

Building Units Titles Act of 1965 (QLD)

QDII_2 9nslaxtr

ANNO QUARTO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 3 of 1965

**An Act to Facilitate the Subdivision of Land in Strata and the Disposition of
thereto, and for purposes connected therewith**

[AssENTED

plan;

Queensland



ANNO QUARTO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 3 of 1965

**An Act to Facilitate the Subdivision of Land in Strata and the
Disposition of Titles thereto, and for purposes
connected therewith**

[ASSENTED TO 31ST MARCH, 1965]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title. (1) This Act may be cited as "*The Building Units Titles Act of 1965.*"

(2) **Commencement of Act.** This Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

2. Interpretation. (1) In this Act, unless the context or subject matter otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

"Body corporate"—A body corporate incorporated by section fourteen of this Act;

"Building"—The building or buildings shown in a building units plan;

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. **Short title.** (1) This Act may be cited as " *The Building Units*

17ths Act of 1965."

(2) **Commencement of Act.** This Act shall come into operation on a date to be fixed by the Governor in Proclamation published in the *Gazette*.

2. **Interpretation.** (1) In this Act, unless the context or subject matter

otherwise indicates or requires, the following terms shall have the meanings

respectively assigned to them, that is to say:-

" **Body corporate** "-A body corporate incorporated by section
fourteen of this Act;

" **Building** "-The building or buildings shown in a building units

48 Building Units Tules Act of 1965, No. 3

" **Building units plan** "-A plan which-

(a) is described in the title or heading thereto as a building

units plan;

(b) shows the whole or any part of the land comprised therein

as being divided into two or more storeys , whether or not any such storey is divided into two or more units; and

(c) complies with the requirements of section four of this Act, and includes a plan of resubdivision units in a building units plan registered under this Act;

" **Common property** "-So much of the land for the time being comprised in a building units plan as is not any unit shown in such plan;

" **Council** "-The council of a body corporate constituted under the First Schedule of this Act;

" **Court** "-The Supreme Court of Queensland;

" **Crown Law Officer** "-The Attorney- General, or the Minister for

Justice or Solicitor-General;

" **Land** "-Land under the provisions of " *The Real Property Acts, 1861 to 1963,*" held by the registered proprietor fee-simple;

" **Local Authority** "-In relation to a parcel the local authority for the area under " *The Local Government Act 1964,*" in which the parcel is situated or, where the parcel is situated in the City of Brisbane, Brisbane City constituted under " *The City of Brisbane Acts, 1924 to 1960* ";

" **Mortgage** " includes a charge for securing money or money's worth ;

" Parcel "-The land comprised in a building units plan;

" Proprietor "-The proprietor for the time being of a unit;

" Public Curator "-The " Public Curator " as defined in " *The*

Public Curator Acts, 1915 to 1957 ";

"Unanimous resolution "-A resolution **unanimously passed**

**at a duly convened meeting of the body corporate at which all persons entitled to exercise the po
voting conferred**

time of **by or under this Act are present personally or by proxy at the**
the
motion;

" Building units plan "—A plan which—

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

(b) shows the whole or any part of the land comprised therein as being divided into two or more storeys, whether or not any such storey is divided into two or more units; and

(c) complies with the requirements of section four of this Act, and includes a plan of resubdivision of any units in a building units plan registered under this Act;

" Common property "—So much of the land for the time being comprised in a building units plan as is not comprised in any unit shown in such plan;

" Council "—The council of a body corporate constituted under the First Schedule of this Act;

" Court "—The Supreme Court of Queensland;

" Crown Law Officer "—The Attorney-General, Minister for Justice or Solicitor-General;

" Land "—Land under the provisions of "**The Real Property Acts, 1861 to 1963**," held by the registered proprietor in fee-simple;

" Local Authority "—In relation to a parcel the local authority for the area under "**The Local Government Acts, 1936 to 1964**," in which the parcel is situated or, where the parcel is situated in the City of Brisbane, Brisbane City Council as constituted under "**The City of Brisbane Acts, 1924 to 1960**";

" Mortgage " includes a charge for securing money or money's worth;

" Parcel "—The land comprised in a building units plan;

" Proprietor "—The proprietor for the time being of a unit;

" Public Curator "—The " Public Curator " as defined in "**The Public Curator Acts, 1915 to 1957**";

" Unanimous resolution "—A resolution unanimously passed at a duly convened meeting of the body corporate at which all persons entitled to exercise the powers of voting conferred by or under this Act are present personally or by proxy at the time of the motion;

" Unit "—A unit shown as such in a building units plan;

" Unit entitlement " in respect of a unit means the unit entitlement of that unit, specified or apportioned in accordance with the provisions of section eighteen or paragraph (e) of subsection (4) of section twenty of this Act, as the case may be.

(2) In relation to a parcel situated in the City of Brisbane, any reference in this Act to "**The Local Government Acts, 1936 to 1964**" shall, unless the context or subject matter otherwise indicates or requires, include a reference to "**The City of Brisbane Acts, 1924 to 1960**."

3. Subdivision. (1) Land may be subdivided into units by registering a building units plan in the manner provided by or under this Act.

(2) When a plan has been so registered the units comprised therein, or any one or more thereof, may devolve or be transferred, leased, mortgaged, or otherwise dealt with in the same manner and form as any land held under the provisions of "**The Real Property Acts, 1861 to 1963**."

" Unit "-A unit shown as such in a building units plan;

" Unit entitlement " in respect of a unit means the unit entitlement

of that unit, specified or apportioned in accordance with the provisions of section **eighteen** or paragraph of subsection (4) of section twenty of this Act, as the case may be.

(2) In relation to a parcel situated in the City of Brisbane, any reference in this Act to " *The Local Government Act 1964* " shall, unless the context or subject matter otherwise indicates or requires, include a reference to " *Brisbane Acts, 1924 to 1960.*"

3. Subdivision . (1) Land may be subdivided into units by registering

a building units plan in the manner provided by or **under** this Act.

(2) When a plan has been so registered the units comprised therein, or any one or more thereof, may dev transferred, **leased**, mortgaged, or otherwise dealt with in the **same manner** and form as any land held t provisions of " *The Real Property Acts, 1861 to 1963.*"

Building Units Titles Act of 1965, No. 3 49

(3) A building units plan shall, for the purposes of " *The Real Property Acts, 1861 to 1963,*" be deemed upon be embodied in the **register book** ; **and notwithstanding the provisions** of those Acts, a proprietor shall **and his share in the common property subject to any interests affecting the same** for the time being n **registered building units plan and subject to any amendments to units or common property shown c**

(4) Upon registration of a **building units plan**, a **memorial** thereof shall be entered on the Deed of Gran of Title relating to the parcel and the Registrar of Titles shall thereafter be authorised to **issue a separat Title for each unit together** with the share of the common property **appurtenant** thereto.

4. Building units plan.

(1) A building units plan shall-

(a)

delineate the external surface boundaries of the parcel and the location of the building in relation thereto;

(b)

bear a statement containing such particulars as maybe necessary to identify the title to such parcel;

(c)

include a drawing illustrating the units and distinguishing such units by numbers;

(d) define the boundaries of each unit in the building by reference to floors, walls, and ceilings :

Provided that it shall not be

necessary to show any bearing or dimensions of a unit;

(e) show the approximate floor area of each unit;

(f)

have endorsed upon it a schedule complying with the provisions of section **eighteen** of this Act;

(g) have endorsed upon it the name of the building units;

(h) have endorsed upon it the address at which documents may be served on the body corporate in accordance with section **twenty- seven** of this Act;

(i) contain such other features as maybe prescribed by regulations under this Act.

(2) Except with the consent of the Crown Law Officer, a building

units plan shall not be registered if the name of the building units endorsed thereon, in the opinion of the Registrar of Titles, is undesirable.

(3) A building units plan shall, for the purposes of "The Real Property Acts, 1861 to 1963," be deemed upon registration to be embodied in the register book; and notwithstanding the provisions of those Acts, a proprietor shall hold his unit and his share in the common property subject to any interests affecting the same for the time being notified on the registered building units plan and subject to any amendments to units or common property shown on that plan.

(4) Upon registration of a building units plan, a memorial thereof shall be entered on the Deed of Grant or Certificate of Title relating to the parcel and the Registrar of Titles shall thereafter be authorised to issue a separate Certificate of Title for each unit together with the share of the common property appurtenant thereto.

4. Building units plan. (1) A building units plan shall—

- (a) delineate the external surface boundaries of the parcel and the location of the building in relation thereto;
- (b) bear a statement containing such particulars as may be necessary to identify the title to such parcel;
- (c) include a drawing illustrating the units and distinguishing such units by numbers;
- (d) define the boundaries of each unit in the building by reference to floors, walls, and ceilings: Provided that it shall not be necessary to show any bearing or dimensions of a unit;
- (e) show the approximate floor area of each unit;
- (f) have endorsed upon it a schedule complying with the provisions of section eighteen of this Act;
- (g) have endorsed upon it the name of the building units;
- (h) have endorsed upon it the address at which documents may be served on the body corporate in accordance with section twenty-seven of this Act;
- (i) contain such other features as may be prescribed by regulations under this Act.

(2) Except with the consent of the Crown Law Officer, a building units plan shall not be registered if the name of the building units endorsed thereon, in the opinion of the Registrar of Titles, is undesirable.

(3) A body corporate may by unanimous resolution and with the consent of the Registrar of Titles change the name of the building units endorsed upon the relevant building units plan to a name with which the building units plan could be registered without contravention of subsection (2) of this section.

(4) The Council of the body corporate may change the address endorsed on the building units plan at which documents may be served on the body corporate by registering with the Registrar of Titles on the building units plan such change of address.

(5) Unless otherwise provided in the building units plan, the common boundary of any unit with another unit or with common property shall be the centre of the floor, wall or ceiling, as the case may be.

(3) A body corporate may by **unanimous resolution** and with the consent of the Registrar of Titles change the building units endorsed upon the relevant building units plan to a name with which the **building units plan may be registered without contravention of subsection (2)** of this section.

(4) The Council of the body corporate may change the address endorsed on the building units plan at which notices may be served on the body corporate by registering with the Registrar of Titles on the building units plan a new address.

(5) Unless otherwise provided in the building units plan, the common

boundary of any unit with another unit or with common property shall be the centre of the floor, wall or ceiling, as the case may be.

50. *Building Units Titles Act of 1965, No. 3*

(6) Every building units plan lodged for registration shall be endorsed

with or be accompanied by certificates respectively-

- (a) of an authorised surveyor registered under "The Land Surveyors Acts, 1908 to 1916," that the building shown on the building units plan is within the external surface boundaries of the parcel the subject of the building units plan and where eaves or guttering project beyond such external boundaries, that an appropriate easement has been granted as an appurtenance of the parcel or, where the projection is over a road, that the local authority has consented thereto pursuant to the ordinances or by-laws as the case may be; and
- (b) of the local authority under the hand of the chairman and the clerk and sealed with the common seal of the local authority that the proposed subdivision of the parcel, as illustrated in the building units plan, has been approved by the local authority and that all the requirements of "The Local Government Acts, 1936 to 1964," or, as the case may be, "The City of Brisbane Acts, 1924 to 1960," have been complied with in regard to the subdivision.

(7) Upon registration of a building units plan the Registrar of Titles shall allot thereto a number.

5. Support. In respect of each unit there shall be implied-

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

6. Shelter. (1) Every proprietor shall be entitled to have his unit

sheltered by all such parts of the building as are capable of affording shelter.

(6) Every building units plan lodged for registration shall be endorsed with or be accompanied by certificates respectively—

- (a) of an authorised surveyor registered under “*The Land Surveyors Acts, 1908 to 1916*,” that the building shown on the building units plan is within the external surface boundaries of the parcel the subject of the building units plan and where eaves or guttering project beyond such external boundaries, that an appropriate easement has been granted as an appurtenance of the parcel or, where the projection is over a road, that the local authority has consented thereto pursuant to the ordinances or by-laws as the case may be; and
- (b) of the local authority under the hand of the chairman and the clerk and sealed with the common seal of the local authority that the proposed subdivision of the parcel, as illustrated in the building units plan, has been approved by the local authority and that all the requirements of “*The Local Government Acts, 1936 to 1964*,” or, as the case may be, “*The City of Brisbane Acts, 1924 to 1960*,” have been complied with in regard to the subdivision.

(7) Upon registration of a building units plan the Registrar of Titles shall allot thereto a number.

