

STRATA TITLES (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 35, 1974.

An Act to make certain transitional and savings provisions consequent upon the repeal of the Conveyancing (Strata Titles) Act, 1961; to make provisions with respect to the first annual general meetings of bodies corporate for strata schemes; for these and other purposes to amend the Strata Titles Act, 1973; and for purposes connected therewith. [Assented to, 19th April, 1974.]

BE

Strata Titles (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by **No. 35, 1974** and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Strata Titles Short title. (Amendment) Act, 1974".

2. (1) Except as provided in subsection (2), this Act shall commence upon the day upon which the Strata Titles Act, 1973, commences. **Commencement.**

(2) Section 3 shall commence on the date of assent to this Act.

3. The Strata Titles Act, 1973, is amended by omitting from section 2 the words " , that day being a day after the passing of the resolutions referred to in section 159 (5) (c)". **Amendment of Act No. 68, 1973. Sec. 2. (Commencement.)**

4. The Strata Titles Act, 1973, is further amended— **Further amendment of Act No. 68, 1973.**

(a) by inserting after the matter relating to Schedule 3 in section 4 the following matter:— **Sec. 4. (Division of Act.)**

SCHEDULE 4.—TRANSITIONAL AND SAVINGS PROVISIONS.

(b) by omitting sections 159 and 160 and by inserting instead the following sections:— **Secs. 159, 160.**

159. (1) Each Act specified in Part 1 of Schedule 3 is repealed. **Repeals and amendments.**

(2)

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(2) Each Act specified in Column 1 of Part 2 of Schedule 3 is amended in the manner specified opposite that Act in Column 2 of that Part.

Transitional and savings provisions.

160. (1) Schedule 4 has effect.

(2) Except as otherwise provided in Schedule 4, nothing in that Schedule affects any saving provided by the Interpretation Act, 1897.

Schedule 4.

(c) by inserting after Schedule 3 the following Schedule :—

SCHEDULE 4.**TRANSITIONAL AND SAVINGS PROVISIONS.****Sec. 160. Interpretation.**

1. (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified under section 2;

“former Act” means the Conveyancing (Strata Titles) Act, 1961;

“former by-law” means a by-law within the meaning of the former Act as that by-law was in force immediately before the appointed day;

“former common property” means so much of a former parcel as, immediately before the appointed day, was not comprised in any former lot;

“former lot” means a lot under the former Act as it existed immediately before the appointed day;

“former parcel” means land which, immediately before the appointed day, comprised the former lots and the former common property the subject of a former strata scheme;

“former proprietor” means a person who, immediately before the appointed day, was a proprietor, within the meaning of the former Act, of a former lot;

“former strata scheme” means—

(a) the manner of division, immediately before the appointed day, of a former parcel into former lots or into former lots and former common property and the manner of allocation, immediately before that day, of unit entitlements under the former Act among the former lots; and

(b)

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- (b) the rights and obligations, between themselves, **No. 35, 1974** immediately before the appointed day, of former proprietors, other persons having proprietary interests in or occupying former lots and the body corporate, as conferred or imposed by the former Act or by anything done under the authority of the former Act or the Real Property Act, 1900.
- (2) For the purposes of the application of any provision of this Act to or in respect of a scheme to which the provisions of this Act apply by reason of clause 6—
- (a) the initial period in relation to the body corporate for that scheme shall be deemed to have expired if on the appointed day the original proprietor within the meaning of paragraph (c) is not the proprietor of any lots the subject of that scheme or is the proprietor of lots the subject of that scheme the sum of whose unit entitlements is less than two-thirds of the aggregate unit entitlement;
- (b) except where the initial period in relation to the body corporate for that scheme has, under paragraph (a), expired, a reference to the initial period in relation to that body corporate is a reference to the period commencing on the appointed day and ending on the day on which there are proprietors of lots the subject of that scheme (other than the original proprietor within the meaning of paragraph (c)) the sum of whose unit entitlements is at least one-third of the aggregate unit entitlement; and
- (c) a reference to an original proprietor, in relation to that scheme, is a reference to the person by whom the parcel (being the parcel comprised in the strata plan, within the meaning of the former Act, the registration of which under the former Act initiated the scheme to which the provisions of this Act apply by reason of clause 6) was held in fee simple or under a perpetual lease from the Crown at the time of that registration.
- (3) The express application of any provision of this Act (whether unamended or deemed to be amended) by any provision of this Schedule to or in respect of any act, matter or thing referred to in this Schedule shall not, except in so far as a contrary intention appears, be construed as preventing or limiting the application of any other provision of this Act to that or any other act, matter or thing.
- (4) Where any provision of this Act is deemed to be amended by this Schedule by inserting in that provision any words, those words shall be construed as if they were contained in this Schedule.

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No. 35, 1974 2. (1) Notwithstanding section 8 or 9, a strata plan, or a strata plan of resubdivision, within the meaning of the former Act, may be registered as a strata plan or as a strata plan of subdivision, as the case may be, but shall not be so registered unless—

Registration of unregistered former strata plans.

- (a) it illustrates a division of a building into different parts;
- (b) the requirements of the former Act have been or are complied with in so far as those requirements relate to the registration of a strata plan, or a strata plan of resubdivision, as the case may be; and
- (c) except in the case of such a strata plan of resubdivision, the certificate referred to in section 4 (3) (b) of the former Act states that the approval given under Part XI of the Local Government Act, 1919, by the local council to the erection of that building was given not earlier than two years before the appointed day.

(2) Without limiting the generality of subclause (1) (b), for the purpose of enabling a person to comply, as referred to in subclause (1) (b), with the requirements of the former Act, the provisions of section 20 (subsection (4) (a), (c), (d), (e), (f) and (g) excepted) of the former Act apply to and in respect of an application for a certificate referred to in section 4 (3) (b) of the former Act relating to the proposed subdivision illustrated by a strata plan or strata plan of resubdivision referred to in subclause (1), as if the former Act had not been repealed.

(3) Where a plan is registered under subclause (1), the land comprised in the plan shall be deemed to have been subdivided under this Act into lots or into lots and common property in the same manner as that land would have been subdivided if that plan had been registered under the former Act, except that—

- (a) where a boundary of any such lot would, if that plan had been validly registered under the former Act, have been, under section 4 (2) of the former Act, the centre of a floor, wall or ceiling, that boundary shall upon the registration of the plan and until it is altered in accordance with this Act be the upper surface of that floor, the inner surface of that wall or the under surface of that ceiling, as the case may be; and
- (b) where a boundary of any lot is adjusted under paragraph (a), the boundaries of the common property are adjusted reciprocally,

and any such lots or common property shall, for the purposes of this Act, be deemed to be lots or common property, or to be lots or common property with boundaries adjusted as referred to in paragraph (a) or (b), as the case may be.

(4)

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(4) A lot created by the registration of a plan under subclause (1) does not include any structural cubic space unless that structural cubic space was stipulated in that plan as forming part of that lot. **No. 35, 1974**

(5) For the purposes of the registration of a plan under subclause (1), the reference in—

- (a) section 10 (1) to a plan illustrating a proposed subdivision referred to in section 5 (7) (a) shall be construed as a reference to a strata plan of resubdivision within the meaning of section 20 (4) of the former Act;
- (b) section 10 (2) and (3) to subsection (1) shall be construed as a reference to subsection (1) construed in accordance with paragraph (a);
- (c) section 38 (2) (a) to a certificate of approval under section 37 (1), (3) or (4) shall be construed as a reference to a certificate issued under section 20 (2) of the former Act;
- (d) section 39 (1) to any certificate of approval issued under section 37 shall be construed as a reference to any certificate issued under section 20 (2) of the former Act; and
- (e) section 39 (2), (3) and (4) to subsection (1) shall be construed as a reference to section 39 (1) construed in accordance with paragraph (d).

(6) Where, under any provision of this Act, any act, matter or thing depends on or results from (either directly or indirectly) the registration of a strata plan, that provision operates in relation to the registration of a plan under subclause (1) in the same way as it operates in relation to the registration of a strata plan.

