

UNIT TITLES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Unit Titles Act 1972. The provisions of the Bill broadly implement the recommendations of the Special Review Committee appointed by the Minister of Justice. The principal amendments are those set out in Part I of the Bill, which provides for staged developments.

Clause 1 relates to the Short Title.

PART I

STAGED DEVELOPMENT

Clause 2 defines 3 terms used in this Part of the Bill.

Clause 3 provides that any person who is entitled to subdivide land into units under the principal Act may effect such a subdivision in 2 or more stages under this Part of the Bill.

Clause 4 prescribes the procedure to be followed for a subdivision in stages. The first step is the deposit of a proposed development plan, which shows what the development will be like when the whole thing is finished. Then, as each stage of the development is built and finished, a stage unit plan showing the completed units must be deposited. Each area still to be developed is to be shown on a stage unit plan as a future development unit. Lastly, when all the units and common property have been completed, a complete unit plan is to be deposited.

Clause 5 relates to proposed development plans.

Subclause (1) requires every such plan to be in accordance with all relevant survey regulations.

Subclause (2) provides that the deposit of a proposed development plan shall not affect any estate in the land.

Subclause (3) specifies 3 prerequisites to the deposit of a proposed development plan. These are:

- (a) The plan must be accompanied by a stage unit plan;
- (b) It must be approved by the appropriate Chief Surveyor;
- (c) A certificate is required from the appropriate local authority to the effect that the proposed development complies with planning and building bylaws.

Subclause (4) applies certain technical provisions of the principal Act to approvals of proposed development plans by Chief Surveyors, and extends to local body officers the same protection in respect of certificates given for proposed development plans as they enjoy in respect of certificates given for unit plans.

Clause 6 relates to the deposit of unit plans under this Part of the Bill.

Subclause (1) prevents the deposit of a stage unit plan unless a certificate has been given by the appropriate local authority to the effect that the plan is in accordance with the relevant proposed development plan.

Subclause (2) provides that each stage unit plan (except the first) and the complete unit plan shall be deposited in substitution for, and under the same number as, the preceding stage unit plan in respect of the same development.

Subclause (3) makes it clear that the certificate required in *subclause (1)* is in addition to the usual certificate required on all unit plans.

Clause 7 relates to the assignment of respective unit entitlements to the various units.

Subclause (1) requires a unit entitlement to be assigned (by the Valuer-General or a registered valuer) to each unit shown on a proposed development plan on the basis of the relative prospective value of the unit in relation to each of the other units.

Subclause (2) provides that on each stage unit plan, and on the complete unit plan, the unit entitlement assigned to each unit shall be that assigned to the unit on the proposed development plan.

Subclause (3) provides that no unit entitlement shall be assigned to any future development unit.

Clause 8 relates to future development units. The clause makes provision for the creation of a stratum estate in the unit, and provides for each unit to be dealt with, broadly, as if it were a principal unit.

Clause 9 summarises the application of the principal Act to subdivisions under this Part of the Bill, and, in doing so, deals with the relationship of the developer (or owner of the future development units) with the principal unit holders.

Subclause (1) provides that the developer is not a member of the body corporate of owners.

Subclause (2) provides that the body corporate is not responsible for any future development unit, and exonerates the developer from any liability to contribute to the funds of the body corporate.

Subclause (3) requires the developer's consent to any dealings with the common property, and to any redevelopment of any units or common property.

Subclause (4) provides that where the development is of a leasehold estate, the developer is proportionately liable under the lease in accordance with Part II of the principal Act as if he were a unit proprietor.

Subclause (5) provides for the situation where a stage unit plan (that is, an uncompleted development) is to be cancelled. In that event, each future development unit and the balance of the development are to be separately valued. Then, upon cancellation, the developer on the one hand and the unit proprietors on the other will be entitled to the land in proportion to those respective values.

Subclause (6) provides that, subject to the provisions of this Part of the Bill, the principal Act applies to staged developments in the same manner as it applies to developments completed in one throw.

PART II

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

Clause 10 makes 2 amendments to section 2 of the principal Act.

Subclause (1), in effect, allows unit plans to be deposited for any type of development. At present, such developments are limited to flats and offices.