5. Support. In respect of each unit there shall be implied—

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

6. Shelter. (1) Every proprietor shall be entitled to have his unit sheltered by all such parts of the building as are capable of affording shelter.

(2) The right created by this section shall be an easement to which such parts aforesaid of the building shall be subject.

(3) The easement for shelter created by this section shall entitle the proprietor of the dominant tenement to enter on the servient tenement to replace, renew or restore any shelter.

7. Services. In respect of each unit there shall be implied—

- (a) in favour of the proprietor of such unit and as appurtenant thereto, easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being existing in the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of such unit;

(2) The right created by this section shall be an easement to which such parts aforesaid of the building shall be

(3) The casement for shelter created by this section shall entitle the proprietor of the dominant tenement to tenement to replace, renew or restore any shelter.

7. In respect of each unit there shall be implied-
Services

(a) in favour of the proprietor of such unit and as appurtenant thereto, easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being existing in the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of such unit;

Building Units Titles Act of 1965, No. 3 51

(b) as against the proprietor of such unit, and to which the same shall be subject, easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being existing within such unit, as appurtenant to the common property and also to every other unit capable of enjoying such easements.

8. Ancillary rights . All ancillary rights and obligations reasonably

necessary to make easements effective shall apply in respect to easements implied or created by this Act.

9. Ownership of common property . (i) The common property

shall be held by the proprietors as tenants in common in shares proportional to the unit entitlement of their respective units.

(2) The Registrar of Titles in issuing a certificate of title for a unit (3) Save as in this Act provided, no share in the common property shall be disposed of except as appurtenant to the unit of the proprietor and any assurance of a unit shall operate to assure the share of the disposing party in the common property, without express reference thereto.

shall certify therein the proprietor's share in the common property.

10. Dispositions of common property . (i) The proprietors of all units

by unanimous resolution may direct the body corporate to transfer or lease common property, or any part thereof.

(2) The body corporate, if it is satisfied that the resolution was duly passed, and that all persons having interests in the parcel and all other persons having interests (other than statutory interests) which have the body corporate have, in the case either of a memorandum of transfer or a lease, consented in writing of those interests in respect of the land comprised in the proposed transfer or, in the case of a lease, have written of the execution of the proposed lease, shall execute the appropriate memorandum of transfer

effective without execution by any person having an interest in the common or lease and the memorandum of transfer or lease shall be valid and

- (b) as against the proprietor of such unit, and to which the same shall be subject, easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being existing within such unit, as appurtenant to the common property and also to every other unit capable of enjoying such easements.

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

9. Ownership of common property. (1) The common property shall be held by the proprietors as tenants in common in shares proportional to the unit entitlement of their respective units.

(2) The Registrar of Titles in issuing a certificate of title for a unit shall certify therein the proprietor's share in the common property.

(3) Save as in this Act provided, no share in the common property shall be disposed of except as appurtenant to the unit of the proprietor and any assurance of a unit shall operate to assure the share of the disposing party in the common property, without express reference thereto.

10. Dispositions of common property. (1) The proprietors of all units by unanimous resolution may direct the body corporate to transfer or lease common property, or any part thereof.

(2) The body corporate, if it is satisfied that the resolution was duly passed, and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have, in the case either of a memorandum of transfer or a lease, consented in writing to the release of those interests in respect of the land comprised in the proposed transfer or, in the case of a lease, have approved in writing of the execution of the proposed lease, shall execute the appropriate memorandum of transfer or lease and the memorandum of transfer or lease shall be valid and effective without execution by any person having an interest in the common property, and the receipt of the body corporate for the purchase money, rent, premiums, or other moneys payable to the body corporate under the terms of the memorandum of transfer or lease shall be a sufficient discharge, and shall exonerate the persons taking under the memorandum of transfer or the lessee, as the case may be, from any responsibility for the application of the moneys expressed to have been so received.

(3) Every such memorandum of transfer or lease lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed, that the memorandum of transfer or lease conforms with the terms thereof and that all necessary consents were given.

(4) In favour of purchasers of the common property and in favour of the Registrar of Titles the certificate shall be conclusive evidence of the facts stated therein.

property, and the receipt of the body corporate for the purchase money, rent, premiums, or other moneys payable to the body corporate under the terms of the memorandum of transfer or lease shall be a sufficient discharge, and shall exonerate the persons taking under the memorandum of transfer or the lessee, as the case may be, from any responsibility for the application of the moneys expressed to have been so received.

(3) Every such memorandum of transfer or lease lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed, that the memorandum of transfer or lease conforms with the terms thereof and that all necessary consents were given.

52. *Building Units Titles Act of 1965, No. 3*

(5) The Registrar of Titles shall register-

- (a) the memorandum of transfer by issuing to the transferee a certificate of title for the land transferred ;
- (b) the release by noting it on the registered building units plan in the manner prescribed by regulations under this Act.

(6) Upon lodgment for registration of a memorandum of transfer of common property, the Registrar of Titles shall, upon issuing a certificate of title amend the registered building units plan by deleting therefrom the common property and the memorandum of transfer.

11. Disposition on destruction of the building . (1) Upon destruction

of the building the body corporate shall forthwith lodge with the Registrar of Titles a notification of such destruction as prescribed by regulations under this Act.

(2) Upon receipt of the notification referred to in subsection (1) of this section the Registrar of Titles shall note the same on the relevant registered building units plan in the manner prescribed by regulations under this Act.

(3) Upon such entry as aforesaid proprietors of units in such building units plan shall be entitled to the parcel as tenants in common in shares proportional to the unit entitlement of their respective units.

(4) The proprietors of all units by unanimous resolution may

direct the body corporate to transfer the parcel or any part or parts thereof.

(5) The body corporate, if it is satisfied that the resolution was duly passed, and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition, shall issue the appropriate memorandum of transfer, and the memorandum of transfer shall be valid and effective without further consent of any person having an interest in the parcel, and the receipt of the body corporate shall be a sufficient discharge of the body corporate from any responsibility for the application of the moneys expressed to have been so received.

responsibility
for the
application
of the
moneys
expressed to
have been so
received.

(5) The Registrar of Titles shall register—

- (a) the memorandum of transfer by issuing to the transferee a certificate of title for the land transferred;
- (b) the lease by noting it on the registered building units plan in the manner prescribed by regulations under this Act.

(6) Upon lodgment for registration of a memorandum of transfer of common property, the Registrar of Titles shall, before issuing a certificate of title amend the registered building units plan by deleting therefrom the common property comprised in the memorandum of transfer.

11. Disposition on destruction of the building. (1) Upon destruction of the building the body corporate shall forthwith lodge with the Registrar of Titles a notification of such destruction in the form prescribed by regulations under this Act.

(2) Upon receipt of the notification referred to in subsection (1) of this section the Registrar of Titles shall make an entry thereof on the relevant registered building units plan in the manner prescribed by regulations under this Act.

(3) Upon such entry as aforesaid proprietors of units in such building units plan shall be entitled to the parcel as tenants in common in shares proportional to the unit entitlement of their respective units.

(4) The proprietors of all units by unanimous resolution may direct the body corporate to transfer the parcel or any part or parts thereof.

(5) The body corporate, if it is satisfied that the resolution was duly passed, and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition, shall execute the appropriate memorandum of transfer, and the memorandum of transfer shall be valid and effective without execution by any person having an interest in the parcel, and the receipt of the body corporate shall be a sufficient discharge, and shall exonerate the persons taking under the memorandum of transfer from any responsibility for the application of the moneys expressed to have been so received.

(6) Every such memorandum of transfer lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed and that all necessary consents were given.

(7) In favour of purchasers of the parcel and in favour of the Registrar of Titles the certificate shall be conclusive evidence of the facts stated therein.

(8) Upon lodgment for registration of a memorandum of transfer of a parcel by the body corporate pursuant to this section, the Registrar of Titles, before issuing a certificate of title shall make the entry prescribed by subsection (2) of this section.

(9) Where land is transferred by the body corporate pursuant to this section—

- (a) the proprietors shall surrender to the Registrar of Titles their duplicate certificates of title for cancellation;

(6) Every such memorandum of transfer lodged for registration shall be endorsed with or accompanied by a seal of the body corporate that the resolution was duly passed and that all necessary consents were given.

(7) In favour of purchasers of the parcel and in favour of the Registrar of Titles the certificate shall be conclusive evidence of the facts stated therein.

(8) Upon lodgment for registration of a memorandum of transfer of a parcel by the body corporate pursuant to this section the Registrar of Titles, before issuing a certificate of title shall make the entry prescribed by subsection (2) of this section.

(9) Where land is transferred by the body corporate pursuant to this section-

(a) the proprietors shall surrender to the Registrar of Titles their duplicate certificates of title for cancellation;

Building Units Titles Act of 1965, No. 3 53

(b) the Registrar of Titles, after cancelling the folios of the register book constituted by the certificates of title relating to the units, shall register the memorandum of transfer by issuing to the transferee a certificate of title for the land transferred.

12. Creation of easements. (1) The proprietors of all units in a building shall, by a unanimous resolution, create such easements as may be necessary for the proper use and enjoyment of the units and the common property.

unanimous resolution may direct the body corporate-

(a) to execute on their behalf a grant of easement; (b) to accept on their behalf a grant of easement; (c) to surrender on their behalf any grant of easement.

The body corporate, if it is satisfied that the resolution was duly passed, and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified in writing to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the instrument, shall execute the appropriate instrument and every instrument shall be valid and effective from the date of its execution by any person having an interest in the parcel, and the receipt of the body corporate shall be a discharge, and shall exonerate all persons taking under the instrument from any responsibility for the amount of any moneys expressed to have been so received.

(2)

(3) Every such instrument lodged for registration shall be endorsed with or accompanied by a certificate of the body corporate that the resolution was duly passed and that all necessary consents were given.

(4) In favour of persons dealing with the body corporate pursuant to this section and in favour of the Registrar of Titles the certificate shall be conclusive evidence of the facts stated therein.

(5) The Registrar of Titles shall register the instrument creating such easement by noting the same on the building units plan in the manner provided by regulations under this Act.

13. By-laws. (1) The building shall be regulated by by-laws.

(2) The by-laws shall provide for the control, management, administration, use and enjoyment of the units and the common property.

(b) the Registrar of Titles, after cancelling the folios of the register book constituted by the certificates of title relating to the units, shall register the memorandum of transfer by issuing to the transferee a certificate of title for the land transferred.

12. Creation of easements. (1) The proprietors of all units by unanimous resolution may direct the body corporate—

- (a) to execute on their behalf a grant of easement;
- (b) to accept on their behalf a grant of easement;
- (c) to surrender on their behalf any grant of easement.

(2) The body corporate, if it is satisfied that the resolution was duly passed, and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition, shall execute the appropriate instrument and every instrument shall be valid and effective without execution by any person having an interest in the parcel, and the receipt of the body corporate shall be a sufficient discharge, and shall exonerate all persons taking under the instrument from any responsibility for the application of the moneys expressed to have been so received.

(3) Every such instrument lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed and that all necessary consents were given.

(4) In favour of persons dealing with the body corporate pursuant to this section and in favour of the Registrar of Titles the certificate shall be conclusive evidence of the facts stated therein.

(5) The Registrar of Titles shall register the instrument creating such easement by noting the same on the registered building units plan in the manner provided by regulations under this Act.

13. By-laws. (1) The building shall be regulated by by-laws.

(2) The by-laws shall provide for the control, management, administration, use and enjoyment of the units and the common property and shall include—

- (a) the by-laws set forth in the First Schedule to this Act which shall not be added to, amended or repealed except by unanimous resolution;
- (b) the by-laws set forth in the Second Schedule to this Act which may be added to, amended, or repealed by the body corporate.

Until by-laws are made in that behalf the by-laws set forth in the First Schedule and Second Schedule to this Act shall as on and from the registration of a building units plan be in force for all purposes in relation to the parcel and the units and common property therein.

(3) No by-law or addition to or amendment or repeal of any by-law shall be capable of operating to prohibit or restrict the devolution of units or any transfer, lease, mortgage or other dealing therewith or to destroy or modify any easement implied or created by this Act.

(4) No addition to or amendment or repeal of any by-law pursuant to paragraph (a) of subsection (2) of this section shall have effect until the body corporate shall have lodged a notification thereof in the form

and shall include-

- (a) the by-laws set forth in the First Schedule to this Act which

unanimous resolution;

(b) the by-laws set forth in the Second Schedule to this Act which may be added to, amended, or repealed by the body corporate.

