(2) Except as provided in subclause (3), one-half of the persons entitled to vote on a motion or on an election of members of the council constitute a quorum for considering that motion or holding that election.

(3) Where there is no quorum, as provided in subclause (2), for considering any motion or holding an election of members of the council at a general meeting of a body corporate within one-half hour after that motion or business arises for consideration at that meeting, the meeting shall stand adjourned to the same day in the next week at the same place and time and if there is no quorum, as provided in subclause (2), for considering that motion or holding that election at the adjourned meeting within one-half hour after that motion or business arises for consideration, the number of persons present personally or by proxy and entitled to vote, together with the number of voters whose votes are cast in writing on that motion or on that election, constitute a quorum for considering that motion or business.

4. At a general meeting of a body corporate the chairman may rule that a motion submitted at the meeting is out of order if— Motions
out of
order.

(a) he considers that the motion, if carried, would conflict with this Act or the by-laws or would otherwise be unlawful or unenforceable;

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SCHEDULE 2—*continued.*

- (b) except in respect of a motion to amend a motion, clause 1 (7) has not been complied with with respect to the motion; or
- (c) in respect of a motion to amend a motion, there is any vote cast in writing, as referred to in clause 5 (b), in respect of the motion sought to be amended.

Method of casting votes.

5. Except as provided in clause 2 (3), a vote on a motion submitted at a general meeting of a body corporate or on any election of members of the council may be cast—

- (a) by the person entitled to vote, either personally or by his duly appointed proxy; or
- (b) by furnishing to the secretary of the body corporate a voting-paper referred to in clause 1 (6) (b) indicating the vote of the person entitled to vote on that motion or a ballot-paper, duly completed, referred to in clause 1 (5) (c), as the case may be.

Withdrawal of voting-paper.

6. Notwithstanding that a person entitled to vote at a general meeting of a body corporate has cast a vote on a motion submitted at that meeting or on any election of members of the council by indicating his vote on that motion on a voting-paper referred to in clause 1 (6) (b) or ballot-paper referred to in clause 1 (5) (c), if he attends that meeting either personally or by another person holding a proxy, he may before commencement of the business of the meeting notify the chairman or secretary of the body corporate that he withdraws that voting-paper or ballot-paper and, where he does so—

- (a) for the purpose of determining whether there is a quorum for consideration of any such motion or for the holding of any such election at the meeting, his voting-paper or ballot-paper, as the case may be, shall be disregarded;
- (b) for the purpose of counting the votes on that motion or that election, his voting-paper or ballot-paper shall be disregarded; and
- (c) he or his duly appointed proxy may vote on that motion or that election at the meeting in the same manner as if he had not furnished that voting-paper or ballot-paper.

SCHEDULE

*Strata Titles.*SCHEDULE 2—*continued.*

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7. The chairman of the body corporate shall preside at any general meeting of the body corporate at which he is present and, in his absence from any such meeting, the persons present at that meeting and entitled to vote on motions submitted at that meeting may elect one of their number to preside at that meeting and the person so elected shall, while he is so presiding, be deemed to be the chairman of the body corporate.

Chairman
to preside.

8. The chairman at a general meeting of the body corporate shall make available at the general meeting for inspection by any person entitled to vote at that meeting all voting-papers and ballot-papers furnished to the secretary of the body corporate under clause 5 (b) and relating to business at that meeting.

Chairman
to make
voting-
papers
available
for
inspection.

9. The chairman at any general meeting of the body corporate shall, before submitting a motion to the meeting or the holding of the election of members of the council, announce the names of the persons who are entitled to vote on that motion or at that election.

Chairman to
announce
names of
persons
entitled
to vote.

10. (1) Subject to subclause (2), each person entitled to vote on an election of members of the council has one vote in respect of each lot in respect of which he is entitled to vote.

Counting
of votes
on election
of council.

(2) Where the original proprietor is, at the time of any annual general meeting, the proprietor of not less than one-half of the lots, he has, on an election of the council at that meeting, one vote in respect of each three lots in respect of which he is entitled to vote, ignoring any fraction.

11. (1) Subject to this clause, a motion submitted at a general meeting of a body corporate shall be decided according to the number of votes cast for and against the motion, whether personally, by proxy or in writing, each person entitled to vote having one vote in respect of each lot in respect of which he is entitled to vote.

Counting
of votes on
motions.

(2) If—

- (a) a poll is demanded by any person entitled to vote at a general meeting of a body corporate on a motion submitted at that meeting, whether or not the motion has been decided in accordance with subclause (1), and the demand is made by that person personally at the meeting or on the voting-paper on which he votes in respect of that motion; or

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SCHEDULE 2—*continued.*

- (b) a motion submitted at such a meeting is for a resolution which, if it is to be effective, is required by this Act to be a special resolution,

the motion shall be decided according to the value, ascertained in accordance with subclauses (3) and (4), of the votes cast for and against the motion, whether personally, by proxy or in writing.