Subclause (2) inserts a technical definition of the term "unit". At present, this definition is contained in section 3 (1) (a) of the principal Act.

Clause 11 repeals that provision and substitutes 2 new paragraphs. The object is to make it clear that a subdivision into units must include at least 2 principal units. As the provision stands at present, it is theoretically possible to subdivide land into accessory units and common property only.

Clause 12 makes 3 drafting amendments to section 4 of the principal Act. Doubt has arisen as to whether the proprietor of a unit may grant an easement over the unit. The clause makes it clear that he may do so, but only with the consent of all the other proprietors and mortgagees.

Clause 13: Subclause (1) attempts to remove the confusion that has arisen in respect of the certificate to be given by the appropriate local authority before a unit plan can be deposited. The purport of the certificate is changed. It is to be to the effect that all necessary work has been completed to the extent necessary to enable all the boundaries of every unit and the common property to be physically defined.

Subclause (2) is consequential upon the decision to allow subdivisions into any type of unit.

Clause 14 relates to certificates issued by local authorities in respect of unit plans.

Subclause (1) specifies the grounds on which a local authority may withhold its certificate.

Subclause (2) provides that, once the local authority has given its certificate and the plan has been deposited, the local authority shall have no power to require any structural alterations, even where the issue of the certificate was procured by fraud or mistake.

Subclause (3) preserves the existing immunity from liability in respect of the issue of a certificate, except where the territorial authority acts negligently or in bad faith.

Subclause (4) is of a consequential nature only.

Clause 15 makes 3 amendments to section 8 of the principal Act, which provides for the issue of appropriate certificates of title following the deposit of a unit plan.

Subclause (1) is designed to make it clear that the titles are to be issued in the name of the registered proprietor and not of the body corporate.

Subclause (2) repeals section 8 (1) (b) of the present Act. The requirements of that paragraph are considered impracticable in respect of micro-filmed plans, and can be met in other ways.

Subclause (3) makes it clear that existing encumbrances on the "parent" title are to be brought down onto the unit titles.

Clause 16 relates to the duty of the body corporate to keep the whole development insured. First, such insurance is made mandatory. Under the present provision, the proprietors may unanimously agree not to effect such insurance. Secondly, the class of risks to be covered is widened considerably. Under the present provision, such insurance need only be taken out against fire.

Clause 17 relates to dealings with common property. At present, there is an apparent conflict between section 9 (3) and section 17 of the principal Act. The former allows the proprietors only to sell or lease the common property or grant an easement over it, but the latter speaks of "other dealings".

Subclause (1) limits section 17 to the 3 types of dealings specified in section 9 (3).

Subclause (2) removes the requirement of a certificate, in respect of dealings with the common property, to the effect that the proprietors have agreed unanimously to the proposed transaction. The requirement of unanimity, however, remains.

Clause 18 makes it clear that a new unit plan is required where any part of the common property is taken by proclamation, and entitles the body corporate in such cases to require the Chief Surveyor to prepare the plan at the expense of the Crown.

Clause 19 is a minor drafting amendment designed to correct an erroneous reference in the existing provision.

Clause 20 entitles the body corporate to interest on money owed to it by any proprietor at such rate, not exceeding 10 percent per annum, as the body corporate may from time to time determine.

Clause 21 completely recasts the present section 38 of the principal Act relating to insurance. There are 3 important bases on which the new provisions are constructed:

- (a) The body corporate is now required in all cases to keep the property insured (as stated in the note to *clause 16*, above):
- (b) The mortgagee's longstanding right to elect to take the insurance money in reduction of the mortgage debt is removed:
- (c) The insurer's right to treat an insurance policy as at an end is circumscribed.

Subclause (1) is an interpretative provision.

Subclause (2) provides that the provisions of this clause are to override any other enactment or rule of law.

Subclause (3) makes it clear that the unit proprietors and their mortgagees have an insurable interest in the whole property.

Subclause (4) requires the body corporate to keep the insurer informed of every proprietor and mortgagee of a unit.