Until by-laws are made in that behalf the by-laws set forth in the First Schedule and Second Schedule to this Act shall be in force as on and from the registration of a building units plan be in force for all purposes in relation to the parcel and common property therein.

(3) No by-law or addition to or amendment or repeal of any by-law shall be capable of operating to prohibit the devolution of units or any transfer, lease, mortgage or other dealing therewith or to destroy or modify any right implied or created by this Act.

No addition to or amendment or repeal of any by-law pursuant to paragraph (a) of subsection (2) of this section shall have effect until the body corporate shall have lodged a notification thereof in the form

(4)

54 Building Units Titles Act of 1965, No. 3

prescribed by regulation under this Act with the Registrar of Titles and until the Registrar of Titles shall have done so thereto on the registered building units plan.

(5) The body corporate shall on the application of a proprietor or a registered mortgagee of a unit or any person authorised in writing by a proprietor or such a mortgagee make available for inspection the by-laws for the time being in force.

(6) The body corporate shall permit any person to whom the by-laws are made available for inspection pursuant to this section to make copies of or take extracts from the by-laws.

(7) A proprietor or registered mortgagee of a unit or any person authorised in writing by a proprietor or such a person may request the body corporate to furnish him with a copy of the by-laws for the time being in force or any part thereof in advance of two shillings or such less sum as the body corporate requires for every one hundred words required to be copied. The body corporate shall cause any copy so requested to be sent to that person within a period of twenty-one days after the day next after the day on which the request is received by the body corporate.

(8) The by-laws for the time being in force shall bind the body corporate and the proprietors to the same extent as if they had respectively been signed and sealed by the body corporate and each proprietor and contained covenants entered into by the body corporate with each proprietor and on the part of each proprietor with every other proprietor and with the body corporate to observe and perform all the provisions of the by-laws.

14. Management. (i) (a) The proprietor or proprietors shall, by

virtue of this Act, upon registration of the building units plan be a body corporate under the name "The Proprietors of [the Building Units] Building Units, Plan No.

(The name of the building units shall be the name endorsed upon the relevant building units plan and the plan number allotted to that plan pursuant to subsection (7) of section four of this Act.)

(b) In this subsection "includes" includes the persons entitled to the parcel

prescribed by regulation under this Act with the Registrar of Titles and until the Registrar of Titles shall have made reference thereto on the registered building units plan.

(5) The body corporate shall on the application of a proprietor or a registered mortgagee of a unit or any person authorised in writing by a proprietor or such a mortgagee make available for inspection the by-laws for the time being in force.

(6) The body corporate shall permit any person to whom the by-laws are made available for inspection pursuant to subsection (5) of this section to make copies of or take extracts from the by-laws.

(7) A proprietor or registered mortgagee of a unit or any person authorised in writing by a proprietor or such a mortgagee may request the body corporate to furnish him with a copy of the by-laws for the time being in force or any part thereof on payment in advance of two shillings or such less sum as the body corporate requires for every one hundred words required to be copied and the body corporate shall cause any copy so requested to be sent to that person within a period of twenty-one days commencing on the day next after the day on which the request is received by the body corporate.

(8) The by-laws for the time being in force shall bind the body corporate and the proprietors to the same extent as if such by-laws had respectively been signed and sealed by the body corporate and each proprietor and contained covenants on the part of the body corporate with each proprietor and on the part of each proprietor with every other proprietor and with the body corporate to observe and perform all the provisions of the by-laws.

14. Management. (1) (a) The proprietor or proprietors shall, by virtue of this Act, upon registration of the building units plan be a body corporate under the name "The Proprietors—[Insert Name of the Building Units] Building Units, Plan No. _____".

(The name of the building units shall be the name endorsed upon the relevant building units plan and the plan number shall be the number allotted to that plan pursuant to subsection (7) of section four of this Act.)

(b) In this subsection "proprietors" includes the persons entitled to the parcel pursuant to subsection (3) of section eleven of this Act.

(2) The provisions of "*The Companies Acts, 1961 to 1964*," shall not apply to the body corporate.

(3) Subject to this Act the body corporate shall be responsible for enforcement of the by-laws and the control, management and administration of the common property.

(4) The body corporate shall have perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and shall be regulated in accordance with the by-laws for the time being in force.

(5) The body corporate may—

(a) sue and be sued on any contract made by it;

(b) sue for and in respect of any damage or injury to the common property caused by any person, whether a proprietor or not;

(c) be sued in respect of any matter connected with the parcel for which the proprietors are jointly liable.

(2) The provisions of "*The Companies Acts, 1961 to 1964*," shall not apply to the body corporate.

(3) Subject to this Act the body corporate shall be responsible for

enforcement of the by-laws and the control, management and

administration of the common property.

(4) The body corporate shall have perpetual succession and a common seal and shall be capable of suing and corporate name and shall be regulated in accordance with the by-laws for the time being in force.

(5) The body corporate may-

(a) sue and be sued on any contract made by it;

(b) sue for and in respect of any damage or injury to the common property caused by any person, whether a proprietor or not,

(c) be sued in respect of any matter connected with the parcel for which the proprietors are jointly liable.

Building Units Titles Act of 1965, No. 3

15. Duties and powers of body corporate. (1) The duties of the body

corporate shall include the following:-

(a) to insure and keep insured the building to the reinstatement or replacement value thereof against fire and such other risks as may be prescribed under this Act unless the proprietors by unanimous resolution otherwise resolve;

(b) to effect such insurance as it is required by law to effect;

(c) to insure against such other risks as the proprietors may from time to time determine by special resolution as defined in clause thirty-eight of the First Schedule to this Act;

(d) subject to section nineteen of this Act, forthwith to apply insurance moneys received by it in respect of damage to the building in rebuilding and reinstating the building so far as the same may lawfully be effected;

(e) to pay premiums on any policies of insurance effected by it;

(f) to keep in a state of good and serviceable repair and properly maintain the common property;

(g) to comply with notices or orders by any competent public or local authority requiring repairs to, or work to be done in respect of, the parcel or the building;

(h) to comply with any reasonable request for the names and addresses of the persons who are members of the council of the body corporate.

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

(2) The powers of the body corporate shall include the following:-

(a) to establish a fund for administrative expenses sufficient in the opinion of the body corporate for the control, management and administration of the common property, for the payment of arrears of insurance and the discharge of any other obligation of the body corporate;

(b) to determine from time to time the amounts to be raised for

15. Duties and powers of body corporate. (1) The duties of the body corporate shall include the following:—

- (a) to insure and keep insured the building to the reinstatement or replacement value thereof against fire and such other risks as may be prescribed under this Act unless the proprietors by unanimous resolution otherwise resolve;
- (b) to effect such insurance as it is required by law to effect;
- (c) to insure against such other risks as the proprietors may from time to time determine by special resolution as defined in clause thirty-eight of the First Schedule to this Act;
- (d) subject to section nineteen of this Act, forthwith to apply insurance moneys received by it in respect of damage to the building in rebuilding and reinstating the building so far as the same may lawfully be effected;
- (e) to pay premiums on any policies of insurance effected by it;
- (f) to keep in a state of good and serviceable repair and properly maintain the common property;
- (g) to comply with notices or orders by any competent public or local authority requiring repairs to, or work to be done in respect of, the parcel or the building;
- (h) to comply with any reasonable request for the names and addresses of the persons who are members of the council of the body corporate.

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

(2) The powers of the body corporate shall include the following:—

- (a) to establish a fund for administrative expenses sufficient in the opinion of the body corporate for the control, management and administration of the common property, for the payment of any premiums of insurance and the discharge of any other obligation of the body corporate;
- (b) to determine from time to time the amounts to be raised for the purposes aforesaid;
- (c) to raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective units;
- (d) to recover from any proprietor by an action for debt in any court of competent jurisdiction any sum of money expended by the body corporate for repairs to or work done by it or at its direction in complying with any notice or order by a competent public or local authority in respect of that portion of the building comprising the unit of that proprietor.

(3) (a) Subject to the provisions of paragraph (b) of this subsection, any contribution levied as aforesaid shall be due and payable on the passing of a resolution to that effect and in accordance with the terms of such resolution, and may be recovered as a debt by the body corporate in an action in any court of competent jurisdiction from the proprietor entitled at the time when such resolution was passed and from the proprietor entitled at the time when such action was instituted both jointly and severally.

the purposes aforesaid;

- (c) to raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective units;
- (d) to recover from any proprietor by an action for debt in any court of competent jurisdiction any sum of money expended by the body corporate for repairs to or work done by it or at its direction in complying with any notice or order by a competent public or local authority in respect of that portion of the building comprising the unit of that proprietor.

(3) (a) Subject to the provisions of paragraph (b) of this subsection, any contribution levied as aforesaid shall be payable on the passing of a resolution to that effect and in accordance with the terms of such resolution, and recovered as a debt by the body corporate in an action in any court of competent jurisdiction from the person entitled at the time when such resolution was passed and from the proprietor entitled at the time when the action was instituted both jointly and severally.

56. *Building Units Titles Act of 1965, No. 3*

(b) The body corporate shall on the application of a proprietor or any person authorised in writing by him certify the following matters:

(i) the amount of any contribution determined as the contribution of the proprietor;

(ii) the manner in which such contribution is payable;

(iii) the extent to which such contribution has been paid by the proprietor; and

(iv) the amount of any rate paid by the body corporate pursuant to section sixteen of this Act, and not recovered by it, in favour of any person dealing with that proprietor, such certificate shall be conclusive evidence of the matters certified therein.

(4) The policy of insurance authorised by this section and taken out by the body corporate in respect of the building shall be liable to be brought into contribution with any other policy of insurance save another policy authorised by this section in respect of the same building.

(4) The policy of insurance authorised by this section and taken out by the body corporate in respect of the building shall be liable to be brought into contribution with any other policy of insurance save another policy authorised by this section in respect of the same building.

16. Recovery of rates. (i) Where any rate levied in respect of a unit

by any competent local or public authority is due and payable and the proprietor has made default in payment, the authority may serve upon the body corporate a copy of the notice of assessment of such rate together with a demand on the body corporate to pay the same or such part thereof as remains unpaid within thirty days from the date of such demand.

(2) If the body corporate fails to pay such rate or part thereof within such period as aforesaid the said authority may exercise its rights against any proprietor, may sue the body corporate for such rate or part thereof as a debt in any court of competent jurisdiction and may exercise any other remedy available to the authority under any Act, regulation, ordinance or by-law as if the body corporate were the sole proprietor of the parcel and the rate levied was the rate applicable to the parcel.

(3) Where the body corporate pays any such rate or part thereof it may recover the amount so paid in an action for debt in any court of

competent jurisdiction from the person who is the proprietor of the unit

instituted. in respect of which the rate was levied at the time when such action is

(b) The body corporate shall on the application of a proprietor or any person authorised in writing by him certify—

- (i) the amount of any contribution determined as the contribution of the proprietor;
- (ii) the manner in which such contribution is payable;
- (iii) the extent to which such contribution has been paid by the proprietor; and
- (iv) the amount of any rate paid by the body corporate pursuant to section sixteen of this Act, and not recovered by it,

and, in favour of any person dealing with that proprietor, such certificate shall be conclusive evidence of the matters certified therein.

(4) The policy of insurance authorised by this section and taken out by the body corporate in respect of the building shall not be liable to be brought into contribution with any other policy of insurance save another policy authorised by this section or by subparagraph (i) of paragraph (a) of subsection (2) of section seventeen of this Act in respect of the same building or part thereof.

16. Recovery of rates. (1) Where any rate levied in respect of a unit by any competent local or public authority is due and payable and the proprietor has made default in payment thereof, then such authority may serve upon the body corporate a copy of the notice of assessment of such rate together with a notice requiring the body corporate to pay the same or such part thereof as remains unpaid within thirty days from the date of such service.

(2) If the body corporate fails to pay such rate or part thereof within such period as aforesaid the said authority without prejudice to its rights against any proprietor, may sue the body corporate for such rate or part thereof as a debt in any court of competent jurisdiction and may exercise any other remedy available to the authority under any Act, regulation, ordinance or by-laws as if the body corporate were the sole proprietor of the parcel and the rate levied was the rate applicable to the parcel.

(3) Where the body corporate pays any such rate or part thereof it may recover the amount so paid in an action for debt in any court of competent jurisdiction from the person who is the proprietor of the unit in respect of which the rate was levied at the time when such action is instituted.

(4) Where the body corporate pays any such rate or part thereof the amount so paid shall, until recovery by the body corporate, be and remain a charge upon the unit in respect of which the rate was levied of the same nature and priority as the local or public authority had in respect of such rate or part thereof before payment by the body corporate.