(7) Subject to this clause, a reference in this Act to a strata plan or a strata plan of subdivision includes a reference to a plan registered under subclause (1) as a strata plan or a strata plan of subdivision, as the case may be.

(8) The address endorsed, as referred to in section 4 (1) (g) of the former Act, upon a plan registered under subclause (1) shall, for the purposes of this Act, be deemed to be the address for the service of notices on the body corporate concerned until that address is altered in accordance with this Act.

(9) The schedule endorsed, as referred to in section 18 of the former Act, upon a plan (not being a strata plan of resubdivision within the meaning of section 20 (4) of the former Act) registered under subclause (1) shall, for the purposes of this Act, be deemed to be the schedule referred to in section 8 (1) (d).

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No. 35, 1974 (10) Section 41 (5) does not apply to or in respect of the registration of a plan under subclause (1).

(11) A reference to a lot shown in a plan capable of being registered under subclause (1) made in any instrument executed before the registration of that plan under subclause (1) (being an instrument relating to the sale or other disposition of an estate or interest in the lot so shown) shall, on and after the registration of that plan, be construed as a reference to the lot which corresponds to the lot so shown.

Former lots and former common property to be derived lots and derived common property.

3. (1) Where immediately before the appointed day—
- (a) a former lot had any boundary that under section 4 (2) of the former Act was the centre of a floor, wall or ceiling, that former lot, on the appointed day, becomes for the purposes of this Schedule a derived lot corresponding to that former lot and having, subject to subclause (2), as its boundaries—
 - (i) instead of any boundary that was the centre of a floor, wall or ceiling, the upper surface of that floor, the inner surface of that wall or the under surface of that ceiling, as the case may be; and
 - (ii) except as provided by subparagraph (i), the same boundaries as that former lot; and
 - (b) a former lot had no boundary that under section 4 (2) of the former Act was the centre of a floor, wall or ceiling, that former lot, on the appointed day, becomes for the purposes of this Schedule a derived lot corresponding to that former lot and having as its boundaries the same boundaries as that former lot.

(2) A derived lot does not include any structural cubic space unless that structural cubic space was stipulated, in the relevant strata plan or strata plan of resubdivision, as forming part of the former lot to which that derived lot corresponds.

(3) On the appointed day, former common property becomes, for the purposes of this Schedule, derived common property corresponding to that former common property but has as its boundaries—

- (a) where any derived lot has any of its boundaries ascertained in accordance with subclause (1) (a) (i) or (b), boundaries adjusted reciprocally; and
- (b) except as provided by paragraph (a), the same boundaries as that former common property.

(4)

Strata Titles (Amendment).

(4) A reference to a former lot made in any instrument executed before the appointed day (being an instrument relating to the sale or other disposition of an estate or interest in that former lot) shall, on and after that day, be construed as a reference to the derived lot which corresponds to that former lot. No. 35, 1974

4. A body corporate, constituted under the former Act, in relation to a former strata scheme— Continuation of bodies corporate.

- (a) shall continue notwithstanding the repeal of the former Act;
- (b) shall, on the appointed day, be deemed to be the body corporate constituted under section 54 (1) in respect of the scheme that corresponds to that former strata scheme and to which the provisions of this Act apply by reason of clause 6; and
- (c) notwithstanding section 54 (1), shall have as its corporate name its corporate name under the former Act.

5. A person who, immediately before the appointed day— Continuation of estates or interests in former lots and former common property and rights in former common property.

- (a) had an estate or interest in a former lot, has on that day the same estate or interest in the derived lot which corresponds to that former lot; or
- (b) had an estate or interest (not being a right or special privilege referred to in clause 15) in former common property, has, subject to clause 7 (1), on that day the same estate or interest in the derived common property which corresponds to that former common property.

6. Subject to this Schedule, the provisions of this Act shall, on and from the appointed day, apply to and in respect of— Application of Act to former strata schemes, former parcels, derived lots and derived common property.

- (a) a former strata scheme as if it were a strata scheme;
- (b) a former parcel as if it were a parcel;
- (c) a derived lot as if it were a lot; and
- (d) derived common property as if it were common property.

7. (1) On the appointed day, derived common property is divested from the former proprietors by whom it was, immediately before that day, held as referred to in section 9 (1) of the former Act and, subject to section 20, vests in the body corporate for the estate or interest therein of those former proprietors evidenced by the Register immediately before that day. Vesting of derived common property in body corporate.

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(2) The Registrar-General shall, on the appointed day, issue in the name of any body corporate in which any derived common property vests under subsection (1) a certificate of title for that derived common property.

(3) For the purpose only of the making of the recordings referred to in section 23 (2) on a certificate of title issued under subclause (2), section 23 (2) shall be construed as if the reference in—

- (a) section 23 (2) (b) to the address for service of notices on the body corporate were a reference to such an address shown on the strata plan, within the meaning of the former Act, upon the registration, under the former Act, of which the body corporate concerned was constituted or on a later or the latest amendment of that strata plan;
- (b) section 23 (2) (c) to the schedule of unit entitlement in force in respect of the strata scheme concerned were, subject to subclauses (4) and (5), a reference to a schedule specifying the respective unit entitlements of the lots the subject of the strata scheme concerned, being the unit entitlements as in force under the former Act immediately before the appointed day; and
- (c) section 23 (2) (d) to any easement or restriction therein referred to were a reference to any such easement or restriction noted on the strata plan referred to in paragraph (a).

(4) Before recording a schedule on a certificate of title in accordance with section 23 (2) (c) construed in accordance with subclause (3) (b), the Registrar-General, if the unit entitlement for every derived lot to be specified in the schedule is divisible by a whole number so as to produce as the quotient a whole number, may record on that certificate of title as the schedule of unit entitlement a schedule—

- (a) allocating to each of those derived lots the quotient obtained by making that division in respect of each such lot; and
- (b) specifying as the aggregate unit entitlement the sum of the quotients so allocated in respect of all of those derived lots.

(5) Where—

- (a) under the former Act one or more former lots was or were resubdivided as referred to in section 20 (4) of the former Act; and

(b)

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- (b) the aggregate of the unit entitlements of the lots created by the strata plan of resubdivision which effected that resubdivision is not equal to the unit entitlement of the lot, or to the aggregate of the unit entitlements of lots, which was or were so resubdivided, No. 35, 1974

the Registrar-General, when issuing a certificate of title comprising common property the subject of the former strata scheme concerned, shall record thereon as the schedule of unit entitlement a schedule—

- (c) allocating to each derived lot that corresponds to a former lot the subject of that former strata scheme a unit entitlement, expressed as a whole number, which bears to the aggregate unit entitlement the same proportion as the unit entitlement under the former Act of that former lot bore, immediately before the appointed day, to the aggregate of the unit entitlements under the former Act of all the former lots which, immediately before that day, were the subject of that former strata scheme; and
- (d) specifying as the aggregate unit entitlement the sum of the unit entitlements so allocated in respect of all of those derived lots.

(6) The address recorded on a certificate of title in accordance with section 23 (2) (b) construed in accordance with subclause (3) (a) for service of notices on a body corporate shall, for the purposes of, but subject to, this Act, be the address for service of notices on that body corporate as continued by the operation of clause 4.

(7) The schedule recorded on a certificate of title in accordance with section 23 (2) (c) construed in accordance with subclause (3) (b) or recorded on a certificate of title in accordance with subclause (4) or (5) shall, for the purposes of, but subject to, this Act, be the schedule of unit entitlement in relation to the strata scheme which corresponds to the former strata scheme concerned.

(8) The unit entitlement, as shown on the schedule referred to in subclause (7), of a derived lot shall, for the purposes of, but subject to, this Act be the unit entitlement of that derived lot.

(9) Section 49 (3) does not apply where the Registrar-General records a schedule of unit entitlement under this clause on a folio of the Register comprising common property unless the recording was made in accordance with subclause (4) or (5).