Subclauses (5), (6), and (7) provide that the insurance policy shall not lapse (even in the event of default in the payment of premiums) until the insurer has given each proprietor and mortgagee 1 month's notice, specifying (where appropriate) the default complained of. This should give the proprietors time to remedy the default or arrange new insurance cover.

Subclause (8) provides that, unless the proprietors otherwise unanimously agree, all money paid by the insurer in the event of a claim shall be applied in or towards reinstatement, and that no mortgagee is entitled to receive any part of the money in reduction of the mortgage debt.

Subclause (9) is a saving provision.

Clause 22 makes 3 amendments to section 44 of the Act, which relates to redevelopments.

Subclause (1), in effect, requires a new unit plan to be deposited in every case of a redevelopment. At present, where the redevelopment does not affect any common property, a supplementary plan may be deposited showing only the units affected by the redevelopment.

Subclause (2) makes it clear that the application of the other provisions of the principal Act to redevelopment plans is subject to the special provisions of section 44.

Subclause (3) clarifies whose consent to a redevelopment is required. The new provision requires the consent of every mortgagee and caveator only. At present, consent is also required from persons entitled to easements over the affected property, and, where the development is of a leasehold estate, the lessor.

Clause 23 amends section 45 of the principal Act, relating to the cancellation of unit plans on application by the proprietors.

Subclause (1) amends subsection (3) of that section, which requires the District Land Registrar to satisfy himself that no unit or part of the common property is subject to any caveat, mortgage, charge, lease, or sublease. The question has arisen as to whether this relates solely to registered interests or whether it includes equitable interests. The subclause opts for the former.

Subclause (2) provides for the cancellation of easements over individual units.

Subclause (3) requires the Registrar to cancel any relevant record sheet as well as the unit plan.

Clause 24 is a minor drafting amendment designed to clarify the present provision.

Clause 25 amends section 60 of the principal Act, which requires notice to be given of the owners' intention to convert to the unit titles system from the company-owning or lease-back systems. Under the present Act, notice is to be given to the District Land Registrar and advertised in a newspaper. The clause removes this latter requirement.

Clause 26 amends the Second Schedule to the principal Act relating to the rules of management governing bodies corporate.

Subclause (1) removes the present prohibition against a proprietor acting as secretary of the corporation.

Subclause (2) requires the secretary to prepare an annual balance sheet and give a copy to every proprietor.

Clause 27 adds a new Fourth Schedule, providing a prescribed form of certificate to be given by local authorities in respect of unit plans.

Hon. Mr McLay

UNIT TITLES AMENDMENT

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A BILL INTITULED

An Act to amend the Unit Titles Act 1972

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Unit Titles Amendment Act 1979, and shall be read together with and deemed part of the Unit Titles Act 1972* (hereinafter referred to as the principal Act).

PART I

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STAGED DEVELOPMENT

2. Interpretation—In this Part of this Act, unless the context otherwise requires,—

“Complete unit plan”, in relation to a subdivision of land into units in stages, means a plan specifying all the units and the whole of the common property comprising the development in relation to a building or buildings already erected on the land:

“Future development unit”, in relation to a subdivision of land into units in stages, means a unit that is proposed to be developed or subdivided into 1 or more units (with or without common property) at a later stage of the development, and that is shown on a stage unit plan as a future development unit:

“Proposed development plan”, in relation to a subdivision of land into units in stages, means a plan specifying all the units and the whole of the common property proposed to comprise the development when it is completed:

“Stage unit plan”, in relation to a subdivision of land into units in stages, means a plan specifying those units that have, and that part of the common property that has, been completed at the date of the deposit of the plan, the balance being specified as one or more future development units.

3. Subdivision of land into units in stages—Notwithstanding anything in Part I of the principal Act, every person who is entitled, by virtue of section 3 (1) of the principal Act, to subdivide a parcel of land in accordance with the provisions of that Act may, in accordance with the succeeding provisions of this Part of this Act, effect that subdivision in 2 or more stages.