17. Insurance. (1) Where a building is insured to its reinstatement or replacement value a proprietor may effect a policy of insurance in respect of any damage to his unit in a sum equal to the amount secured, at the date of any loss referred to in such policy, by mortgages charged upon his unit.

Where any such policy of insurance is in force—

- (a) payment shall be made by the insurer under such policy to the mortgagees whose interests are noted thereon in order of their respective priorities, subject to the terms and conditions of the policy;

(4) Where the body corporate pays any such rate or part thereof the amount so paid shall, until recovery by the body corporate, be and remain a charge upon the unit in respect of which the rate was levied of the same nature and priority as the local or public authority had in respect of such rate or part thereof before payment by the body corporate.

replacement value a proprietor may effect a policy of insurance in respect of any damage to his unit in a sum secured. at the date of any loss referred to in such policy, by mortgages charged upon his unit.

Where any such policy of insurance is in force-

- (a) payment shall be made by the insurer under such policy to the mortgagees whose interests are noted thereon in order of their respective priorities, subject to the terms and conditions of the policy;

Building Units Titles Act of 1965, No. 3 5

- (b) shall be liable to pay thereunder-

subject to the terms and conditions of such policy, the insurer (ii) the amount of the loss; or (iii) the amount sufficient, at the date of the loss, to discharge mortgages charged upon the unit, whichever is the least amount;

- (c) where the amount so paid by the insurer equals the amount necessary to discharge a mortgage charged upon the unit the insurer shall be entitled to an assignment of that mortgage;
- (d) where the amount so paid by the insurer is less than the amount necessary to discharge a mortgage charged upon the unit the insurer shall be entitled to a sub-mortgage of such mortgage to secure the amount so paid on terms and conditions agreed upon as provided in subsection (3) of this section, or, failing agreement, on the same terms and conditions as those contained in the mortgage by the proprietor.

(2) (a) Where a building is uninsured, or has been insured to less than its reinstatement or replacement value, a proprietor may-

- (i) effect a policy of insurance in respect of any damage to his unit in a sum equal to the reinstatement or replacement value of his unit plus the reinstatement or replacement value of his share, on a unit entitlement basis, of the common building property less a sum representing the amount to which his unit is insured under any policy of insurance effected on the building;
- (ii) notwithstanding any existing policies, effect a policy of insurance in respect of damage to his unit in a sum equal to the amount secured, at the date of any loss referred to in such last mentioned policy, by mortgages charged upon his unit, and the provisions of paragraphs (a), (b), (c) and (d) and of subsection (1) of this section shall apply in respect of any payment pursuant to such last mentioned policy.

(b) For the purposes of this subsection, the amount for which a unit is insured under a policy of insurance in respect of the building shall be determined by multiplying the value stated in such policy by the unit entitlement of the unit and dividing the product so obtained by the

sum of the unit entitlements of all units.

- (b) subject to the terms and conditions of such policy, the insurer shall be liable to pay thereunder—
- (i) the value stated in such policy; or
 - (ii) the amount of the loss; or
 - (iii) the amount sufficient, at the date of the loss, to discharge mortgages charged upon the unit, whichever is the least amount;
- (c) where the amount so paid by the insurer equals the amount necessary to discharge a mortgage charged upon the unit the insurer shall be entitled to an assignment of that mortgage;
- (d) where the amount so paid by the insurer is less than the amount necessary to discharge a mortgage charged upon the unit the insurer shall be entitled to a sub-mortgage of such mortgage to secure the amount so paid on terms and conditions agreed upon as provided in subsection (3) of this section, or, failing agreement, on the same terms and conditions as those contained in the mortgage by the proprietor.
- (2) (a) Where a building is uninsured, or has been insured to less than its reinstatement or replacement value, a proprietor may—
- (i) effect a policy of insurance in respect of any damage to his unit in a sum equal to the reinstatement or replacement value of his unit plus the reinstatement or replacement value of his share, on a unit entitlement basis, of the common building property less a sum representing the amount to which his unit is insured under any policy of insurance effected on the building;
 - (ii) notwithstanding any existing policies, effect a policy of insurance in respect of damage to his unit in a sum equal to the amount secured, at the date of any loss referred to in such lastmentioned policy, by mortgages charged upon his unit, and the provisions of paragraphs (a), (b), (c) and (d) of subsection (1) of this section shall apply in respect of any payment pursuant to such lastmentioned policy.
- (b) For the purposes of this subsection, the amount for which a unit is insured under a policy of insurance effected in respect of the building shall be determined by multiplying the value stated in such policy by the unit entitlement of the unit and dividing the product so obtained by the sum of the unit entitlements of all units.
- (3) For the purposes of paragraph (d) of subsection (1) and of subparagraph (ii) of paragraph (a) of subsection (2) of this section, any insurer and mortgagee or mortgagees may at any time, whether before or after a policy of insurance has been effected by a proprietor, agree upon the terms and conditions of the sub-mortgage.
- (4) Nothing in this section shall limit the right of a proprietor to insure against risks other than damage to his unit.
- (5) The policy of insurance authorised by subparagraph (i) of paragraph (a) of subsection (2) of this section and taken out by a proprietor in respect of damage to his unit shall not be liable to be brought into contribution with any other policy of insurance save a policy authorised by the said subparagraph (i) and taken out in respect of damage to the same unit or a policy authorised by section fifteen of this Act whereby his unit is insured.

(3) For the purposes of paragraph (d) of subsection (1) and of subparagraph (ii) of paragraph (a) of subsection (2), any **insurer and mortgagee or mortgagees** may at any time, whether before or after a policy of insurance has been effected by a proprietor, agree upon **the terms** and conditions of the sub-mortgage.

(4) Nothing in this section shall limit the right of a proprietor to **insure against** risks other than damage to his unit.

(5) The policy of insurance authorised by subparagraph (i) of paragraph (a) of subsection (2) of this section taken out by a proprietor in respect of damage to his unit shall not be liable to be brought into contribution with any other policy of insurance save a policy authorised by the said subparagraph (i) and taken out in respect of damage to his unit or a policy authorised by section fifteen of this Act whereby his unit is insured.

58. *Building Units Titles Act of 1965, No. 3*

(6) A policy of **insurance** authorised by subsection (1) or subparagraph (ii) of paragraph (a) of subsection (2) of this section taken out by a proprietor in respect of damage to his unit shall not be **liable** to be brought into contribution with any other **insurance save** another policy authorised by subsection (1) or subparagraph (ii) of paragraph (a) of subsection (2) taken out in respect of damage to the **same unit**.

(7) This section shall apply notwithstanding the provisions of the Life Assurance Act, 1774 (**Imperial**) (14 Geo. 3) in so far as they relate to any law **relating to insurance**.

18. Unit entitlement of units. Every plan lodged for registration

as a building units plan shall have endorsed upon it a schedule specifying in whole numbers the **unit entitlement** of each unit and a **number equal** to the aggregate unit entitlement of all units, and such **unit entitlement** shall determine-

(a) the voting rights of proprietors;

(b) the quantum of the undivided share of each proprietor in the **common** property;

(c) the proportion payable by each proprietor of contributions levied pursuant to subsection (2) of section fifteen of this Act.

19. Destruction of the building. (1) For the purposes of this Act

the building is destroyed **on the happening of the following events:-**

(a) when the proprietors **by unanimous resolution** so resolve; or

(b) when the Court is satisfied that having regard to the rights and interests of the proprietors as a whole it is **just and equitable** that the building shall be deemed to have **been** destroyed and makes a declaration to that effect.

(2) In any case where a declaration has been made pursuant to

paragraph (b) of subsection (1) of this section the Court may by order impose such conditions and give such directions for the payment of money) **as it thinks fit for the purpose of adjusting** as between the body corporate and **as amongst** the proprietors themselves the effect of the declaration.

(3) (a)
Where the
building is
damaged
but is not
destroyed
pursuant

to
subsection
(1) of this
section.
the Court
may by
order
settle a
scheme,
including
provisions-

(6) A policy of insurance authorised by subsection (1) or subparagraph (ii) of paragraph (a) of subsection (2) of this section and taken out by a proprietor in respect of damage to his unit shall not be liable to be brought into contribution with any other policy of insurance save another policy authorised by subsection (1) or subparagraph (ii) of paragraph (a) of subsection (2) of this section and taken out in respect of damage to the same unit.

(7) This section shall apply notwithstanding the provisions of the Life Assurance Act, 1774 (Imperial) (14 Geo. III. c. 48), or any other law relating to insurance.

18. Unit entitlement of units. Every plan lodged for registration as a building units plan shall have endorsed upon it a schedule specifying in whole numbers the unit entitlement of each unit and a number equal to the aggregate unit entitlement of all units, and such unit entitlement shall determine—

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

19. Destruction of the building. (1) For the purposes of this Act the building is destroyed on the happening of the following events:—

- (a) when the proprietors by unanimous resolution so resolve; or
- (b) when the Court is satisfied that having regard to the rights and interests of the proprietors as a whole it is just and equitable that the building shall be deemed to have been destroyed and makes a declaration to that effect.

(2) In any case where a declaration has been made pursuant to paragraph (b) of subsection (1) of this section the Court may by order impose such conditions and give such directions (including directions for the payment of money) as it thinks fit for the purpose of adjusting as between the body corporate and the proprietors and as amongst the proprietors themselves the effect of the declaration.

(3) (a) Where the building is damaged but is not destroyed pursuant to subsection (1) of this section, the Court may by order settle a scheme, including provisions—

- (i) for the reinstatement in whole or in part of the building;
- (ii) for transfer of the interests of proprietors of units which have been wholly or partially destroyed to the other proprietors in proportion to their unit entitlement.

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

- (i) directing the application of insurance moneys received by the body corporate in respect of damage to the building;
- (ii) directing payment of money by the body corporate or by proprietors or by some one or more of them;
- (iii) directing such amendment of the building units plan as the Court thinks fit, so as to include in the common property any accretion thereto;
- (iv) imposing such terms and conditions as it thinks fit.

(i) for the reinstatement in whole or in part of the building;

(ii) for transfer of the interests of proprietors of units which have been wholly or partially destroyed to the proprietors in proportion to their unit entitlement.

(b) In the exercise of its powers under this subsection the Court may make such orders as it deems necessary to give effect to the scheme, including orders-

- (i) directing the application of insurance moneys received by the body corporate in respect of damage to the building;
- (ii) directing payment of money by the body corporate or by proprietors or by some one or more of them;
- (iii) directing such amendment of the building units plan as the Court thinks fit, so as to include in the plan any accretion thereto;
- (iv) imposing such terms and conditions as it thinks fit.

Building Units Titles Act of 1965, No. 3 59

(4) For the purposes of the foregoing provisions of this section an application may be made to the Court by the body corporate or by a proprietor or by a registered mortgagee of a unit.

(5) On any application to the Court under the foregoing provisions of this section any insurer who has insurance on the building or any part thereof (being insurance against destruction of units or damage to the building) shall have the right to appear in person or by agent or counsel.

(6) The Court may from time to time vary any order made by it under this section.

(7) (a) The Court on the application of the body corporate or any member thereof or the administrator may make provision for the winding up of the affairs of the body corporate.

(b) By the same or subsequent order the Court may declare the body corporate dissolved as on and from a date specified in the order.

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

20. Approval of subdivision. (1) The provisions relating to subdivision

of land contained in " *The Local Government Acts, 1936 to 1964.*" or any other Act, shall not apply to any subdivision effected pursuant to subsection (1) of section three of this Act: Provided always that the boundaries of the subdivision correspond with boundaries of a lawful subdivision within the meaning of " *The Local Government Acts, 1936 to 1964.*" and provided further that any disposition of common property does not contravene the provisions of section four of this Act.

(2) In respect of any application for a certificate under paragraph (b) of subsection (6) of section four of this Act a local authority shall direct the issue of such certificate if it is satisfied that-

(a) the separate occupation of the proposed units will not contravene the provisions of-

(i) any town planning scheme approved pursuant to section thirty-three of " *The Local Government Acts, 1936 to 1964.*"; or

(ii) any Order in Council made pursuant to section 33A of " *The Local Government Acts, 1936 to 1964.*";

or, in the case of Brisbane City Council:

(4) For the purposes of the foregoing provisions of this section an application may be made to the Court by the body corporate or by a proprietor or by a registered mortgagee of a unit.

(5) On any application to the Court under the foregoing provisions of this section any insurer who has effected insurance on the building or any part thereof (being insurance against destruction of units or damage to the building) shall have the right to appear in person or by agent or counsel.