(10) The certificate of title and the folio of the Register for a former lot shall respectively be deemed to be the certificate of title and the folio of the Register for the derived lot corresponding to that former lot and any recording made on that certificate of title

OR

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No. 35, 1974 — or folio in relation to the derived common property shall, for the purposes of section 42 (a) of the Real Property Act, 1900, be deemed to be excluded therefrom.

(11) The partial cancellation of a certificate of title for a derived lot made for the purpose of excluding the recording referred to in subclause (10) shall be deemed not to be a partial cancellation of that certificate of title for the purposes of the Real Property Act, 1900.

Modification of section 22 in relation to former strata schemes.

8. Section 22 applies to and in respect of a scheme to which the provisions of this Act apply by reason of clause 6 but, for the purposes only of that application, shall be deemed to be amended—

- (a) by omitting from subsection (1) the words “no part of a parcel is common property the Registrar-General shall, upon registration of a strata plan” and by inserting instead the words “immediately before the appointed day no part of a former parcel was common property, the Registrar-General shall, upon that day”;
- (b) by omitting from section 22 (1) (b) the word “plan” and by inserting instead the word “scheme”;
- (c) by omitting from subsection (2) the words “the registration of a strata plan” and by inserting instead the words “the appointed day”;
- (d) by omitting from subsection (2) (a) the words “section 18 (2) or subsection (5), as the case may be” and by inserting instead the words “clause 7 (2) of Schedule 4”; and
- (e) by inserting in subsections (3) and (4) after the matter “(1)” wherever occurring the words “, as deemed to be amended by clause 8 (a) and (b) of Schedule 4,”.

Modification of section 23 (3) in relation to former lots.

9. Section 23 (3) shall apply to and in respect of a certificate of title issued under clause 7 (2) but, for the purposes only of that application, shall be deemed to be amended—

- (a) by omitting the word “not”;
- (b) by omitting the words “on the folio of the Register comprising a lot the subject of the strata scheme concerned but shall record the easement or restriction”; and
- (c) by omitting the words “any such lot” and by inserting instead the words “any lot the subject of the strata scheme concerned”.

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10. (1) Where a transfer or lease of any common property under No. 35, 1974 the former Act—

- (a) would under section 10 of the former Act have been registrable under the Real Property Act, 1900, had this Act not been enacted but had not, before the appointed day, been registered under that Act; and
- (b) was executed pursuant to an agreement entered into by the body corporate before the appointed day,

Registration of transfers or leases of derived common property registrable under section 10 of former Act.

that transfer or lease, upon its lodgment in the office of the Registrar-General, shall be dealt with under section 25 (4) as if it were a dealing referred to in section 25 (1).

(2) For the purposes of section 25 (3), a lease referred to in subclause (1) shall be deemed to have been granted under section 25 (1).

11. (1) Where, in relation to a body corporate continued by the operation of clause 4, the original proprietor is not, on the appointed day, the proprietor of any lots the subject of the strata scheme or is the proprietor of lots the subject of the strata scheme the sum of whose unit entitlements is less than two-thirds of the aggregate unit entitlement and—

General meetings of certain continued bodies corporate.

- (a) a general meeting of that body corporate has not been held before the appointed day, a general meeting of that body corporate shall be held within three months after the appointed day, and that general meeting shall, for the purposes of this Act (section 57 (4) excepted) be the first annual general meeting of the body corporate; or
- (b) a general meeting of that body corporate has been held before the appointed day, that general meeting shall, for the purposes of clause 1 (1) of Part 1 of Schedule 2, be deemed to have been the first annual general meeting.

(2) If a meeting of the body corporate is not held in accordance with subclause (1) (a), the Commissioner may, pursuant to an application by a proprietor or mortgagee of a lot appoint, by order, a person to convene a general meeting within such time as may be specified in the order and the meeting convened by that person shall for the purposes of this Act (section 57 (4) excepted) be the first annual general meeting of the body corporate.

(3) An order made under subclause (2) may include such ancillary or consequential provisions as the Commissioner thinks fit.

(4)

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No. 35, 1974 (4) The agenda for a meeting convened under subclause (1) (a) or subclause (2) shall be the agenda specified in section 57 (2).

(5) The original proprietor shall not fail or neglect to deliver to the body corporate (being a body corporate a general meeting of which is required to be held under subclause (1) (a)), within fourteen days after notice in writing is given to him by the body corporate or if the documents referred to in paragraphs (a) and (b) are not then in his possession within fourteen days after they come into his possession or under his control—

- (a) any plan, specification, certificate (other than a certificate of title for a lot), diagram or other document (including any policy of insurance) obtained or received by him and relating to the parcel or building; and
- (b) any book of account, notice or other record relating to the strata scheme,

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

Penalty : \$1,000.

(6) Section 70 (1) (b) (iii) shall be deemed to be amended by inserting after the matter "section 57 (4)" the matter "or under clause 11 (5) of Schedule 4".

Meetings
of former
bodies
corporate
held within
two months
after
appointed
day.

12. Notwithstanding section 57 (5), for the purposes of any general meeting of a body corporate continued by the operation of clause 4, being a general meeting held before the expiration of two months after the appointed day—

- (a) the procedure for the convening and holding of meetings of such a body corporate and the rights of persons to vote at and to requisition meetings of such a body corporate shall be the same as they were under the former Act; and
- (b) where a notice is given to the body corporate under section 81 (3), (5) or (6), the mortgagee specified in the notice shall have the same voting rights as he would have had if the meeting had been held in accordance with the former Act and if the notice were a notice given under section 26 (2) of the former Act.

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13. The reference in section 60 to a notice served on the proprietor of a lot by a public authority or local council includes a reference to a notice served, before the appointed day, by such an authority or council on the proprietor of a former lot which has become a derived lot.

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Notices served by public authority or local council before the appointed day.

14. (1) Subject to this clause, the former by-laws relating to a former strata scheme shall, notwithstanding the repeal of the former Act, continue in force in respect of the corresponding scheme to which the provisions of this Act apply by reason of clause 6 except to the extent of any inconsistency of the former by-laws with any provision of this Act except Schedule 1.

Effect of former by-laws.

(2) Until the expiration of a period of three months after the appointed day the former by-laws relating to a former strata scheme may be added to, amended or repealed in the manner provided by the former Act, and any such addition, amendment or repeal shall, notwithstanding any other provision of this Act, have force and effect upon a notification thereof, in the form prescribed under the former Act, being recorded on the relevant strata plan registered under the former Act.

(3) Upon the expiration of a period of three months after the appointed day—

(a) any by-laws continued in force by subclause (1) or any by-laws so continued in force, as added to, amended or repealed in accordance with subclause (2), shall cease to have any force or effect; and

(b) the by-laws set forth in Schedule 1 and any by-laws, made in accordance with subclause (4), amending, adding to or repealing—

(i) the by-laws set forth in Schedule 1; or

(ii) any by-laws made under that subclause,

shall, subject to subclause (5), be the by-laws in force in respect of the strata scheme concerned.

(4) During the period commencing two months after the appointed day and ending three months after that day a body corporate continued by the operation of clause 4 may, in the manner provided by section 58, make by-laws amending, adding to or repealing the by-laws set forth in Schedule 1 or any by-laws made under this subclause.

(5)

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No. 35, 1974 (5) An amendment of, addition to or repeal of the by-laws in accordance with subclause (4) has no force or effect until—

- (a) the expiration of the period of three months after the appointed day; or
- (b) the Registrar-General has, pursuant to a notification in the prescribed form lodged in his office by the body corporate in accordance with section 58 (3), recorded the notification on the folio of the Register comprising the common property,

whichever occurs the later.

(6) Nothing in this clause affects the operation, after the expiration of the period of three months after the appointed day, of section 58 in relation to a body corporate continued by the operation of clause 4.

Maintenance of exclusive use, etc., of, and special privileges in respect of, common property.

15. (1) Where immediately before the appointed day a proprietor of a former lot was entitled, whether pursuant to a resolution of the body corporate under the former Act or pursuant to a former by-law, to a right of exclusive use and enjoyment of, or special privileges in respect of, any of the former common property, the proprietor for the time being of the derived lot that corresponds to that former lot may at any time after that day serve notice on that body corporate, as continued by the operation of clause 4, requiring it to make a by-law, in terms specified in the notice, confirming that right or those special privileges and indicating the method by which the by-law may be amended, added to or repealed.