*1972, No. 15
Amendment: 1973, No. 101

4. How subdivision in stages effected—The subdivision of land so as to provide for units in 2 or more stages shall be effected by the successive deposit under the Land Transfer Act 1952 of—

- 5 (a) A proposed development plan, which shall specify all the units, and the whole of the common property, proposed to comprise the development when it is completed:
- 10 (b) One or more stage unit plans, which shall specify those units that have, and that part of the common property that has, so far been completed in relation to a building or buildings comprising part of the development and already erected on the land, and also specify the area or areas (each such area being designated on the plan as a future development unit) in which further development or subdivision and other work is still required to complete the development:
- 15 (c) A complete unit plan, which shall specify all the units and the whole of the common property comprising the development in relation to a building or buildings already erected on the land.
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5. Proposed development plans—(1) Every proposed development plan shall comply with the provisions of all regulations as to survey made under the Surveyors Act 1966.

(2) The deposit of a proposed development plan shall not affect the estate or interest in the land owned by the registered proprietor depositing the plan or by any other person.

(3) A proposed development plan may not be deposited unless—

- 30 (a) It is accompanied by a stage unit plan relating to the same development:
- 35 (b) It has been approved by the Chief Surveyor appointed for the land district constituted under the Land Act 1948 in which the relevant land is situated:
- 40 (c) A certificate in the form set out in the First Schedule to this Act has been given in writing by the principal officer of the territorial authority in whose district the land is situated to the effect that the proposed development as shown on the plan complies in all respects with the relevant requirements of the territorial authority's bylaws and of the
- 45 Town and Country Planning Act 1977.

(4) The provisions of section 5 (2) of the principal Act shall apply in respect of the Chief Surveyor's approval of a proposed development plan as if the plan were a unit plan; and the provisions of section 5A (3) of that Act shall apply in respect of the principal officer's certificate as if it were a certificate given in respect of a unit plan. 5

6. Deposit of unit plans under this Part—(1) No stage unit plan and no complete unit plan shall be deposited pursuant to this Part of this Act unless a certificate has been given in writing by the principal officer of the territorial authority in whose district the land is situated that the plan is in accordance with the relevant proposed development plan. 10

(2) Every successive stage unit plan (except the first) and the complete unit plan relating to a development shall be deposited in substitution for, and under the same number as, the stage unit plan previously deposited in respect of that development. 15

(3) The requirements of subsection (1) of this section are in addition to the requirements of section 5 (1) (g) of the principal Act. 20

7. Unit entitlement—(1) For the purpose of eventually determining the matters specified in section 6 (3) of the principal Act, before the proposed development plan is deposited there shall be assigned to every principal unit and every accessory unit shown on the plan a unit entitlement, to be fixed by the Valuer-General or a registered valuer within the meaning of the Valuers Act 1948 (subject to payment to the Valuer-General or the valuer, as the case may be, of such fee as he may fix) on the basis of the relative prospective value of the unit in relation to each of the other proposed units on the proposed development plan. 25 30

(2) On each stage unit plan, and on the complete unit plan, the unit entitlement to be assigned to each principal unit and each accessory unit for the purposes of section 6 of the principal Act shall be that shown on the proposed development plan in respect of that unit. 35

(3) No unit entitlement shall be assigned to any future development unit.

5 **8. Future development units—**(1) The deposit of a stage unit plan shall have the effect of creating in each future development unit a stratum estate in freehold or a stratum estate in leasehold, as the case may be, which shall comprise—

(a) The fee simple estate or, as the case may be, the estate as lessee or licensee in the unit, which shall determine either—

10 (i) On the deposit of a unit plan that specifies as other than a future development unit that part of the land that formerly comprised the future development unit; or

15 (ii) On the cancellation of a stage unit plan, in accordance with sections 45 to 47 of the principal Act, on which the unit is shown as a future development unit;

(b) The undivided share in the fee simple estate as lessee or licensee in all the units to which the proprietor of the unit is contingently entitled by virtue of section 9 (5) (c) (i) of this Act.

20 (2) Subsections (3) to (6) of section 4 of the principal Act, with any necessary modifications, shall apply to and in respect of a stratum estate in a future development unit as if the unit were a principal unit.

25 (3) On the deposit of a stage unit plan, the Registrar may, at the request of the registered proprietor, issue a separate certificate of title for any future development unit.

30 (4) Subsections (3) and (4) of section 8 of the principal Act shall apply to every certificate of title issued under this section.