(3) Subject to subclause (4), for the purposes of subclause (2) the value of a vote cast on a motion submitted at a general meeting of a body corporate by a person entitled to vote in respect of a lot is equal to the unit entitlement of that lot.

(4) For the purposes of subclause (2) the value of the vote cast by the original proprietor who at the time of the meeting is the proprietor of lots the sum of whose unit entitlements is not less than one-half of the aggregate unit entitlement shall be one-third of the value that, but for this subclause, his vote would have under subclause (3), ignoring any fraction.

(5) A poll shall be taken in such manner as the chairman thinks fit.

(6) A demand for a poll may be withdrawn by the person who made it.

Chairman's
declaration
of vote.

12. The declaration of the chairman of the result of the voting on any motion submitted at a general meeting of the body corporate, otherwise than on a poll, shall be conclusive without proof of the votes recorded for or against the motion.

General
meetings
valid if
attended
only by
chairman.

13. A general meeting of a body corporate is, subject to clause 3, validly held notwithstanding that the only person present at the meeting is the chairman of the body corporate.

Requisition
for motion
to be
included
on agenda
for general
meeting.

14. Any person entitled to vote at a general meeting of a body corporate may by notice in writing served on the secretary of the council require inclusion in the agenda of the next general meeting of the body corporate (other than a meeting in respect of which notices have already been given under clause 1 (4)) of a motion set out in the firstmentioned notice and the secretary shall comply with the notice.

SCHEDULE

*Strata Titles.*SCHEDULE 2—*continued.*

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15. A unanimous resolution or special resolution of a body corporate may not be amended or revoked except by a subsequent unanimous resolution or special resolution, as the case may be.

Amendment or revocation of unanimous or special resolutions.

16. Notwithstanding any other provision of this Act—

(a) such of the provisions of this Schedule as are specified in the regulations as not applying to the conduct of the first annual general meeting or the transaction of business thereat do not apply to the conduct of that meeting or the transaction of business thereat; and

(b) the first annual general meeting shall be conducted and the business thereat transacted in the prescribed manner.

Provision for conduct, etc., of first annual general meeting

SCHEDULE 3.

Sec. 160.

REPEALS AND AMENDMENTS OF ACTS.

Part 1.

Repeals.

Conveyancing (Strata Titles) Act, 1961 (Act No. 17, 1961)
 Conveyancing (Strata Titles) Amendment Act, 1961 (Act No. 55, 1961)

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Strata Titles.

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SCHEDULE 3—*continued.**Part 2.*

Amendments.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1900, No. 25	Real Property Act, 1900	Section 28P (1) (c)— Omit "Conveyancing (Strata Titles) Act, 1961, as amended by subsequent Acts", insert instead "Strata Titles Act, 1973".
1916, No. 2	Valuation of Land Act, 1916	Section 4 (3)— Omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973".
1919, No. 41	Local Government Act, 1919	Section 160AA (1)— From the definition of "flat", omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973". Section 327AA (1)— From the definition of "plan of subdivision", omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973".
1920, No. 47	Stamp Duties Act, 1920	Section 66A (2)— Omit "a home unit or a strata lot", insert instead "a lot, within the meaning of the Strata Titles Act, 1973".
1924, No. 50	Metropolitan Water, Sewerage, and Drainage Act, 1924	Section 100A (1)— From the definition of "flat", omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973".
1938, No. 11	Hunter District Water, Sewerage and Drainage Act, 1938	Section 104A (1)— From the definition of "flat", omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973".
1938, No. 20	Broken Hill Water and Sewerage Act, 1938	Section 87A (1)— From the definition of "flat", omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973".

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Strata Titles.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1941, No. 28	Auctioneers and Agents Act, 1941	Section 3— (a) From the definition of "Real estate agent" in subsection (1), omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973". (b) Omit from subsection (3) (b) (ia) "subsection two of section fifteen of the Conveyancing (Strata Titles) Act, 1961", insert instead "the Strata Titles Act, 1973". Section 51— (a) From the definition of "Allotment of land", omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973". (b) From paragraph (b) (iii) of the definition of "Real estate salesman", omit "subsection two of section fifteen of the Conveyancing (Strata Titles) Act, 1961", insert instead "the Strata Titles Act, 1973".
1961, No. 71	Companies Act, 1961	Section 64 (14)— Omit "Conveyancing (Strata Titles) Act, 1961", insert instead "Strata Titles Act, 1973".
1970, No. 60	Minors (Property and Contracts) Act, 1970	First Schedule— Omit so much of the First Schedule as amended Act No. 17, 1961.
1971, No. 16	Builders Licensing Act, 1971	Section 34 (2) (d) (i)— Omit "in a strata plan under the Conveyancing (Strata Titles) Act, 1961", insert instead "within the meaning of the Strata Titles Act, 1973".
1972, No. 64	Local Government (Further Amendment) Act, 1972	Sections 10 and 11— Omit the sections.

APPROPRIATION