(2) Notwithstanding section 58, the body corporate may make a by-law referred to in subclause (1) otherwise than pursuant to a special resolution or a unanimous resolution.

(3) Where the body corporate on which a requisition has been served under subclause (1)—

- (a) fails to make a by-law (being a by-law adding to the by-laws set forth in Schedule 1) in accordance with the requisition—
 - (i) if the requisition was served on the body corporate within two months after the appointed day—before the expiration of three months after the appointed day; or
 - (ii) if the requisition was served on the body corporate after the expiration of two months after the appointed day—within one month after the service of the requisition; or

(b)

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- (b) having made such a by-law and having been tendered the prescribed fee, does not cause the by-law to be recorded in accordance with section 58 (3) within a reasonable time, No. 35, 1974

the proprietor who made the requisition may make an application to the Commissioner for an order to be made by a Board under subclause (5).

(4) The provisions of Part V apply to an application made under subclause (3) in the same way as they apply to an application for an order made under that Part and required to be referred by the Commissioner to a Board.

(5) Where, pursuant to an application by a proprietor under subclause (3), a Board is of the opinion that the applicant was, immediately before the appointed day, entitled to a right or to special privileges of the nature referred to in subclause (1), the Board may, having regard to the interests of other persons having an estate or interest in lots the subject of the strata scheme concerned, the extent to which the right or special privileges referred to in the application has or have been exercised or apparent since the appointed day and the justice and merits of the case, order that the applicant is entitled to such rights or special privileges of that nature as may be specified in the order and in that order shall specify the method by which the by-law, giving effect, by virtue of subclause (7), to the terms of the order, may be amended, added to or repealed.

(6) The provisions of—

- (a) section 130 (subsection (2) (b) and (c) excepted) apply to and in respect of an order under subclause (5) in the same way as they apply to an order under Division 4 of Part V (section 117 excepted); and
- (b) section 141 (subsections (3) and (4) excepted) apply to the recording of an order under subclause (5) in the same way as they apply to the recording of an order referred to in that section.

(7) An order under subclause (5), when recorded under section 141, has effect, subject to any order with respect thereto made by a superior court, as if its terms were a by-law.

(8) Notwithstanding section 58, a by-law—

- (a) made pursuant to a requisition under subclause (1); or
- (b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),

may be amended, added to or repealed in such manner as may be specified in that by-law.

(9)

Strata Titles (Amendment).

No. 35, 1974

(9) A by-law—

(a) made under subclause (1); or

(b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),

being a by-law expressed to be for the benefit of a specified derived lot, shall while it remains in force enure as appurtenant to, and for the benefit of, that lot.

(10) Subject to subclause (8), a by-law—

(a) made under subclause (1); or

(b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),

shall be deemed, for the purposes of this Act, to be a by-law referred to in section 58 (7).

Recovery of contributions levied under former Act.

16. (1) Any contribution levied under the former Act by a body corporate and unpaid at the appointed day may be recovered by the body corporate, and as on and from the appointed day bears interest, as if it were a contribution levied under this Act.

(2) Any determination made under the former Act by a body corporate specifying amounts to be raised by regular periodic contributions shall be deemed to be a determination made under section 68 (1) (j) of the kind referred to in section 68 (4).

Modification of section 68 (1) (e) in relation to continued bodies corporate. Inspection of former records, etc.

17. In relation to a body corporate continued by the operation of clause 4, section 68 (1) (e) shall be deemed to be amended by inserting after the matter "Division 5" the words " , as modified by clause 25 of Schedule 4".

18. (1) A body corporate continued by the operation of clause 4 shall, for the purposes of the strata scheme concerned, cause to be retained, until the expiration of the prescribed period, any records, minutes of meetings, notices and books of account kept or received by it before the appointed day and in its custody or under its control on that day and upon application under section 70 (1) made in respect of a lot the subject of the strata scheme concerned shall make those records, minutes, notices and books available for inspection by the applicant or his agent at a time and place ascertained in accordance with section 70 (1) (b).

(2)

Strata Titles (Amendment).

(2) Section 70 (2) applies to the making of an inspection No. 35, 1974 referred to in subclause (1) in the same way as it applies to the making of an inspection referred to in section 70 (1) (b).

19. (1) Where a determination made under section 15 (2) (b) of the former Act by a body corporate continued by the operation of clause 4 was in force immediately before the appointed day, that determination shall be deemed to be the determination required under section 68 (1) (j) to be made by that body corporate.

Adminis-
trative
and sinking
funds of
continued
bodies
corporate.

(2) Where a fund was, immediately before the appointed day, kept under section 15 (2) (a) of the former Act by a body corporate continued by the operation of clause 4 that fund shall, on the appointed day, be deemed to be the fund required under section 68 (1) (l) to be established by that body corporate.

(3) In relation to a body corporate continued by the operation of clause 4 which had not, before the appointed day, made a determination under section 15 (2) (b) of the former Act—

- (a) section 68 (1) (j) shall be deemed to be amended by omitting the words “seven days after the constitution of the body corporate” and by inserting instead the words “three months after the appointed day”; and
- (b) section 68 (1) (l) shall be deemed to be amended by inserting after the matter “paragraph (j)” the words “, as deemed to be amended by clause 19 (3) (a) of Schedule 4”.

(4) In relation to a body corporate continued by the operation of clause 4 which had, before the appointed day, made a determination under section 15 (2) (b) of the former Act but had not before that day established a fund under section 15 (2) (a) of the former Act, section 68 (1) (l) shall be deemed to be amended by omitting the words “upon determining the amounts referred to in paragraph (j)” and by inserting instead the words “upon receiving any amounts raised pursuant to a determination referred to in clause 19 (1) of Schedule 4”.

(5) In relation to a body corporate continued by the operation of clause 4—

- (a) section 68 (1) (k) shall be deemed to be amended by omitting the words “one month after the constitution of the council or one year after the constitution of the body corporate, whichever first happens” and by inserting instead the words “three months after the appointed day”;

(b)

Strata Titles (Amendment).

No. 35, 1974 (b) section 68 (1) (m) shall be deemed to be amended by inserting after the matter "paragraph (k)" the words ", as deemed to be amended by clause 19 (5) (a) of Schedule 4".

(6) Until a body corporate continued by the operation of clause 4 establishes its sinking fund—

- (a) it may disburse the moneys in its administrative fund for the purpose of meeting its liabilities referred to in section 68 (1) (j) or (k); and
- (b) section 68 (2) does not apply to that body corporate.

(7) Upon the establishment of its sinking fund a body corporate continued by the operation of clause 4 shall—

- (a) determine what part of its administrative fund should be allocated for the purpose of meeting its actual or expected liabilities referred to in section 68 (1) (k); and
- (b) notwithstanding section 68 (2), transfer the amount so determined to its sinking fund.

Modification of section 69 in relation to continued bodies corporate. 20. (1) Where the initial period in relation to a body corporate continued by the operation of clause 4 has not expired, the original proprietor in relation to the strata scheme concerned may give to the body corporate a notice stating that he is the original proprietor and specifying his name in full and the address for the service of notices on him.

(2) In relation to a body corporate continued by the operation of clause 4, section 69 (3) (b) shall be deemed to be omitted and the following paragraph inserted instead :—

- (b) the name of, and address for the service of notices on, the original proprietor, as shown in any notice given to the body corporate under clause 20 (1) of Schedule 4.

(3) Where—

- (a) a body corporate believes that a person may, under sub-clause (1), give a notice to it; and
- (b) the body corporate has not received that notice,

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

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

(4)

Strata Titles (Amendment).