9. Application of principal Act—(1) Notwithstanding anything in section 12 of the principal Act, but subject to the succeeding provisions of this section, the registered proprietor for the time being of a stratum estate in a future development unit shall not, by virtue only of the fact that he is the registered proprietor of that estate, be a member of the relevant body corporate constituted by that section.

35 (2) Notwithstanding anything in section 15 of the principal Act, the body corporate shall have no duties in respect of any future development unit comprising part of the development; nor shall the registered proprietor of the stratum estate in any such unit be required to contribute to any fund established by the body corporate pursuant to that section.

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(3) Notwithstanding anything in section 18 or section 19 or section 44 of the principal Act, no part of the common property may be dealt with, and no land may be added to the common property, and no unit or part of the common property may be redeveloped, without the consent of every registered proprietor of a future development unit included in the development. 5

(4) In the case of a development to which Part II of the principal Act applies, every registered proprietor of a future development unit shall be deemed to be a member of the body corporate for the purposes of the provisions of that Part, and those provisions shall apply as if— 10

(a) The unit were a principal unit; and

(b) The unit entitlement of the unit were equivalent to the aggregate unit entitlement of all the units into which it is proposed eventually to subdivide the future development unit, as shown on the proposed development plan. 15

(5) For the purposes of sections 45 (1), 46 (1), and 47 (1) of the principal Act, every registered proprietor of a stratum estate in a future development unit comprising part of a development shall be deemed to be the registered proprietor of a principal unit comprising part of the development; but, in respect of the cancellation of a stage unit plan the following provisions shall apply: 20

(a) Before the plan is cancelled, the whole development (excluding every future development unit), and each future development unit, shall be separately valued by the Valuer-General or a registered valuer within the meaning of the Valuers Act 1948 (at the expense of the body corporate or, as the case may be, the registered proprietor of the future development unit): 30

(b) In the event of a dispute arising in respect of any valuation made for the purpose of paragraph (a) of this subsection, the matter shall be determined by arbitration under the Arbitration Act 1908, and the provisions of that Act shall apply accordingly: 35

(c) Upon cancellation of the plan, the fee simple estate, or (as the case may be) the estate as lessee or licensee in the whole of the land that was comprised in the development (including every future development unit) shall vest— 40

- (i) As to one undivided share in each person who was the proprietor of a future development unit immediately before the cancellation of the plan; and
- 5 (ii) As to one undivided share in the persons who were the proprietors of the units (other than future development units) immediately before the cancellation of the plan,—
- 10 such shares to be in the proportion that the value of the future development unit (as determined pursuant to paragraph (a) of this subsection) bears to the value of the balance of the development (as so determined):
- 15 (d) As between themselves, the persons who are entitled to one undivided share in the land by virtue of paragraph (c) (ii) of this subsection shall be so entitled in the same shares as, by virtue of section 9 of the principal Act, they were interested in the common property immediately before the cancellation of the
- 20 plan.
- (6) Subject to the additions, exclusions, and modifications set out in this Part of this Act, the provisions of the principal Act shall apply in respect of subdivisions of land into units under this Part of this Act in the same manner as they apply
- 25 to subdivisions of land into units under that Act.

PART II

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

- 30 10. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting in the definition of the term “principal unit”, after the words “place of residence or business”, the words “or otherwise”.
- (2) The said section 2 is hereby further amended by omitting the definition of the term “unit”, and substituting the following definition:
- 35 “Unit’, in relation to any land, means a part of the land consisting of a space of any shape situated below, on, or above the surface of the land, or partly in one such situation and partly in another or others, all the dimensions of which are limited,
- 40 and that is designed for separate ownership:”.

11. Subdivision of land into units—Section 3 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraphs:

- “(a) Two or more principal units; and
- “(aa) Such number of accessory units (if any) as the registered proprietor may wish; and”.

12. Subdivision effected when plan deposited—(1) Section 4 of the principal Act is hereby amended—

- (a) By omitting from subsection (3) the words “settled, or otherwise dealt with”, and substituting the words “or settled”:
- (b) By omitting from that subsection the words “settlement, or other dealing”, and substituting the words “or settlement”:
- (c) By omitting from subsection (5) the words “or otherwise dealt with”, and substituting the words “settled, or otherwise dealt with pursuant to subsection (3A) of this section”.