(6) The Court may from time to time vary any order made by it under this section.

(7) (a) The Court on the application of the body corporate or any member thereof or the administrator may by order make provision for the winding up of the affairs of the body corporate.

(b) By the same or subsequent order the Court may declare the body corporate dissolved as on and from a date specified in the order.

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

20. Approval of subdivision. (1) The provisions relating to subdivision of land contained in “*The Local Government Acts, 1936 to 1964*,” or any other Act, shall not apply to any subdivision effected pursuant to subsection (1) of section three of this Act: Provided always that the boundaries of the parcel correspond with boundaries of a lawful subdivision within the meaning of “*The Local Government Acts, 1936 to 1964*,” and provided further that any disposition of common property does not contravene the provisions of those Acts.

(2) In respect of any application for a certificate under paragraph (b) of subsection (6) of section four of this Act the local authority shall direct the issue of such certificate if it is satisfied that—

(a) separate occupation of the proposed units will not contravene the provisions of—

(i) any town planning scheme approved pursuant to section thirty-three of “*The Local Government Acts, 1936 to 1964*”; or

(ii) any Order in Council made pursuant to section 33A of “*The Local Government Acts, 1936 to 1964*”;

or, in the case of Brisbane City Council—

(iii) the Town Plan for the City of Brisbane approved pursuant to “*The City of Brisbane (Town Plan) Act of 1959*”; or

(iv) any ordinance made pursuant to section twelve of “*The City of Brisbane (Town Plan) Act of 1959*”;

(b) any consent or approval required under any such approved scheme or Plan, Order in Council or ordinance has been given in relation to the separate occupation of the proposed units;

(c) the building and the proposed subdivision of the parcel into units for separate occupation will not interfere with the existing or likely future amenity of the neighbourhood, having regard to the circumstances of the case, and the public interest.

(3) Upon any refusal by the local authority to direct the issue of a certificate under paragraph (b) of subsection (6) of section four of this Act, or upon failure by the local authority to do so within forty days after application for such certificate, the applicant may appeal to the Minister within the meaning of “*The Local Government Acts, 1936 to*

⁽ⁱⁱⁱ⁾ the Town Plan for the City of Brisbane approved pursuant to “*The City of Brisbane (Town Plan) Act of 1959*”; or

^(iv) any ordinance made pursuant to section twelve of “*The*

City of Brisbane (Town Plan) Act of 1959 ;

(b) any consent or approval required under any such approved

scheme or Plan, Order in Council or ordinance has been given

in relation to the separate occupation of the proposed units;

(c) the building and the proposed subdivision of the parcel into

units for separate occupation will not interfere with the existing or likely future amenity of the neighbourhood, having regard to the circumstances of the case, and the public interest

(3) Upon any refusal by the local authority to direct the issue of a

certificate under paragraph (b) of subsection (6) of section four of this Act, or upon failure by the local authority to issue such certificate within the period specified in subsection (6) of section four of this Act, the applicant may appeal to the Minister within the period specified in subsection (6) of section four of this Act. *The Local Government Acts, 1936 to*

60. *Building Units Titles Act of 1965, No. 3*

1964," in accordance with the provisions of subsection (15) of section thirty-four of those Acts and the provisions of section 10 of those Acts shall extend *mutatis mutandis* to and in respect of such appeal.

(4) (a) Any proprietor or proprietors may with the approval of the local authority resubdivide his or their unit building units plan relating to the unit or units so resubdivided **in the manner** provided by this Act for the resubdivision of building units plans.

(b) Save as in this section provided, the provisions of this Act relating to building units plans and to appeals from a decision of the local authority or failure by the local authority to make a decision shall *mutatis mutandis* apply to such resubdivisions.

(c) Notwithstanding the provisions of section fourteen of this Act proprietors of units in a building units plan shall not be a body corporate, but shall, upon the date of registration of such plan of resubdivision be members of a body corporate formed on registration of the original building units plan.

(d) On registration of a building units plan of resubdivision, units comprised therein shall be subject to the benefit of any easements affecting such units in the original building units plan as are included in the plan of resubdivision.

(e) The schedule endorsed on a building units plan of resubdivision, as required by section eighteen of this Act, shall be a schedule among the units the unit entitlement of such unit or units in the original building units plan as are included in the plan of resubdivision.

(f) Before registering a building units plan of resubdivision the

Registrar of Titles shall amend the original registered building units plan

in the manner prescribed by regulations under this Act.

(g) Upon registration of any building units plan of resubdivision land therein shall not be dealt with by a building units plan in the original building units plan.

(5) The decision of the Minister upon any appeal under this section shall be final, and shall be binding on the appellant, and for the purposes of this Act shall be deemed to be the final decision of the local authority.

"Area " has the meaning ascribed to that expression in " *The*

*Valuation
of Land
Acts,
1944 to
1959* ";

1964," in accordance with the provisions of subsection (15) of section thirty-four of those Acts and the provisions of that subsection shall extend *mutatis mutandis* to and in respect of such appeal.

(4) (a) Any proprietor or proprietors may with the approval of the local authority resubdivide his or their units by registering a building units plan relating to the unit or units so resubdivided in the manner provided by this Act for the registration of building units plans.

(b) Save as in this section provided, the provisions of this Act relating to building units plans and to appeals from any decision of the local authority or failure by the local authority to make a decision shall *mutatis mutandis* apply to such resubdivision.

(c) Notwithstanding the provisions of section fourteen of this Act proprietors of units in a building units plan of resubdivision shall not be a body corporate, but shall, upon the date of registration of such plan of resubdivision be members of the body corporate formed on registration of the original building units plan.

(d) On registration of a building units plan of resubdivision, units comprised therein shall be subject to the burden and have the benefit of any easements affecting such units in the original building units plan as are included in the plan of resubdivision.

(e) The schedule endorsed on a building units plan of resubdivision, as required by section eighteen of this Act, shall apportion among the units the unit entitlement of such unit or units in the original building units plan as are included in the resubdivision.

(f) Before registering a building units plan of resubdivision the Registrar of Titles shall amend the original registered building units plan in the manner prescribed by regulations under this Act.

(g) Upon registration of any building units plan of resubdivision land therein shall not be dealt with by reference to units in the original building units plan.

(5) The decision of the Minister upon any appeal under this section shall be final, and shall be binding on the local authority and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the local authority.

21. Rates and taxes. (1) In this section—

"Area" has the meaning ascribed to that expression in "*The Valuation of Land Acts, 1944 to 1959*";

(2) (a) Where the Valuer-General causes a parcel to be valued under and subject to "*The Valuation of Land Acts, 1944 to 1959*," the parcel shall, notwithstanding the provisions of those Acts 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 and appeal against 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.

(b) During the period from the registration of the building units plan and until a valuation of the parcel showing the body corporate as owner becomes effective for rating or taxing purposes the valuation then in force shall, for the purposes of subsections (4) and (5) of this section, be deemed to be a valuation of the parcel made by the Valuer-General showing the body corporate as owner.

(c) The Valuer-General is not required to make separate valuations of any part of a parcel otherwise than if the parcel were owned by a single owner.

(2) (a) Where the Valuer-General causes a parcel to be valued under and subject to "*The Valuation of Land Act*" parcel shall, notwithstanding the provisions of those Acts or any other Act, be valued as a single parcel of land

owned by a single owner and for the purposes of any such **valuation and all purposes incidental** thereto (including appeal **against** a valuation) but not otherwise, the parcel and all improvements thereon shall be deemed body corporate and by no other person.

(b) During the period from the registration of the building units plan and until a valuation of the parcel showing as owner becomes effective for rating or taxing purposes the valuation then in force shall, for the purposes of this section, be deemed to be a valuation of the parcel made by the Valuer-General showing the body corporate as owner.

(c) The Valuer-General is not required to make separate valuations of any part of a parcel otherwise than if the parcel is owned by a single owner.

Building Units Titles Act of 1965, V. 3

(d) Notwithstanding the provisions of *"The Valuation of Land Act, 1944 to 1959,"*

the Valuer-General may, upon the registration of the building units plan, cause a valuation of the parcel to be made under and subject to those Acts showing the body corporate as owner.

(3) The body corporate shall, within twenty-eight days after the **registration** of a building units plan or an amendment thereof, furnish to the Valuer-General and to the Commissioner of Land Tax, and to the local authority having jurisdiction over the parcel or any part thereof two copies of **the registered** building units plan or any **amendment** thereof (including endorsements thereon) certified as prescribed.

For all purposes in relation to the making, levying, imposition, **assessment** or recovery of rates, charges or taxes in relation to the parcel or any part thereof-

- (a) the particulars shown on the certified copy of the building units plan or any **amendment** thereof so furnished shall be **conclusive** evidence of those particulars; and
- (b) the production by an authority authorised to levy charges, rates and taxes in **relation** to the parcel or any part thereof of what purports to be the certified copy of the building units plan or any **amendment** thereof so furnished shall be *prima facie* evidence that it is the certified copy so furnished.

(4) For all purposes **in relation to the making**, levying or recovery of rates or **charges** by a local authority under *"The Local Government Acts, 1936 to 1964,"* **in relation** to the parcel, the following provisions have effect :-

- (a) the unimproved value of the parcel shown in the valuation shall be apportioned by the local authority between the units comprised in the parcel in proportion to the unit entitlement of the units as shown on the **registered** building units plan or any **amendment** thereof;
- (b) subject to section sixteen of this Act the body corporate is not **liable in relation** to the parcel for any **rate made** and levied by the local authority;
- (c) the proprietor of each unit comprised in the parcel is deemed to be the owner in **fee-simple in possession** of the unit as if it were a separate parcel of land having an unimproved value

where a separate parcel of land having an unimproved value

(d) Notwithstanding the provisions of "The Valuation of Land Acts, 1944 to 1959," the Valuer-General may, upon the registration of the building units plan, cause a valuation of the parcel to be made under and subject to those Acts showing the body corporate as owner.

(3) The body corporate shall, within twenty-eight days after the registration of a building units plan or any amendment thereof, furnish to the Valuer-General and to the Commissioner of Land Tax, and to the local authority in relation to the parcel or any part thereof two copies of the registered building units plan or any amendment thereof (including all endorsements thereon) certified as prescribed.

For all purposes in relation to the making, levying, imposition, assessment or recovery of rates, charges or taxes in relation to the parcel or any part thereof—

- (a) the particulars shown on the certified copy of the building units plan or any amendment thereof so furnished shall be conclusive evidence of those particulars; and
- (b) the production by an authority authorised to levy charges, rates and taxes in relation to the parcel or any part thereof of what purports to be the certified copy of the building units plan or any amendment thereof so furnished shall be *prima facie* evidence that it is the certified copy so furnished.

(4) For all purposes in relation to the making, levying or recovery of rates or charges by a local authority pursuant to "The Local Government Acts, 1936 to 1964," in relation to the parcel, the following provisions have effect :—

- (a) the unimproved value of the parcel shown in the valuation shall be apportioned by the local authority between the units comprised in the parcel in proportion to the unit entitlement of the respective units as shown on the registered building units plan or any amendment thereof;
- (b) subject to section sixteen of this Act the body corporate is not liable in relation to the parcel for any rate made and levied by the local authority;
- (c) the proprietor of each unit comprised in the parcel is deemed to be the owner in fee-simple in possession of the unit as if it were a separate parcel of land having an unimproved value equal to that apportioned to it under paragraph (a) of this subsection and is liable accordingly for any rate or charge made and levied by the local authority on the owners of land:

Provided that where part of a parcel is rateable in respect of water, sewerage or drainage services then the rateable value of that part shall be the unimproved value of the parcel after deducting therefrom the unimproved value of any unit assessed and rated separately and in which the water, sewerage, or drainage service, as the case may be, is exclusively for the use and benefit of such unit.

(5) For all purposes in relation to the imposition, assessment or recovery of land tax in relation to the parcel, the following provisions have effect :—

- (i) the unimproved value of the parcel shown in the valuation shall be apportioned by the Commissioner of Land Tax between the units comprised in the parcel in proportion to the unit entitlement of the respective units as shown on the registered building units plan or any amendment thereof;

subsection and is liable accordingly for any rate or charge made and levied by the local authority or owners of land:

Provided that where part of a parcel is **rateable** in respect of water, **sewerage** or drainage services then the value of that part shall be the unimproved value of the parcel after deducting therefrom the unimproved **unit assessed** and rated separately and in which the water, sewerage, or drainage service, as the case may be, is used exclusively for the use and benefit of such unit.