(4) Where a body corporate has served a notice under subclause (3) on a person whom it believes to be a person entitled to give a notice to the body corporate under subclause (1) and that person has not complied with the firstmentioned notice, that person is not entitled to cast a vote at any meeting of the body corporate until he has complied with the firstmentioned notice. No. 35, 1974

(5) A notice given under section 26 (2) of the former Act before the appointed day by a mortgagee to a body corporate shall, for the purpose of the making by the body corporate of a recording under section 69 (3) (c) of the name of the mortgagee of the lot specified in the notice, be deemed to be a notice given to that body corporate under section 81 (3) and for the purpose of completing the recording in the strata roll required by section 69 (3) (c)—

- (a) the address, if any, specified in the notice as the address of the mortgagee shall be deemed to be the address for the service of notices on the mortgagee shown in a notice given to the body corporate under section 81 (3); and
- (b) any other mortgage notice of which was given under section 26 (2) of the former Act before the notice firstmentioned in this clause was received by the body corporate shall, subject to any notice given to the body corporate under section 81 (3), be deemed to be a mortgage specified in that firstmentioned notice as having priority over the mortgage specified in that firstmentioned notice.

(6) Any notice given before the appointed day by a mortgagor of a former lot to a body corporate, being a notice of the discharge of a mortgage notice of which had been given to the body corporate under section 26 (2) of the former Act, shall, for the purpose of the making under section 69 (3) (d) by the body corporate of a recording of the discharge of that mortgage, be deemed to be a notice given to that body corporate under section 81 (4).

21. For the purposes of section 70 (1) (c), any contribution levied under the former Act by a body corporate and unpaid before the appointed day shall—

- (a) if levied pursuant to a determination specifying amounts to be raised by regular periodic contributions, be deemed to be a contribution determined under section 68 (1) (j); or
- (b) except as provided in paragraph (a), be deemed to be a contribution determined under section 68 (1) (k).

Modifica-
tion of
section
70 (1) (c)
in relation
to contin-
ued
bodies
corporate.

Strata Titles (Amendment).

No. 35, 1974 22. (1) The council constituted under the former Act of a body corporate continued by the operation of clause 4 shall, subject to this Act, be, on and from the appointed day, the council of that body corporate.

Continuation of councils of former bodies corporate.

(2) A person who is a member of a council of a body corporate referred to in subclause (1) shall, for the purposes of section 72 (1), be deemed to have been elected as a member of that council if he was elected as a member of the council of the body corporate constituted under the former Act.

(3) Section 73 (1) shall, in relation to a council referred to in subclause (1), be deemed to be amended by omitting therefrom the words "they assume office as such members" and by inserting instead the words "the appointed day".

Operation of section 79 in relation to former managing agents.

23. Section 79 extends to a person acting as managing agent pursuant to an appointment made before the appointed day by a body corporate continued by the operation of clause 4.

Operation of section 81 in relation to former strata schemes.

24. Section 81 extends to authorising the giving by any person to a body corporate continued by the operation of clause 4 of a notice after the occurrence of any event specified in that section notwithstanding that that event occurred before the appointed day.

Modification of Part IV, Division 5.

25. (1) Section 83 does not apply to or in respect of a body corporate continued by the operation of clause 4, which has in force on the appointed day a policy of insurance expiring not later than one year after the appointed day and effected by it in accordance with section 15 (1) (a) of the former Act, until the expiry of that policy.

(2) Section 84 (1) (a) does not apply to or in respect of a body corporate continued by the operation of clause 4, which has in force on the appointed day a policy of insurance expiring not later than one year after the appointed day and effected by it in accordance with section 15 (1) (b) of the former Act, until the expiry of that policy.

(3) Sections 85 (2) and 88 apply to and in respect of a policy of insurance entered into in accordance with the former Act before the appointed day between a body corporate continued by the operation of clause 4 and an insurer in the same way as those sections apply to and in respect of a contract of insurance entered into between a body corporate and an insurer pursuant to Division 5 of Part IV.

(4)

Strata Titles (Amendment).

(4) Notwithstanding the repeal of the former Act, section 17 of the former Act continues to apply to and in respect of a policy of insurance referred to in that section entered into before the appointed day until the expiry of that policy as if this Act had not been enacted. No. 35, 1974

26. (1) A valuation of a former parcel made by a valuing authority within the meaning of section 21 of the former Act in accordance with section 21 (2) (a) of the former Act and in force immediately before the appointed day shall, for the purposes of this Act, be deemed to be a valuation made in accordance with section 90 (1) by that valuing authority. Effect of section 90 in relation to former parcels.

(2) In relation to a parcel to which the provisions of this Act apply by reason of clause 6 and which corresponds to a former parcel a valuation of which had not, at the appointed day, been made in accordance with section 21 (2) (a) of the former Act, section 90 (2) shall be deemed to be amended by omitting therefrom the words "the registration of a strata plan" and by inserting instead the words "the appointed day".

27. Except where the Registrar-General furnishes particulars under section 49 (3) of the unit entitlements of the lots the subject of a strata scheme to which the provisions of this Act apply by reason of clause 6, the particulars of the unit entitlements of any former lots shown on a certified copy of the strata plan referred to in section 21 (3) of the former Act or on any amendment of that plan and furnished to any authority referred to in section 21 (3) of the former Act shall for the purposes of section 91 be deemed to be particulars furnished to that authority under section 49 (3) of the unit entitlements of the derived lots that correspond to those former lots. Evidentiary effect under section 91 of particulars furnished under section 21 (3) of former Act.

28. In relation to a lot comprised in a parcel referred to in clause 26 (2), section 92 (2) (c) shall be deemed to be amended by inserting after the figures "90" the words ", as deemed to be amended by clause 26 (2) of Schedule 4,". Modification of section 92 (2) (c) in relation to valuations of certain lots.

29. In relation to a strata scheme to which the provisions of this Act apply by reason of clause 6, section 119 shall be deemed to be amended by omitting the words "the strata plan was registered or at the time any strata plan of subdivision was registered, as the case may be" and by inserting instead the words "the strata plan, or strata plan of resubdivision, within the meaning of the former Act, as the case may be, was registered under the former Act". Modification of section 119 in relation to lots in former strata schemes

Strata Titles (Amendment).

- No. 35, 1974** 30. (1) Any proceedings under section 19 (1) of the former Act which were pending before the Supreme Court immediately before the appointed day may be continued and completed as if they were proceedings under section 51.
- Destruction of or damage to building under former Act.** (2) Any declaration made under section 19 (1) (b) of the former Act before the appointed day shall, notwithstanding the repeal of the former Act, continue to operate and shall have the same force and effect as if this Act had not been enacted.
- (3) Any proceedings for an order referred to in section 19 (3) of the former Act which were pending before the Supreme Court immediately before the appointed day may be continued and completed as if they were proceedings under section 50.
- (4) Any order made under section 19 (3) of the former Act before the appointed day shall, notwithstanding the repeal of the former Act, continue to operate and shall, subject to subclause (5), have the same force and effect as if this Act had not been enacted.
- (5) An order referred to in section 19 (3) of the former Act may be varied in the same way as if it were an order made under section 50 (4).
- (6) Notwithstanding the repeal of the former Act, section 11 of the former Act and the regulations made under that section continue to apply to and in respect of a building which was destroyed under the former Act and the parcel on which that building was situated.
- Administrators under former Act.** 31. (1) A person who, immediately before the appointed day, held office as an administrator under section 23 of the former Act shall, notwithstanding the repeal of the former Act, continue to have the powers and duties he had, as the holder of that office, immediately before the appointed day.
- (2) The provisions of section 23 of the former Act continue to apply to and in respect of a person holding office as referred to in subclause (1) notwithstanding the repeal of the former Act.
- (3) Where immediately before the appointed day an application under section 23 (1) of the former Act was pending, the Supreme Court shall remit the application to such Board as it thinks fit on such terms and conditions (including terms and conditions relating to the payment of the costs of the application up to the date of the remittal) as it thinks fit and any application so remitted shall be deemed to be an application capable of being made under section 127.

Strata Titles (Amendment).

32. A body corporate may recover any amount referred to in section 16 (2) of the former Act paid by it, whether before or after the appointed day, as if section 16 (3) of the former Act had not been repealed by this Act.

No. 35, 1974
 Recovery of rates paid by body corporate.