(2) The said section 4 is hereby further amended by inserting, after subsection (3), the following subsection:

“(3A) Notwithstanding anything in subsection (3) of this section, any proprietor of a unit may grant an easement over the unit, but only with the consent of every proprietor and every mortgagee of all the other units comprising the development.”

13. Restrictions on deposit of plan—(1) Section 5 (1) of the principal Act is hereby amended by repealing paragraph (g) (as substituted by section 2 (1) of the Unit Titles Amendment Act 1973), and substituting the following paragraph:

“(g) Unless a certificate in the form set out in the Fourth Schedule to this Act has been given in writing by the principal officer of the territorial authority in whose district the land is situated to the effect that every building shown on the plan has been erected, and all other development work has been carried out, to the extent necessary to enable all the boundaries of every unit and the common property shown on the plan to be physically defined:”

(2) Section 5 (2) of the principal Act is hereby amended by omitting from paragraph (b) the words “any flat or office”, and substituting the words “all the units and common property”.

14. Further provisions relating to principal officer's certificate—(1) The principal Act is hereby amended by inserting, after section 5, the following section:

5 “5A. (1) The principal officer of the territorial authority shall not refuse to give a certificate in respect of any unit plan under section 5 (1) (g) of this Act except on one or more of the following grounds:

10 “(a) That any building shown on the plan has not been erected, or that any other development work has not been carried out, to the extent necessary to enable all the boundaries of every unit and the common property shown on the plan to be physically defined:

15 “(b) That any building has been erected, or that any other development work requiring a permit from the territorial authority has been carried out, on the land without the authority of all necessary permits from the territorial authority.

20 “(c) That any building on the land has been erected in such a place in relation to any boundary, or to such a height, as to contravene the territorial authority's bylaws or any of the requirements of the Town and Country Planning Act 1977:

25 “(d) That any building or any other part of the whole development contravenes any such bylaws or requirements in any other manner to such an extent that alterations are required that may affect the situation or the boundaries of any unit or of any part of the common property shown on the plan.

30 “(2) When the principal officer of the territorial authority has given a certificate in respect of any unit plan under section 5 (1) (g) of this Act, and that plan has been deposited under this Act, the territorial authority, notwithstanding
35 that the issue of the certificate may have been procured by fraud or mistake, and notwithstanding any enactment or rule of law to the contrary, shall have no power to require any alteration to any building or any other part of the whole development that may affect the situation or the boundaries
40 of any unit or of any part of the common property shown on the plan.

“(3) The territorial authority, the principal officer of the territorial authority, every member of the territorial authority, and every employee or agent of the territorial authority, shall not be under any civil or criminal liability in respect of the giving of a certificate under section 5 (1) (g) of this Act, unless it or he has acted negligently or in bad faith.” 5

(2) The following enactments are hereby consequentially repealed:

- (a) Subsections (2A), (2B), and (2C) of section 5 of the principal Act: 10
- (b) The Unit Titles Amendment Act 1973.

15. Issue of certificate of title in respect of unit—(1) Section 8 (1) (a) of the principal Act is hereby amended by inserting, after the words “registered proprietor”, the words “(and not the body corporate)”. 15

(2) Section 8 (1) (b) of the principal Act is hereby repealed.

(3) Section 8 (3) of the principal Act is hereby amended by adding the words “, and, on issuing any such certificate under this section, the Registrar shall comply with the requirements of section 67 of that Act accordingly”. 20

16. Duties of body corporate—Section 15 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph: 25

- “(b) Insure and keep insured all buildings and other improvements on the land to the replacement value thereof (including demolition costs and architect’s fees) against fire, flood, explosion, wind, storm, hail, snow, aircraft and other aerial devices dropped therefrom, impact, riot and civil commotion, malicious damage caused by burglars, and earthquake in excess of indemnity value:” 30

17. Dealings affecting the common property—(1) Section 17 (1) of the principal Act is hereby amended— 35

- (a) By omitting the words “grant of easement, or other dealing”, and substituting the words “or grant of easement”:

- (b) By omitting the words “grant, or dealing”, and substituting the words “or grant”. 40

(2) Section 17 of the principal Act is hereby further amended by repealing subsection (2).