(5) For all purposes in relation to the imposition, assessment or recovery of land tax in relation to the parcel the following provisions have effect :-

(i) the unimproved value of the parcel shown in the valuation shall be apportioned by the Commissioner of Land Tax between the units comprised in the parcel in proportion to the unimproved value and entitlement of the respective units as shown on the registered building units plan or any amendment thereof;

62 *Building Units Titles Act of 1965, No. 3*

(ii) the body corporate is not liable in respect of the parcel for **land tax**;

(iii) for the purposes of "The Land Tax Acts, 1915 to 1964," and subject to any **concessions or exemptions** which may be applicable, **each unit shall be deemed to be a separate parcel of land with an unimproved value to that apportioned to it under subparagraph (i) of this paragraph**;

(iv) the provisions of paragraph (viii) of subsection 1 of section 13 of "The Land Tax Acts, 1915 to 1964." shall apply to any **unit deemed to be a separate parcel under paragraph (iii) of this subsection**.

(6) Where the **parcel is situated in an area or part of an area in** respect of which area or part the Valuer-General has made a copy of the valuation roll or a part of the valuation roll to the local authority concerned in accordance with "The Land Tax Acts, 1944 to 1959," nothing in this section prevents the Valuer-General from **making and entering** on the valuation roll any **interest in** the parcel and all improvements thereon; but the valuation shall not be included in a copy of the valuation roll and shall not be used for any purpose of this section.

(7) A reference in "The Land Tax Acts, 1915 to 1964," to an **owner or joint owner shall include** a proprietor of a unit.

22. Powers of entry by public or local authority. Where any public

or local authority or person authorised by it has a statutory right to enter upon any part of the parcel such authority shall be entitled to enter upon any other part of the parcel to the extent necessary or expedient to enable it or him to exercise its statutory powers.

23. Administrator. (i) The body corporate or any person having

an interest in a unit may apply to the Court for the appointment of an administrator.

(2) The Court may in its discretion on cause shown appoint an administrator for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit. The remuneration and expenses of the administrator shall be an administrative expense within the meaning of this Act.

(3) The administrator shall, to the exclusion of the body corporate,

have the powers and duties of the body corporate or such of those powers and duties as the Court may order.

- (ii) the body corporate is not liable in respect of the parcel for land tax;
- (iii) for the purposes of "*The Land Tax Acts, 1915 to 1964*," and subject to any concessions or exemptions which may be applicable, each unit shall be deemed to be a separate parcel of land with an unimproved value equal to that apportioned to it under subparagraph (i) of this paragraph;
- (iv) the provisions of paragraph (viii) of subsection 1 of section 13 of "*The Land Tax Acts, 1915 to 1964*," shall not apply to any unit deemed to be a separate parcel under paragraph (iii) of this subsection.

(6) 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 copy of the valuation roll or a part of the valuation roll to the local authority concerned in accordance with "*The Valuation of Land Acts, 1944 to 1959*," nothing in this section prevents the Valuer-General from making and entering on the valuation roll a valuation of any interest in the parcel and all improvements thereon; but the valuation shall not be included in a copy of the valuation roll or a part of the valuation roll and shall not be used for any purpose of this section.

(7) A reference in "*The Land Tax Acts, 1915 to 1964*," to an owner or joint owner shall include a proprietor of a unit.

22. Powers of entry by public or local authority. Where any public or local authority or person authorised by it has a statutory right to enter upon any part of the parcel such authority or person shall be entitled to enter upon any other part of the parcel to the extent necessary or expedient to enable it or him to exercise its or his statutory powers.

23. Administrator. (1) The body corporate or any person having an interest in a unit may apply to the Court for the appointment of an administrator.

(2) The Court may in its discretion on cause shown appoint an administrator for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit. The remuneration and expenses of the administrator shall be an administrative expense within the meaning of this Act.

(3) The administrator shall, to the exclusion of the body corporate, have the powers and duties of the body corporate or such of those powers and duties as the Court may order.

(4) The administrator may delegate any of the powers so vested in him.

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

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

24. Voting rights. (1) Any powers of voting conferred by or under this Act may be exercised—

- (a) in the case of a proprietor who is an infant—
 - (i) of or over the age of eighteen years, by the proprietor;
 - (ii) under the age of eighteen years, by his guardian;

(4) The administrator may delegate any of the powers so vested

in him.

(5) The Court may in its discretion on the application of the administrator or any person referred to in subsection remove or replace the administrator.

On any application made under this section the Court may make such order for the payment of costs as it thinks

(6)

24. Voting rights . (1) Any powers of voting conferred by or under

this Act may be exercised-

- (a) in the case of a proprietor who is an Infant-
 - ii, of or over the age of eighteen years by the proprietor:
 - (ii) under the age of eighteen years, by his guardian:

Building Units Titles Act of 1965, No. 3 03

- (b) in the case of a proprietor who is for any reason unable to control his property, by the person who for the time being is authorised by law to control that property;
- (c) in the case of a proprietor or a registered mortgagee which is a corporation by a person authorised in that behalf either generally or in a particular case by resolution of its directors or other governing body.

(2) Where the Court upon the application of the body corporate or of any proprietor or of any registered proprietor is satisfied that there is no person able to vote in respect of a unit or that the person able to vote in respect of a unit has been found by the Court-

- (a) shall, in cases where a unanimous resolution is required by this Act; and

(b) may in its discretion in any other case,

appoint the Public Curator or some other fit and proper person for the purpose of exercising such powers under this Act as the Court shall determine.

(3) The Court may order service of notice of such application on such person as it thinks fit or may dispense with the service of such notice.

(4) On making any such appointment, the Court may make such order as it thinks necessary or expedient in relation to such appointment including an order as to the payment of costs of the application, and may vary any such order.

(5) The powers of the Court under this section may be exercised by the Registrar of the Court in the first instance and he may refer the application to a Judge and who shall so refer it at the request of the applicant or any respondent.

(6) In this section and the next succeeding section the term " Registrar " means the Registrar of the Court at Rockhampton, Townsville, as the case may be and includes a Deputy Registrar.

25. Procedure upon application to Court. (1) Every application

to the Court under this Act shall be by summons at chambers unless

otherwise provided by rules of court made under this Act.

(2) On any application for notice

- (b) in the case of a proprietor who is for any reason unable to control his property, by the person who for the time being is authorised by law to control that property;
- (c) in the case of a proprietor or a registered mortgagee which is a corporation by a person authorised in that behalf either generally or in a particular case by resolution of its directors or other governing body.

(2) Where the Court upon the application of the body corporate or of any proprietor or of any registered mortgagee is satisfied that there is no person able to vote in respect of a unit or that the person able to vote in respect of a unit cannot be found the Court—

(a) shall, in cases where a unanimous resolution is required by this Act; and

(b) may in its discretion in any other case,

appoint the Public Curator or some other fit and proper person for the purpose of exercising such powers of voting under this Act as the Court shall determine.

(3) The Court may order service of notice of such application on such person as it thinks fit or may dispense with service of such notice.

(4) On making any such appointment, the Court may make such order as it thinks necessary or expedient to give effect to such appointment including an order as to the payment of costs of the application, and may vary any order so made.

(5) The powers of the Court under this section may be exercised by the Registrar of the Court in the first instance, who may refer the application to a Judge and who shall so refer it at the request of the applicant or any respondent.

(6) In this section and the next succeeding section the term "Registrar" means the Registrar of the Court at Brisbane, Rockhampton, Townsville, as the case may be and includes a Deputy Registrar.

25. Procedure upon application to Court. (1) Every application to the Court under this Act shall be by summons at chambers unless otherwise provided by rules of court made under this Act.

(2) On any application notice shall be served on such persons as the Court thinks fit, or the Court may dispense with such notice.

(3) The Court may, if it thinks fit, adjourn any application into court and thereupon may give such directions as to all matters, including filing of pleadings as may appear necessary and proper for the final hearing of the application.

(4) The Court may delegate to the Registrar all or any of its powers under this Act.

(5) The power to make rules of the Supreme Court includes power to make rules regulating the practice and procedure of the Court under this Act.

26. Voting rights of mortgagees. (1) Where a proprietor's interest is subject to a registered mortgage, a power of voting conferred on a proprietor by or under this Act—

- (a) where a unanimous resolution is required, shall not be exercised by the proprietor, but shall be exercised by the registered mortgagee first entitled in priority;

(3) The Court may, if it thinks fit, adjourn any application into court and thereupon may give such direct matters, including filing of pleadings as may appear necessary and proper for the final hearing of the ap

(4) The Court may delegate to the Registrar all or any of its powers under this Act.

(5) The power to make rules of the Supreme Court includes power to make rules **regulating** the practice of the Court under this Act.

26. Voting rights of mortgagees . (i) Where a proprietor's interest

is subject to a registered mortgage, a power of voting conferred on a proprietor by or under this Act-

(a) where a unanimous resolution is required, shall not be exercised by the proprietor, but shall be exercised by the registered mortgagee first entitled in priority;

64. *Building Units Titles Act of 1965, No. 3*

(b) in other cases, may be exercised by the first or a subsequent mortgagee present personally or by proxy according to their respective priorities, and shall not be exercised by the proprietor when a mortgagee is present personally or by proxy.

(2) Subsection (1) of this section shall not apply **unless the mortgagee**

has given written notice of his mortgage to the body **corporate**.

27. Service of documents on body corporate. (i) The body corporate

shall at or near the front building **alignment** of the parcel **cause to be** continually available a receptacle suitable for postal delivery, with the name of the body corporate clearly **designated thereon**.

(2) A document may be served on the body corporate or the council thereof by post enclosed in a prepaid letter addressed to the body corporate or the council, as the case may be, at the address shown on the building units plan or any amendment, placing it in the receptacle referred to in subsection (1) of this section.

(3) For the purposes of this section, "**document**" includes summons, notice, order and other legal process.

28. Offences. (i) If default is made in complying with-

(a) any requirement of subsection (1) of section eleven, subsection (5) subsection (6) or subsection (7) of section thirteen, subsection (3) of section twenty-one, or subsection (1) of section twenty-seven of this Act; or

(b) any duty imposed on the body corporate under section fifteen of this Act to a public or local authority,

the body corporate and each member of the council of the body **corporate** who is knowingly a party to the default shall be guilty of **an offence**.

Any person who fails to comply with the provisions of paragraph

(a) of subsection (9) of section eleven of this Act shall be guilty of an offence.

(2)

(3) Any person (including a body corporate) who is guilty of an offence against this Act is liable to a penalty not exceeding two hundred pounds.

(b) in other cases, may be exercised by the first or a subsequent mortgagee present personally or by proxy according to their respective priorities, and shall not be exercised by the proprietor when a mortgagee is present personally or by proxy.

(2) Subsection (1) of this section shall not apply unless the mortgagee has given written notice of his mortgage to the body corporate.

27. Service of documents on body corporate. (1) The body corporate shall at or near the front building alignment of the parcel cause to be continually available a receptacle suitable for purposes of postal delivery, with the name of the body corporate clearly designated thereon.

(2) A document may be served on the body corporate or the council thereof by post enclosed in a prepaid letter addressed to the body corporate or the council, as the case may be, at the address shown on the building units plan or any amendment thereof, or by placing it in the receptacle referred to in subsection (1) of this section.

(3) For the purposes of this section, "document" includes summons, notice, order and other legal process.

28. Offences. (1) If default is made in complying with—

(a) any requirement of subsection (1) of section eleven, subsection (5) subsection (6) or subsection (7) of section thirteen, subsection (3) of section twenty-one, or subsection (1) of section twenty-seven of this Act; or

(b) any duty imposed on the body corporate under section fifteen of this Act to a public or local authority,

the body corporate and each member of the council of the body corporate who is knowingly a party to the default shall be guilty of an offence.

(2) Any person who fails to comply with the provisions of paragraph (a) of subsection (9) of section eleven of this Act shall be guilty of an offence.

(3) Any person (including a body corporate) who is guilty of an offence against this Act is liable to a penalty not exceeding two hundred pounds.

(4) Proceedings for offences against this Act shall be heard and determined in a summary way under "The Justices Acts, 1886 to 1964."

29. Regulations. (1) The Governor in Council may, from time to time, make regulations, not inconsistent with this Act, prescribing all matters and things which by this Act are required or permitted to be prescribed (save any such matter or thing which is required to be prescribed otherwise than by regulation) or which are necessary or convenient to be prescribed for giving effect to this Act and in particular, but without limit to the foregoing provisions of this subsection—

(a) prescribing the manner and form of registering a building units plan;

(b) prescribing forms under this Act and the respective purposes for which such forms shall be used;

(c) prescribing the fees to be paid for any procedure or function required or permitted to be done under this Act.