33. Where at the expiration of a period of three months after the appointed day—

Keeping of animals.

- (a) the by-laws in force in respect of a scheme to which the provisions of this Act apply by reason of clause 6 prohibit the proprietor or occupier of a lot from keeping any animal upon his lot or the common property without the approval in writing of the body corporate; and
- (b) the proprietor or occupier of any lot the subject of that scheme was keeping an animal on that lot or the common property and had not before the expiration of that period been given a notice by the council requiring him not so to keep that animal,

the body corporate shall be deemed to have given its approval under the by-laws referred to in paragraph (a) to the keeping of that animal on that lot or the common property, as the case may be.

34. (1) The Governor may, for the purposes of bringing lots, common property, bodies corporate and councils, within the meaning of the former Act, under the provisions of this Act and applying the provisions of this Act, with or without modifications, additions or exclusions to or in respect of any such lots, common property, bodies corporate or councils, and for any purposes incidental thereto, make regulations containing such transitional, consequential or savings provisions as to the Governor may appear to be necessary or expedient.

Regulations—transitional.

(2) A regulation made under this clause may make provisions which differ in their application according to such factors as may be specified in the regulation.

(3) Section 41 (I) (b) of the Interpretation Act, 1897, does not apply to a regulation made under this clause but otherwise section 41 of that Act applies to such a regulation.

(4) Regulations made under this clause before the appointed day shall take effect on the appointed day or on some later day specified in the regulations.

(5)

Strata Titles (Amendment).

No. 35, 1974 (5) Regulations made under this clause after the appointed day shall take effect on the day of publication or on some other day specified in the regulations, being a day before or after the day of publication, but not earlier than the appointed day.

(6) The Acts Reprinting Act, 1972, does not apply to or in respect of any modifications, additions or exclusions referred to in subclause (1).

Further amendment of Act No. 68, 1973.

5. The Strata Titles Act, 1973, is further amended—

Sec. 5.
(Interpretation.)

(a) by omitting from the definition of “special resolution” in section 5 (1) the matter “Schedule 2” and by inserting instead the matter “Part 1 of Schedule 2 or clause 12 (3) and (4) of Part 2 of that Schedule”;

Sec. 57.
(Meetings of body corporate.)

(b) (i) by omitting from section 57 (5) the matter “Schedule 2” and by inserting instead the matter “Part 1 of Schedule 2”;

(ii) by inserting in section 57 (5) after the word “meeting” the words “and Part 2 of Schedule 2 applies to and in respect of the first annual general meeting, and voting at that meeting, of the body corporate”;

Sec. 68.
(Duties of body corporate.)

(c) by omitting from section 68 (1) (i) the matter “Schedule 2” and by inserting instead the matter “Part 1 of Schedule 2”;

Schedule 2.
(Meetings, and Voting at Meetings, of Body Corporate.)

(d) (i) by inserting after the heading to Schedule 2 the following sub-heading :—

Part 1.

MEETINGS OTHER THAN FIRST ANNUAL GENERAL MEETING.

(ii) by omitting from clause 1 (6) (c) (i) the word “Schedule” and by inserting instead the word “Part”;

(iii)

Strata Titles (Amendment).

- (iii) by omitting from clause 2 (4) and (5) the word "Schedule" wherever occurring and by inserting instead the word "Part";
- (iv) by omitting clause 16 of Schedule 2 and by inserting instead the following clauses and Part :—

16. Until the offices of chairman, secretary and treasurer of the body corporate are filled or until the expiration of the initial period, whichever first happens, the powers, authorities, duties and functions conferred or imposed on the holders of those offices shall be exercised and performed by the original proprietor or by his agent duly authorised in writing.

17. (1) Until the first annual general meeting of the body corporate, the secretary of the body corporate may convene an extraordinary general meeting and shall do so on receipt of a requisition signed by one or more persons entitled to vote in respect of one or more lots, the unit entitlement or the sum of the unit entitlements of which is at least one-quarter of the aggregate unit entitlement.

(2) The provisions of this Part (clause 1 (1), (2), (3) and (5) excepted) apply to and in respect of a meeting referred to in subclause (1) so far as those provisions are not inconsistent with, or incapable of applying to, such a meeting.

Part 2.

FIRST ANNUAL GENERAL MEETING.

1. In this Part—

"business" means the items in the agenda referred to in section 57 (2);

"meeting", in relation to a body corporate, means the first annual general meeting of the body corporate.

2. For the purpose of preparing the notices referred to in clause 3, an original proprietor, whether or not he has ceased to be a proprietor, or his agent authorised in writing is entitled to inspect the strata roll without making payment or written application.

3.

Strata Titles (Amendment).

No. 35, 1974 Notice of meeting and contents thereof.

3. (1) Notice of the meeting shall be served on each proprietor and first mortgagee of a lot, as ascertained from the strata roll, at least fourteen days before the meeting and shall—

(a) set forth as the agenda of the meeting the items referred to in section 57 (2) and no other business; and

(b) inform each person to whom the notice is addressed that he may vote at the meeting—

(i) in the case of a proprietor of a lot subject to a first mortgage shown on the strata roll, only if the mortgagee fails or neglects to exercise the voting power conferred on him by this Part;

(ii) except in the case of a motion requiring a unanimous resolution, only if all contributions levied and payable on the lot, and any other moneys recoverable under this Act by the body corporate from him at the date of the notice (being contributions levied on him, or moneys recoverable from him, in respect of the lot of which he is the proprietor or first mortgagee) have been duly paid before the commencement of the meeting; and

(iii) either in person at the meeting or by proxy given to the secretary of the body corporate before a time specified in the notice (being a time not later than the time for the holding of the meeting).

(2) Notwithstanding subclause (1), where the meeting referred to in that subclause is a meeting of a body corporate continued by the operation of clause 4 of Schedule 4, notice of that meeting may be served on a proprietor or first mortgagee of a lot whose name does not appear on the strata roll by prominently displaying the notice within the building on some part of the common property.

Restrictions on submitting motions.

4. (1) A motion shall not be submitted to the meeting unless it relates to the business of the meeting.

(2) A person is not entitled to move a motion at a meeting or to nominate a person for election as a member of the council unless he is entitled to vote on that motion or in that election.

(3) For the purposes of subclause (2), a proprietor who but for the existence of a mortgage over his lot would be entitled to vote on a motion or in an election shall be deemed to be entitled to vote on that motion or in that election.

5.

Strata Titles (Amendment).

5. (1) A person is entitled to vote at a meeting in respect of any lot only if he is the proprietor of that lot as shown on the strata roll. **No. 35, 1974**

**Persons
entitled
to vote
at meeting.**

(2) Notwithstanding any other provision of this clause, a first mortgagee, as shown on the strata roll, of a lot is entitled to cast a vote at a meeting in respect of that lot and, if he casts a vote, any vote cast on the same matter by the proprietor of that lot shall not be counted.

(3) Co-proprietors or co-mortgagees shall only be entitled to cast a vote by a person duly appointed as a proxy by them jointly and if notice of his appointment has been given to the secretary of the body corporate before the commencement of the meeting.

(4) Only the proprietor entitled to the first of two or more successive estates in a lot is, subject to this Part, entitled to cast a vote at a meeting.

(5) A proprietor who is the trustee of a lot is, subject to this Part, entitled to cast a vote at a meeting and the persons beneficially interested in the trust are not entitled to cast a vote.

(6) A person who, but for this subclause, would be entitled to cast a vote at a meeting is not, except in respect of a motion for a resolution which, if it is to be effective, is required by this Act to be a unanimous resolution, entitled to cast a vote at a meeting unless all contributions levied in respect of the lot in respect of which he is entitled to vote, and any other moneys recoverable under this Act by the body corporate from him, at the date of the notice given under clause 3 (1) have been duly paid before the commencement of the meeting.

(7) The voting rights conferred by this clause are subject to section 81 (11) and clause 20 (4) of Schedule 4.