18. Registration of transfers of common property—Section 18 of the principal Act is hereby amended by adding the following subsection:

5 “(5) The foregoing provisions of this section shall apply to every case where any common property is taken by proclamation:

10 “Provided that, if the body corporate so requests by notice in writing, the Chief Surveyor shall, at the expense of the Crown, prepare the new unit plan required by subsection (1) of this section.”

19. Additions to common property—Section 19 (5) (d) of the principal Act is hereby amended by omitting the words “the new unit”, and substituting the word “that”.

20. Interest on money owing to body corporate—(1) The principal Act is hereby amended by inserting, after section 34, the following section:

20 “34A. Where, under any of sections 32 to 34 of this Act, any registered proprietor owes any money to the body corporate, interest shall accrue in respect of so much of the debt as remains unpaid at such rate as the body corporate shall from time to time determine, being not more than 10 percent per annum.”

(2) Section 36 of the principal Act is hereby amended by inserting, after paragraph (e), the following paragraph:

25 “(ea) The rate at which interest is accruing, pursuant to section 34A of this Act, in respect of any amount owing to the body corporate by the proprietor:”.

21. Provisions relating to insurance—(1) The principal Act is hereby amended by repealing section 38, and substituting the following section:

30 “38. (1) In this section, unless the context otherwise requires,—

“‘Insurer’ means an insurer in respect of a principal insurance policy:

35 “‘Mortgagee’ means a mortgagee who, by virtue of subsection (3) of this section, has an insurable interest in the property covered by a principal insurance policy:

“‘Principal insurance policy’, in relation to the units and common property shown on a unit plan, means the policy of insurance effected by the relevant body corporate in accordance with section 15 (1) (b) of this Act. 5

“(2) The succeeding provisions of this section shall apply notwithstanding any enactment or rule of law to the contrary.

“(3) Every unit proprietor, and every person entitled as mortgagee by virtue of a registered mortgage in respect of any unit, has an insurable interest in the property covered by the principal insurance policy. 10

“(4) The body corporate shall inform the insurer, and keep him informed, by notice in writing of the name and address of every proprietor and every mortgagee: 15

“Provided that nothing in this subsection shall prevent any unit proprietor or mortgagee from giving such notice to the insurer.

“(5) No principal insurance policy shall lapse or be cancelled, but shall remain in full force and effect, until— 20

“(a) The insurer has served on every unit proprietor, and every mortgagee, of which he has had notice aforesaid a notice to the effect that the policy shall lapse or be cancelled on the date specified in the notice, being not earlier than 30 days after the date on which the notice is so served; and 25

“(b) The date specified in the notice has arrived.

“(6) Notwithstanding anything in paragraph (a) of subsection (5) of this section, it shall be sufficient for the purposes of that paragraph if the insurer sends the required notice to a unit proprietor or mortgagee by registered post addressed to him at the last address of which notice has been given to the insurer under subsection (4) of this section. 30

“(7) In any case where the insurer alleges that default has been made under the principal insurance policy, whether in respect of the payment of premiums or otherwise, he shall specify in the notice the default complained of, and shall state that the lapsing or cancellation of the policy is conditional upon the default not being remedied before the date specified in the notice in accordance with subsection (5) (a) of this section. 35 40

“(8) Unless by unanimous resolution all the proprietors otherwise resolve, all money paid by the insurer pursuant to the principal insurance policy shall be applied in or towards

reinstatement, and no mortgagee shall be entitled to demand that any part of any such money be applied in or towards repayment of the mortgage debt.

5 “(9) Nothing in this section shall limit or affect the rights of any person in or to the proceeds of the principal insurance policy pursuant to any of the provisions of sections 45 to 48 of this Act.”

(2) Section 63 (3) of the principal Act is hereby consequentially repealed.