(4) Proceedings for offences against this Act shall be heard and

determined in a summary way under " *The Justices Acts, 1886 to 1964.*"

29. Regulations . (i) The Governor in Council may, from time

to time, make regulations, not inconsistent with this Act, prescribing all matters and things which by this Act permitted to be prescribed (save any such matter or thing which is required to be prescribed otherwise than by this Act) and which are necessary or convenient to be prescribed for giving effect to this Act and in particular, but without limit to the provisions of this subsection-

- (a) prescribing the manner and form of registering a building units plan;
- (b) prescribing forms under this Act and the respective purposes for which such forms shall be used;
- (c) prescribing the fees to be paid for any procedure or function required or permitted to be done under this Act.

Building Units Titles Act of 1965, No. 3 6^

(2) Every **regulation** made under this Act shall-

(a) be published in the *Gazette*;

- (b) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) take effect from the date of such publication unless a later date is specified in that or any other regulation, for its commencement when in such event it shall take effect from that later date; and
- (d) be laid before Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the **next session**.

(3) If Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after the date on which such regulation has been laid before Parliament disallowing such regulation, or part thereof, that **regulation** shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime in the **making** of a further **regulation**.

30. Construction of Act . This Act shall be read and construed with

and as an amendment of " *The Real Property Acts, 1861 to 1963* "; " *The Registrar of Titles Act of 1884* "; " *The Local Registries*

Act of 1887" and " *The Central and Northern Districts Boundaries Act of 1900* ":

Provided that those Acts shall be read and construed subject to this Act and to the extent that those Acts **inconsistent** with this Act, this Act shall **prevail**.

FIRST SCHEDULE

- 1. Duties of a proprietor. A proprietor shall-
 - (a) permit the body corporate and its agents, at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his unit for the purpose of inspecting
cables and ducts for the time being existing in the unit and the same and maintaining, repairing or renewing pipes, wires,

- (2) Every regulation made under this Act shall—
- (a) be published in the *Gazette*;
 - (b) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
 - (c) take effect from the date of such publication unless a later date is specified in that or any other regulation, for its commencement when in such event it shall take effect from that later date; and
 - (d) be laid before Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(3) If Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after any such regulation has been laid before Parliament disallowing such regulation, or part thereof, that regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further regulation.

30. Construction of Act. This Act shall be read and construed with and as an amendment of “*The Real Property Acts, 1861 to 1963*”; “*The Registrar of Titles Act of 1884*”; “*The Real Property Local Registries Act of 1887*” and “*The Central and Northern Districts Boundaries Act of 1900*”:

Provided that those Acts shall be read and construed subject to this Act and to the extent that those Acts are inconsistent with this Act, this Act shall prevail.

FIRST SCHEDULE

1. Duties of a proprietor. A proprietor shall—

- (a) permit the body corporate and its agents, at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his unit for the purpose of inspecting the same and maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the unit and capable of being used in connection with the enjoyment of any other unit or common property, or for the purpose of maintaining, repairing or renewing common property, or for the purpose of ensuring that the by-laws are being observed;
- (b) forthwith carry out all work that may be ordered by any competent public or local authority in respect of his unit other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his unit;
- (c) repair and maintain his unit, and keep the same in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted;
- (d) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors or the members of their households or their visitors;

any other **unit or common** property, or for the purpose of **maintaining , repairing or renewing** common property, or for the purpose of **ensuring** that the by-laws are being observed;

- (b) forthwith carry out all work that may be ordered by any **competent** public or local authority **in respect** of his unit other than such work as may be for the benefit of the building **generally** and pay **all rates , taxes, charges, outgoings and assessments** that may be payable in respect of his unit;
- (c) repair and maintain his unit, and keep the same in a state of good repair, reasonable wear and tear, and damage by fire, **storm , tempest** or act of God excepted ;
- (d) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors or the members of their households or their visitors;

66. *Building Units Titles Act of 1965, No. 3*

(e) not use his unit or permit the same to be used in **such manner**

or for such purpose as shall cause a nuisance or hazard to any occupier of a **unit** (whether a proprietor or not) or the members of the household of such occupier;

(f) notify the body corporate forthwith upon any change of

ownership or of any mortgage or other dealing in connection

with his unit.

2. Further duties of body corporate . The body corporate shall-

- (a) control, manage and administer the common property for the benefit of all proprietors;
- (b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings (including elevators) used in

connection with the common property;

- (c) where practicable establish and maintain suitable lawns and gardens on the common property;
- (d) maintain and repair (including renewal where reasonably necessary) pipes, wires, cables and ducts for the **time being** existing in the parcel and capable of being **used in connection** with the enjoyment of more than one unit or common property;
- (e) on the written request of a proprietor, or registered mortgagee of a unit, produce to such proprietor or mortgagee, or person authorised in writing by such proprietor or mortgagee, the policy or insurance effected by the body corporate, and the receipt or receipts for the last premium or **premiums** in respect thereof.

3. Further powers of body corporate . The body corporate may-

- (a) purchase, hire or otherwise acquire personal property for use by proprietors in connection with their enjoyment of **common** property ;
- (b) borrow moneys required by it in the performance of its duties or the exercise of its powers ;
- (c)

- (e) not use his unit or permit the same to be used in such manner or for such purpose as shall cause a nuisance or hazard to any occupier of a unit (whether a proprietor or not) or the members of the household of such occupier;
- (f) notify the body corporate forthwith upon any change of ownership or of any mortgage or other dealing in connection with his unit.

2. Further duties of body corporate. The body corporate shall—

- (a) control, manage and administer the common property for the benefit of all proprietors;
- (b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings (including elevators) used in connection with the common property;
- (c) where practicable establish and maintain suitable lawns and gardens on the common property;
- (d) maintain and repair (including renewal where reasonably necessary) pipes, wires, cables and ducts for the time being existing in the parcel and capable of being used in connection with the enjoyment of more than one unit or common property;
- (e) on the written request of a proprietor, or registered mortgagee of a unit, produce to such proprietor or mortgagee, or person authorised in writing by such proprietor or mortgagee, the policy or policies of insurance effected by the body corporate, and the receipt or receipts for the last premium or premiums in respect thereof.

3. Further powers of body corporate. The body corporate may—

- (a) purchase, hire or otherwise acquire personal property for use by proprietors in connection with their enjoyment of common property;
- (b) borrow moneys required by it in the performance of its duties or the exercise of its powers;
- (c) secure the repayment of moneys borrowed by it, and the payment of interest thereon, by negotiable instrument, or mortgage of unpaid contributions (whether levied or not), or mortgage of any property vested in it, or by combination of those means;
- (d) invest as it may determine any moneys in the fund for administrative expenses;
- (e) make an agreement with any proprietor or occupier of a unit for the provision of amenities or services by it to such unit or to the proprietor or occupier thereof;
- (f) grant to a proprietor the right to exclusive use and enjoyment of common property, or special privileges in respect thereof, provided that any such grant shall be determinable on reasonable notice unless the body corporate by unanimous resolution otherwise resolves;
- (g) do all things reasonably necessary for the enforcement of the by-laws and the control, management and administration of the common property.

4. Council of body corporate. The powers and duties of the body corporate shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the

(d) invest as it may determine any moneys in the fund for

administrative expenses;

- (e) make an agreement with any proprietor or occupier of a unit for the provision of amenities or services by it to such unit or to the proprietor or occupier thereof;
- (f) grant to a proprietor the right to exclusive use and enjoyment of common property, or special privileges in respect thereof, provided that any such grant shall be determinable on reasonable notice unless the body corporate by unanimous resolution otherwise resolves;
- (g) do all things reasonably necessary for the enforcement of the

by-laws and the control, management and administration

of the common property.

4. Council of body corporate . The powers and duties of the body

corporate shall, subject to any restriction imposed or direction given at a **general** meeting, be exercised and p
council of the

Building Units Titles Act of 1965. No. 3

body corporate A meeting of the council at which a **quorum** is present shall be competent to exercise al
authorities, functions or powers.

5. The council shall consist of not less than three nor more than seven proprietors and shall be elected a
general meeting: Provided that where there are not more than three proprietors, the **council shall consi**
proprietors:

Provided further that the first council shall consist of the first proprietor and, in addition, the second an
proprietors (if any) and shall hold office until the first **annual general meeting** of the body corporate is

6. Except where the council **consists** of all the proprietors, the body corporate may by resolution at an e
general meeting remove any member of the council before the expiration of his term of office and appoi
proprietor in his place to hold office until **the next annual general meeting**.

7. Any casual vacancy on the council may be filled by the remaining

members of the council.

& Except where there is only one proprietor, a quorum of the

council shall be two, where the council **consists** of four or less members; three, **where it consists** of five
members; and four, where it consists **of seven members**.

9. The **continuing** members of the council may act notwithstanding any vacancy therein, but if and so l
number is reduced below the number fixed by or pursuant to these by-laws as the necessary quorum of
continuing members or member of the council may act for the purpose of increasing the number of me
council or of convening a **general meeting** of the body corporate, but for no other purpose.

10. At the commencement of each meeting the council shall elect a chairman for the meeting, who shall
as well as an original vote, and if any chairman so elected shall vacate the chair during the course of a m
council shall choose in his stead another chairman who shall have the same rights of voting.

11. At
meetings of
the council
all matters
shall be
determined
by

body corporate. A meeting of the council at which a quorum is present shall be competent to exercise all or any of its authorities, functions or powers.

5. The council shall consist of not less than three nor more than seven proprietors and shall be elected at each annual general meeting: Provided that where there are not more than three proprietors, the council shall consist of all proprietors:

Provided further that the first council shall consist of the first proprietor and, in addition, the second and third proprietors (if any) and shall hold office until the first annual general meeting of the body corporate is held.

6. Except where the council consists of all the proprietors, the body corporate may by resolution at an extraordinary general meeting remove any member of the council before the expiration of his term of office and appoint another proprietor in his place to hold office until the next annual general meeting.

7. Any casual vacancy on the council may be filled by the remaining members of the council.

8. Except where there is only one proprietor, a quorum of the council shall be two, where the council consists of four or less members; three, where it consists of five or six members; and four, where it consists of seven members.

9. The continuing members of the council may act notwithstanding any vacancy therein, but if and so long as their number is reduced below the number fixed by or pursuant to these by-laws as the necessary quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or of convening a general meeting of the body corporate, but for no other purpose.

10. At the commencement of each meeting the council shall elect a chairman for the meeting, who shall have a casting as well as an original vote, and if any chairman so elected shall vacate the chair during the course of a meeting the council shall choose in his stead another chairman who shall have the same rights of voting.

11. At meetings of the council all matters shall be determined by simple majority vote.

12. The council may—

- (a) meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit: Provided that it shall meet when any member of the council gives to the other members not less than seven days' notice of a meeting proposed by him, specifying the reason for calling such meeting;
- (b) employ for and on behalf of the body corporate such agents and servants as it thinks fit in connection with the control, management and administration of the common property, and the exercise and performance of the powers and duties of the body corporate;
- (c) ~~subject~~ to any restriction imposed or direction given at a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke such delegation.

simple majority vote.

12. The council may-

- (a) meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit: Provided that it shall meet when any member of the council gives to the other members not less than seven days' notice of a meeting proposed by him, specifying the reason for calling such meeting;
- (b) employ for and or. behalf of the body corporate such agents and servants as it thinks fit in connection with the control, management and administration of the common property, and the exercise and performance of the powers and duties of the body corporate;
- (c) to any restriction imposed or direction given at a subject

general meeting , delegate to one or more of its members such of its powers and duties as it thinks any time revoke such delegation.

68. Building Units Titles Act of 1965, No. 3

13. The council shall-

(a) keep minutes of its proceedings;

(b) cause minutes to be kept of general meetings;

(c) cause a record to be kept of unanimous resolutions;

(d) cause proper books of account to be kept in respect of all

sums of money received and expended by it and the matters

in respect of which such receipt and expenditure take place;

- (e) prepare proper accounts relating to all assets and liabilities of the body corporate , and the income and expenditure thereof, for each annual general meeting;
- (f) on application of a proprietor or registered mortgagee, or any person authorised in writing by a proprietor or registered mortgagee , make the minutes of general meetings , records of unanimous resolutions , books of account and records relating to books of account available for inspection at such date, time and place as may be mutually agreed upon between the council and the applicant and failing agreement at the parcel on a date within seven days after receipt of the application and at a time between the hours of nine o'clock in the morning and eight o'clock in the evening of which date and time at least two days ' notice shall be given to the applicant by the council.