6. (1) Business shall not be considered at a meeting unless the number of persons present at that meeting either personally or by proxy and entitled to vote constitutes a quorum. **Quorum.**

(2) Except as provided in subclause (3), one-half of the persons entitled to vote on any matter at a meeting constitutes a quorum for considering that matter.

(3) Where there is no quorum, as provided in subclause (2), for considering any matter at a meeting within one-half hour after that matter arises for consideration at that meeting, the meeting shall stand adjourned to the same day in the next week at the same place and time and if there is no quorum, as provided in subclause (2), for considering that matter at the adjourned meeting within one-half

hour

Strata Titles (Amendment).

No. 35, 1974 hour after that matter arises for consideration, the number of persons present personally or by proxy and entitled to vote constitutes a quorum for considering that matter.

Motions out of order. 7. The chairman of a meeting may rule a motion out of order if he considers that the motion, if carried, would conflict with this Act or the by-laws or would otherwise be unlawful or unenforceable.

Method of casting votes. 8. Except as provided in clause 5 (3), a vote may be cast at a meeting by a person entitled to vote, either personally or by his duly appointed proxy.

Chairman to preside. 9. The chairman of the body corporate, if present, shall preside at the meeting and, in his absence, the persons present and entitled to vote at the meeting may elect one of their number to preside at the meeting and the person so elected shall, while he is so presiding, be deemed to be the chairman of the body corporate.

Chairman to announce names of persons entitled to vote. 10. The chairman at a meeting shall, before submitting a matter to a vote at the meeting, announce the names of the persons who are entitled to vote on that matter.

Counting of votes on election of council. 11. (1) Subject to subclause (2), each person entitled to vote on an election of members of the council has one vote in respect of each lot in respect of which he is entitled to vote.

(2) Where the original proprietor is, at the time of the meeting, the proprietor of not less than one-half of the lots, he has, on an election of the council at the meeting, one vote in respect of each three lots in respect of which he is entitled to vote, ignoring any fraction.

Counting of votes. 12. (1) Subject to this clause, a motion submitted at a meeting shall be decided according to the number of votes cast for and against the motion, whether personally or by proxy, each person entitled to vote having one vote in respect of each lot in respect of which he is entitled to vote.

(2) If—

- (a) a poll is demanded by any person entitled to vote at a meeting on a motion submitted at that meeting, whether or not the motion has been decided in accordance with subclause (1), and the demand is made by that person personally at the meeting; or

(b)

Strata Titles (Amendment).

- (b) a motion submitted at the meeting is for a resolution which, **No. 35, 1974**
if it is to be effective, is required by this Act to be a special
resolution,

the motion shall be decided according to the value, ascertained in accordance with subclauses (3) and (4), of the votes cast for and against the motion, whether personally or by proxy.

(3) Subject to subclause (4), for the purposes of subclause (2) the value of a vote cast on a motion submitted at a meeting by a person entitled to vote in respect of a lot is equal to the unit entitlement of that lot.

(4) For the purposes of subclause (2), the value of the vote cast by the original proprietor who at the time of a meeting is the proprietor of lots the sum of whose unit entitlements is not less than one-half of the aggregate unit entitlement shall be one-third of the value that, but for this subclause, his vote would have under subclause (3), ignoring any fraction.

(5) A poll shall be taken in such manner as the chairman thinks fit.

(6) A demand for a poll may be withdrawn by the person who made it.

13. The declaration of the chairman of the result of the voting on any motion submitted at a meeting, otherwise than on a poll, shall be conclusive without proof of the votes recorded for or against the motion. **Chairman's declaration of vote.**

14. A unanimous or special resolution of a body corporate may not be amended or revoked at a meeting except by a subsequent unanimous resolution or special resolution, as the case may be. **Amendment or revocation of unanimous or special resolution.**

6. Each provision of the Strata Titles Act, 1973, specified in Column 1 of the Schedule is amended in the manner specified opposite that provision in Column 2 of the Schedule. **Further amendment of Act No. 68, 1973.**

SCHEDULE.

Strata Titles (Amendment).

No. 35, 1974

SCHEDULE.

Sec. 6.

Column 1.	Column 2.
Provision of Strata Titles Act, 1973, to be amended.	Amendment.
Section 5	(a) From the definition of "approved insurer" in subsection (1), omit "(2)". (b) After "Board" where secondly occurring in subsection (6), insert "and a clerk of a Fair Rents Board shall be the clerk of the corresponding Strata Titles Board". (c) Omit "one or more lots", where fifthly occurring, from subsection (7), insert instead "one lot".
Section 14 (1) (d) ..	(a) Omit "whether", wherever occurring, from subparagraph (ii), insert instead "that". (b) Omit "any" from subparagraph (iii), insert instead "that any".
Section 18	Insert at the end of the section the following subsection:— (3) Upon registration of a strata plan of subdivision creating common property or a notice of conversion, the common property so created or resulting from the conversion vests in the body corporate for the estate or interest evidenced by the folio of the Register comprising the land the subject of that plan or notice immediately before its registration.
Section 22	(a) Omit "referred to in section 19 (4) (b) being made on the folio of the Register referred to in subsection (3), the body corporate shall become the registered proprietor of the land comprised in the transfer", wherever occurring, from subsections (1) (c) and (2) (b) (iii), insert instead "being made on the folio of the Register referred to in subsection (3) of the creation or acquisition of any common property, the body corporate shall hold the land referred to in the recording as common property". (b) Omit "do not" from subsection (2) (c). (c) Omit "referred to in section 19 (4) (b)" from subsection (5), insert instead "of the creation or acquisition of any common property".
Section 23 (3)	(a) Omit "referred to" wherever occurring, insert instead "of the description contained". (b) After "section 26 (1) (a)" where secondly occurring, insert "(whether or not the easement or restriction was created after the commencement of this Act or under section 26 (1))".

SCHEDULE

Strata Titles (Amendment).

SCHEDULE— <i>continued.</i>		No. 35, 1974
Column 1.	Column 2.	
Provision of Strata Titles Act, 1973, to be amended.	Amendment.	
Section 42	Insert at the end of the section the following subsection:— (5) Subsections (1), (2), (3) and (4) apply to and in respect of a strata plan, and a strata plan of resubdivision, within the meaning of the Conveyancing (Strata Titles) Act, 1961, in the same way as they apply to and in respect of— (a) plans lodged in the office of the Registrar-General for registration as strata plans or strata plans of subdivision; and (b) strata plans or strata plans of subdivision, as the case may require.	
Section 57	Insert at the end of the section the following subsections:— (6) If a meeting of the body corporate is not convened in accordance with subsection (1), the Commissioner may, pursuant to an application by the body corporate, a proprietor or a mortgagee of a lot, appoint by order a person to convene a meeting of the body corporate within such time as may be specified in the order and the meeting convened by that person shall for the purposes of subsection (3) be deemed the meeting convened under subsection (1). (7) An order made under subsection (6) may include such ancillary or consequential provisions as the Commissioner thinks fit. (8) An original proprietor who has failed to convene a meeting of the body corporate in accordance with subsection (1) remains liable to the penalty provided by that subsection notwithstanding that an order has been made under subsection (6) or that a meeting has been convened pursuant to any such order.	
Section 58 (7)	After “by-law” where secondly occurring, insert “and may, pursuant to a unanimous resolution, make a by-law amending, adding to or repealing any by-law made under this subsection”.	
Section 59 (7)	Omit “jurisdiction” from paragraph (c), insert instead the following words:— jurisdiction, and any interest so paid shall form part of the fund to which the contribution belongs.	

SCHEDULE

Strata Titles (Amendment).