10 **22. Redevelopment**—(1) Section 44 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

15 “(1) On a redevelopment, application shall be made to the Registrar for the deposit of a plan of redevelopment, being a new unit plan in substitution for the existing unit plan. The new unit plan shall be deposited under the same number as the existing unit plan, and the provisions of section 20 of this Act shall apply accordingly.”

20 (2) Section 44 (2) of the principal Act is hereby amended by inserting, before the words “A plan of redevelopment”, the words “Subject to the provisions of this section,”.

(3) Section 44 (4) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

25 “(b) Every person who is entitled as mortgagee by virtue of any registered mortgage in respect of any unit affected by the redevelopment, and every caveator who claims any estate or interest in any unit affected by the redevelopment (being a caveator whose caveat was lodged with the Registrar before deposit of the plan of redevelopment) has consented in writing to the redevelopment.”

30 **23. Cancellation of plan on application of proprietors**—

(1) Section 45 (3) of the principal Act is hereby amended by 35 omitting the words “or part of the common property is subject to any caveat, mortgage, charge, lease, or sublease”, and substituting the words “is subject to any caveat, mortgage, charge, lease, or sublease registered against the title to the unit”.

40 (2) Section 45 (5) of the principal Act is hereby amended by adding the following paragraph:

“ (c) Every easement over any unit comprising part of the development shall be determined.”

45 (3) Section 45 of the principal Act is hereby further amended by adding the following subsection:

“(9) The Registrar shall also cancel any relevant supplementary record sheet; and, for the purposes of section 67 of the Land Transfer Act 1952 that sheet shall be deemed to be a certificate of title issued under that Act in respect of that land.”

5

24. Application and interpretation of Part IV—Section 56

(1) (b) of the principal Act is hereby amended by omitting the words “registered as proprietors of any such estate as tenants in common”, and substituting the words “the registered proprietors as tenants in common of any estate in land in respect of which any such application is contemplated”.

10

25. Notice of resolution or order—(1) Section 60 of the principal Act is hereby amended—

(a) By repealing paragraph (b) of subsection (1):

(b) By repealing paragraph (b) of subsection (2).

15

(2) The said section 60 is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) The said notice shall state that it is the intention of the company or the owners to subdivide its or their land in accordance with this Act unless, not later than 1 month after the date on which the notice is given to the Registrar, a caveat in form 7 in the First Schedule to this Act is lodged, by any person claiming an estate or interest in the land or shares, with the Registrar under the Land Transfer Act 1952 forbidding the subdivision.”

25

26. Rules—(1) The Second Schedule to the principal Act is hereby amended by omitting from rule 30 the words “(who shall not be a proprietor)”, and substituting the words “(who may or may not be a proprietor)”.

30

(2) The said Second Schedule is hereby further amended by inserting, after rule 31, the following rule:

“31A. The secretary shall in each year prepare a balance sheet showing the body corporate’s financial dealings during that year, and shall, within 6 months after each annual general meeting, send a copy of the latest balance sheet to every proprietor.”

35

27. New Fourth Schedule—The principal Act is hereby amended by adding the Fourth Schedule set out in the Second Schedule to this Act.

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SCHEDULES

FIRST SCHEDULE

Section 5 (3) (c)

PRINCIPAL OFFICER'S CERTIFICATE FOR PROPOSED DEVELOPMENT PLAN
PURSUANT to section 5 (3) (c) of the Unit Titles Amendment Act 1979,
I,, the principal officer of the territorial authority,
hereby certify that the development as shown on the proposed develop-
ment plan number complies in all respects with the relevant
requirements of the territorial authority's bylaws and of the Town and
Country Planning Act 1977.

..... Principal Officer.

SECOND SCHEDULE

Section 27

NEW FOURTH SCHEDULE ADDED TO PRINCIPAL ACT

Section 5 (1) (g)

“FOURTH SCHEDULE

PRINCIPAL OFFICER'S CERTIFICATE FOR UNIT PLAN

PURSUANT to section 5 (1) (g) of the Unit Titles Act 1972, I,,
the principal officer of the territorial authority, hereby
certify that every building shown on unit plan number
has been erected, and all other development work has been carried
out, to the extent necessary to enable all the boundaries of every
unit and the common property shown on the plan to be physically
defined.

..... Principal Officer.