14. All acts done in good faith by the council shall notwithstanding it be afterwards discovered that there was appointment or continuance in office of any member of the council be as valid as if such member had been had duly continued in office.

15. General meetings. A general meeting of proprietors shall be

held within three months after registration of the building units plan.

16. A general meeting of the body corporate to be called the " annual general meeting " shall in addition to any other meeting be held at least

once in every calendar year and not more than fifteen months after the

holding of the last preceding annual general meeting , but so long as the body corporate holds its first annual general meeting within eighteen

13. The council shall—

- (a) keep minutes of its proceedings;
- (b) cause minutes to be kept of general meetings;
- (c) cause a record to be kept of unanimous resolutions;
- (d) cause proper books of account to be kept in respect of all sums of money received and expended by it and the matters in respect of which such receipt and expenditure take place;
- (e) prepare proper accounts relating to all assets and liabilities of the body corporate, and the income and expenditure thereof, for each annual general meeting;
- (f) on application of a proprietor or registered mortgagee, or any person authorised in writing by a proprietor or registered mortgagee, make the minutes of general meetings, records of unanimous resolutions, books of account and records relating to books of account available for inspection at such date, time and place as may be mutually agreed upon between the council and the applicant and failing agreement at the parcel on a date within seven days after receipt of the application and at a time between the hours of nine o'clock in the morning and eight o'clock in the evening of which date and time at least two days' notice shall be given to the applicant by the council.

14. All acts done in good faith by the council shall notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council be as valid as if such member had been duly appointed or had duly continued in office.

15. **General meetings.** A general meeting of proprietors shall be held within three months after registration of the building units plan.

16. A general meeting of the body corporate to be called the "annual general meeting" shall in addition to any other meeting be held at least once in every calendar year and not more than fifteen months after the holding of the last preceding annual general meeting, but so long as the body corporate holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year.

17. All general meetings other than the annual general meeting shall be called extraordinary general meetings.

18. The council may whenever it thinks fit and shall upon a requisition in writing made by proprietors entitled to twenty-five per centum of the total unit entitlement of the units convene an extraordinary general meeting.

If the council does not within twenty-one days after the date of the making of the requisition proceed to convene an extraordinary general meeting the requisitionists, or any of them representing more than one-half of the total unit entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the council, convene a meeting, but any meeting so convened shall not be held after the expiration of three months from that date.

months of its incorporation. It need not hold it in the year of its

incorporation or in the following year.

17. All general meetings other than the annual general meeting shall be called extraordinary general meetings.

18. The council may whenever it thinks fit and shall upon a requisition in writing made by proprietors representing a certain per centum of the total unit entitlement of the units convene an extraordinary general meeting.

If the council does not within twenty-one days after the date of the making of the requisition proceed to convene an extraordinary general meeting the requisitionists, or any of them representing more than one-half of the entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which meetings were convened by the council, convene a meeting, but any meeting so convened shall not be held after the expiration of the period from that date.

Building Units Titles Act of '965, No. 3 19

19. Subject to the provisions of the by-laws relating to special resolutions seven days' notice of every general meeting shall be given to all proprietors and registered first mortgagees who have notified their interests to the body corporate and except those proprietors and registered first mortgagees who have not supplied to the body corporate at the State for the giving of notices to them but accidental omission to give such notice to any proprietor or registered first mortgagee or non-receipt of such notice by any proprietor or by any registered first mortgagee shall not invalidate any proceedings at any such meeting.

20. Proceedings at general meetings. All business shall be deemed

special that is transacted at an annual general meeting with the exception of the consideration of accounts and the election of members to the council, or at an extraordinary general meeting.

21. Save as in these by-laws otherwise provided, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business. One half of the persons entitled to vote present in person or by proxy shall constitute a quorum.

22. If within one-half hour from the time appointed for a general meeting a quorum is not present the meeting convened upon the requisition of proprietors shall be dissolved, in any other case it shall stand adjourned for the next day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within one hour from the time appointed for the meeting the persons entitled to vote present shall be a quorum.

23. The chairman of a general meeting may with the consent of the meeting adjourn any general meeting from time to time and from place to place but no business shall be transacted at an adjourned meeting other than the business unfinished at the meeting from which the adjournment took place.

24. At the commencement of a general meeting, a chairman of the meeting shall be elected.

25. It shall not be necessary at any general meeting to pass resolutions

by more than a simple majority vote except where it is

19. Subject to the provisions of the by-laws relating to special resolutions seven days' notice of every general meeting specifying the place, the date and the hour of meeting and in case of special business the general nature of such business shall be given to all proprietors and registered first mortgagees who have notified their interests to the body corporate except those proprietors and registered first mortgagees who have not supplied to the body corporate an address within the State for the giving of notices to them but accidental omission to give such notice to any proprietor or to any registered first mortgagee or non-receipt of such notice by any proprietor or by any registered first mortgagee shall not invalidate any proceedings at any such meeting.

20. **Proceedings at general meetings.** All business shall be deemed special that is transacted at an annual general meeting with the exception of the consideration of accounts and election of members to the council, or at an extraordinary general meeting.

21. Save as in these by-laws otherwise provided, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business. One half of the persons entitled to vote present in person or by proxy shall constitute a quorum.

22. If within one-half hour from the time appointed for a general meeting a quorum is not present the meeting, if convened upon the requisition of proprietors shall be dissolved, in any other case it shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within one-half hour from the time appointed for the meeting the persons entitled to vote present shall be a quorum.

23. The chairman of a general meeting may with the consent of the meeting adjourn any general meeting from time to time and from place to place but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

24. At the commencement of a general meeting, a chairman of the meeting shall be elected.

25. It shall not be necessary at any general meeting to pass resolutions by more than a simple majority vote except where it is otherwise required by or under the Act or the by-laws.

26. At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy. Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution. A demand for a poll may be withdrawn.

27. A poll if demanded shall be taken either immediately or at the conclusion of any other business and in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

28. In the case of equality in the votes whether on a show of hands or on a poll the chairman of the meeting shall be entitled to a casting vote in addition to his original vote.

26. At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands demanded by any proprietor present in person or by proxy. Unless a poll be so demanded a declaration

chairman that a resolution has on the show of hands been carried shall be conclusive evidence of the fact of the number or proportion of votes recorded in favour of or against such

resolution. A demand for a poll may be withdrawn.

27. A poll if demanded shall be taken either immediately or at the conclusion of any other business and in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting if a poll was demanded.

28. In the case of equality in the votes whether on a show of hands or on a poll the chairman of the meeting shall be entitled to a casting vote in addition to his original vote.

70. *Building Units Titles Act of 1965, No. 3*

29. Votes of proprietors. On a show of hands each proprietor shall

have one vote; on a poll the votes of proprietors shall correspond with the unit entitlement of their respective units.

30. On a show of hands or on a poll votes may be given either personally or by proxy.

31. An instrument appointing a proxy shall be in writing under

the hand of the appointer or his attorney, and may be either **general**

or for a particular meeting. A proxy need not be a proprietor.

32. Except in cases where by or under the Act a unanimous resolution is required, no proprietor shall be entitled to vote at a **general meeting unless all contributions payable in respect of his unit** have been duly paid.

33. Co-proprietors may vote by proxy jointly appointed by them, and, in the absence of such proxy shall not vote on a show of hands, except when the unanimous resolution of proprietors is required by the Act; but any one co-proprietor may vote on a poll. On any poll each co-proprietor shall be entitled to such part of the vote applicable to a unit as is proportionate to his interest in the unit. **The joint proxy (if any) on a poll shall have a vote proportionate to the interests in the unit.** Co-proprietors who do not vote personally or by individual proxy.

34. **Where proprietors are entitled to successive interests in a unit**, the proprietor entitled to the first interest shall be entitled to vote, whether on a show of hands or a poll; and this by-law shall be applicable whether by the Act or by a resolution of proprietors is required or not.

35. Where a proprietor is a trustee he shall **exercise** the voting rights in respect of the unit to the exclusion of any other person interested in the trust, and such persons shall not vote.

36. **Common seal.** The body corporate shall have a common seal

which shall at no time be used except by authority of the council previously given and in the presence of the council or at least two members thereof, who shall sign every instrument to which the seal is affixed: Provide that if only one member of the body corporate his signature shall be sufficient for the purpose of this

clause.

29. Votes of proprietors. On a show of hands each proprietor shall have one vote; on a poll the votes of proprietors shall correspond with the unit entitlement of their respective units.

30. On a show of hands or on a poll votes may be given either personally or by proxy.

31. An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney, and may be either general or for a particular meeting. A proxy need not be a proprietor.

32. Except in cases where by or under the Act a unanimous resolution is required, no proprietor shall be entitled to vote at any general meeting unless all contributions payable in respect of his unit have been duly paid.

33. Co-proprietors may vote by proxy jointly appointed by them, and in the absence of such proxy shall not be entitled to vote on a show of hands, except when the unanimous resolution of proprietors is required by the Act; but any one co-proprietor may demand a poll. On any poll each co-proprietor shall be entitled to such part of the vote applicable to a unit as is proportionate to his interest in the unit. The joint proxy (if any) on a poll shall have a vote proportionate to the interests in the unit of such of the joint proprietors as do not vote personally or by individual proxy.

34. Where proprietors are entitled to successive interests in a unit, the proprietor entitled to the first interest shall alone be entitled to vote, whether on a show of hands or a poll; and this by-law shall be applicable whether by the Act the unanimous resolution of proprietors is required or not.

35. Where a proprietor is a trustee he shall exercise the voting rights in respect of the unit to the exclusion of persons beneficially interested in the trust, and such persons shall not vote.

36. Common seal. The body corporate shall have a common seal which shall at no time be used except by authority of the council previously given and in the presence of the members of the council or at least two members thereof, who shall sign every instrument to which the seal is affixed: Provided that where there is only one member of the body corporate his signature shall be sufficient for the purpose of this clause.

The council shall make provision for the safe custody of the common seal.

37. Amendment of by-laws. The by-laws in the Second Schedule to the Act may be amended by special resolution of the body corporate, and not otherwise.

38. Special resolution. A special resolution means a resolution passed at a general meeting of which at least fourteen days' notice specifying the proposed special resolution has been given by a majority of not less than three-fourths of the total unit entitlement of the units, and not less than three-fourths of all members.

39. In these by-laws, the "Act" shall mean "*The Building Units Titles Act of 1965.*"

40. Every proprietor or registered first mortgagee shall give to the body corporate a notice in writing specifying an address within the State for the giving of notices to him.

The council shall make provision for the safe custody of the common seal.

to the Act may be amended by special resolution of the body corporate,
and not otherwise.

38. Special resolution . A special resolution means a resolution

passed at a general meeting of which at least fourteen days' notice specifying the proposed special resolution
majority of not less than three-fourths of the total unit entitlement of the units, and not less than three-fourth

39. In these by-laws, the " Act " shall mean " *The Building Units*

Titles Act of 1965."

40. Every proprietor or registered first mortgagee shall give to the body corporate a notice in writing spec
within the State for the giving of notices to him.

Building Units Titles Act of 1965, No. 3

41. A notice may be given by the body corporate to any proprietor or registered first mortgagee either
by sending it by certified mail service to the address, if any, supplied by him to the body corporate for
notices to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by
addressing, prepaying and posting a letter containing the notice and to have been effected in the cas
a meeting on the day after the date of its posting and in any other case at the time at which the letter
delivered in the ordinary course of post.

SECOND SCHEDULE

1. A proprietor shall not-

(a) use his unit for any purpose which may be illegal or injurious to the reputation of the building;

(b) make undue noise in or about any unit or common property.

2. A proprietor shall not keep any animals on his unit or the common

property after notice in that behalf from the council.

41. A notice may be given by the body corporate to any proprietor or registered first mortgagee either personally or by sending it by certified mail service to the address, if any, supplied by him to the body corporate for the giving of notices to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected in the case of a notice of a meeting on the day after the date of its posting and in any other case at the time at which the letter would be delivered in the ordinary course of post.

SECOND SCHEDULE

1. A proprietor shall not—
 - (a) use his unit for any purpose which may be illegal or injurious to the reputation of the building;
 - (b) make undue noise in or about any unit or common property.
2. A proprietor shall not keep any animals on his unit or the common property after notice in that behalf from the council.