No. 35, 1974

SCHEDULE—*continued.*

Column 1.	Column 2.
Provision of Strata Titles Act, 1973, to be amended.	Amendment.
Section 65	(a) Omit "and" where lastly occurring from paragraph (b). (b) Omit "thereof." from paragraph (c), insert instead "thereof; and". (c) After paragraph (c), insert the following paragraph:— (d) dispose of or otherwise deal with any lot vested in the body corporate as a result of a subdivision effected under section 9. (d) Insert at the end of the section the following subsection:— (2) Any interest received on an investment made under subsection (1), shall form part of the fund to which the investment belongs.
Section 66	(a) After "Act" in subsection (1), insert "except subsection (3)". (b) Insert at the end of the section the following subsections:— (3) Nothing in subsection (1) prevents a body corporate, during the initial period, from making, with the approval in writing of the local council, a by-law in accordance with section 58 (7) conferring on any proprietor the exclusive use and enjoyment of, or special privileges in respect of, any specified part of the common property for the purpose of authorising that proprietor to park a vehicle on that part of the common property. (4) The provisions of section 40 apply to an application for an approval referred to in subsection (3) in the same way as they apply to an application referred to in that section. (5) A by-law referred to in subsection (3) shall not be recorded by the Registrar-General in accordance with section 58 (3) unless it bears a certificate, in the prescribed form, of the council clerk of the local council.
Section 68 (1) (g) ..	(a) After "cause", insert "to be kept and retained, until the expiration of the prescribed period, minutes of its meetings and". (b) Omit "to be kept".
Section 68 (1) (o) ..	Omit "contributions levied on proprietors", insert instead "moneys referred to in paragraphs (l) and (m)".

SCHEDULE

Strata Titles (Amendment).

SCHEDULE— <i>continued.</i>		No. 35, 1974
Column 1.	Column 2.	
Provision of Strata Titles Act, 1973, to be amended.	Amendment.	
Section 71	<p>Insert at the end of the section the following subsections:—</p> <p>(9) Notwithstanding any other provision of this section, a council may be constituted before the first annual general meeting of the body corporate.</p> <p>(10) The members of a council constituted under subsection (9) shall be elected at a general meeting of the body corporate and the provisions of subsection (5) and such of the provisions of Part 2 of Schedule 2 as relate to the election of members of councils apply to and in respect of the election of the members of a council to be so constituted.</p> <p>(11) Part 1 of Schedule 2 (clause 17 (1) excepted) does not apply to or in respect of the election of the members of a council to be constituted under subsection (9).</p> <p>(12) The provisions of this Division (subsections (1), (2) and (4) of this section excepted) apply to and in respect of a council constituted under subsection (9) and the members thereof.</p> <p>(13) Without limiting the operation of section 72, a member of a council constituted under subsection (9) vacates his office as such a member upon another person being elected as a member in the place of that firstmentioned member at a general meeting of the body corporate.</p> <p>(14) Where there is no council of a body corporate, the strata scheme shall be administered by the body corporate but nothing in this subsection prevents a managing agent appointed under this Act from exercising or performing any powers, authorities, duties or functions conferred or imposed upon him.</p>	
Section 78 (1), (4) and (5)	Omit "council" wherever occurring, insert instead "body corporate".	
Section 78 (6)	After "treasurer of", insert "the body corporate and".	
Section 79	(a) Omit "accept appointment or act as managing agent unless he has lodged with the Commissioner a bond, approved by the Commissioner, in the prescribed form and for the prescribed amount given by an approved insurer and binding", insert instead "act as managing agent unless there is in force a bond, in the prescribed form and for the prescribed amount,	

SCHEDULE

Strata Titles (Amendment).

No. 35, 1974

SCHEDULE—*continued.*

Column 1.	Column 2.
Provision of Strata Titles Act, 1973, to be amended.	Amendment.
Section 79— <i>continued.</i>	<p>given by an approved insurer, which he has lodged with the Commissioner and which binds".</p> <p>(b) Omit "persons entitled thereto", insert instead "body corporate".</p>
Section 81 (10) (c) ..	Omit "required", insert instead "entitled".
Section 82	<p>(a) After "fixture" where secondly occurring in the definition of "proprietor's fixture" insert "made after the registration of the strata plan".</p> <p>(b) Insert at the end of the section the following subsection:—</p> <p>(2) A damage policy may provide that, instead of the work and the payments specified in the definition of "damage policy" in subsection (1) being carried out or made upon the occurrence of any of the events specified in that definition, the liability of the insurer shall, upon the occurrence of any such event, be limited to an amount specified in the policy and not exceeding an amount calculated in the prescribed manner.</p>
Section 84	<p>(a) Omit "against the possibility of the proprietors becoming jointly liable by reason of a claim arising in respect of" from subsection (1).</p> <p>(b) Omit "any", where firstly occurring, from subsection (1) (a), insert instead "in respect of any".</p> <p>(c) Omit "damage" from subsection (1) (b), insert instead "in respect of damage".</p> <p>(d) Omit "any" from subsection (1) (c), insert instead "against the possibility of the proprietors becoming jointly liable by reason of a claim arising in respect of any".</p> <p>(e) After "shall" in subsection (2), insert "be effected with an approved insurer and shall".</p>
Section 128 (5) (a) ..	Omit "that body corporate or a person referred to in subparagraph (i)", insert instead "it".
Section 142	<p>Insert at the end of the section the following subsection:—</p> <p>(7) A document purporting to be a copy of an order made by the Commissioner or a Board shall be admissible in evidence and shall, until the contrary is proved, be deemed to be an order made by the Commissioner or a Board, as the case may be.</p>

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Strata Titles (Amendment).

SCHEDULE— <i>continued.</i>		No. 35, 1974
Column 1.	Column 2.	
Provision of Strata Titles Act, 1973, to be amended.	Amendment.	
Section 149	After "accepted" insert "or acquired".	
Section 158 (1) (f) ..	Omit the paragraph, insert instead the following paragraph:— (f) the fees to be paid in respect of applications made to the Commissioner or a Board under this Act and the remission of any such fees.	
Schedule 2, Part 1—		
Clause 1 (5) (c) ..	Omit "be", insert instead "when necessary, be".	
Clause 1 (6) (c) (ii) ..	After "levied", where firstly occurring, insert "and payable".	
Clause 2 (6)	(a) After "levied" insert "and payable"; (b) After "vote", where thirdly occurring, insert ", and any other moneys recoverable under this Act by the body corporate from him,".	
Clause 14	Insert at the end of the clause the following subclause:— (2) For the purposes of subclause (1), a proprietor who but for the existence of a mortgage over his lot would be entitled to vote at a general meeting of the body corporate shall be deemed to be entitled to vote at that meeting.	
Schedule 3—		
Part 2, Column 2 ..	(a) After the matter relating to section 100A (1) of the Metropolitan Water, Sewerage, and Drainage Act, 1924, insert:— Section 100AA (1)— Omit the definition of "strata lot", insert instead the following definition:— "strata lot" means a lot under the Strata Titles Act, 1973. (b) After the matter relating to section 104A (1) of the Hunter District Water, Sewerage and Drainage Act, 1938, insert:— Section 104AA (1)— Omit the definition of "strata lot", insert instead the following definition:— "strata lot" means a lot under the Strata Titles Act, 1973.	

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Strata Titles (Amendment).

No. 35, 1974

SCHEDULE—*continued.*

Column 1.	Column 2.
Provision of Strata Titles Act, 1973, to be amended.	Amendment.
Schedule 3— <i>continued.</i>	
Part 2.. ..	<p>(a) After the matter relating to the Auctioneers and Agents Act, 1941, insert:—</p> <p>1948, No. 25 Landlord and Tenant (Amendment) Act, 1948</p> <p>Section 31MDA (3)— Omit “in a strata plan, but including a building that is divided into lots in a strata plan, under the Conveyancing (Strata Titles) Act, 1961, as subsequently amended”, insert instead “within the meaning of the Strata Titles Act, 1973, but including a building that is divided into lots within the meaning of that Act”.</p> <p>1956, No. 26 Land Tax Management Act, 1956.</p> <p>Section 10 (1E)— Omit the subsection, insert instead the following subsection:— (1E) In paragraph (r) of subsection (1) and in subsection (1D) “strata lot” means a lot under the Strata Titles Act, 1973.</p> <p>(b) After the matter relating to the Local Government (Further Amendment) Act, 1972, insert:—</p> <p>1973, No. 70 Land Tax (Amendment) Act, 1973.</p> <p>Section 8— Omit the section.</p>

COMPANIES