

# *REGISTRATION (STRATA TITLES)*

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## THE REGISTRATION (STRATA TITLES) ACT

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**SCHEDULES**

## THE REGISTRATION (STRATA TITLES) ACT

Acts  
42 of 1968,  
13 of 1986,  
17 of 2009.

[22nd August, 1969.]

1. This Act may be cited as the Registration (Strata Titles) Act. Short title.
- 2.—(1) In this Act— Interpreta-  
tion.
- “agent” means a person appointed in accordance with paragraph 1(g) of the First Schedule; 17/2009  
S. 2.
- “building” means the building or buildings shown in a strata plan;
- “Commission” means the Commission of Strata Corporations established by section 3A; 17/2009  
S. 2.
- “common property” means, in relation to any strata plan, so much of the land to which such plan relates as is for the time being not included in any strata lot contained in such plan;
- “the corporation” means, in relation to any registered strata plan, the body incorporated by section 4;
- “the court” means the Supreme Court;
- “developer” means a person who carries on, whether in whole or in part, the business of development of land; 17/2009  
S. 2.
- “executive committee” means executive committee of the corporation constituted under the First Schedule; First  
Schedule.
- “functions” includes powers and duties; 17/2009  
S. 2.
- “parcel” means land subdivided in accordance with a strata plan registered pursuant to section 3;
- “proprietor” means the proprietor for the time being of a strata lot;
- “Register” means the Register of Strata Corporations kept pursuant to section 4B; 17/2009  
S. 2.

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“strata lot” means a portion of the land comprised in a strata plan, and shown in that plan as a strata lot;

“strata plan” means the plan referred to in section 7;

17/2009  
S. 2.

“Tribunal” means the Strata Appeals Tribunal established by section 15A;

“unanimous resolution” means a resolution unanimously passed at a duly convened meeting of the corporation at which all persons entitled to exercise the power of voting conferred by or under this Act are present personally or by proxy at the time of the motion;

“unit entitlement” means, in relation to any strata lot, the number specified in accordance with paragraph (h) of subsection (1) of section 7.

Subdivi-  
sion into  
strata lots.

3.—(1) Land under the operation of the Registration of Titles Act may be subdivided into strata lots in accordance with a strata plan registered by the Registrar of Titles in the manner provided by or under this Act.

(2) When a strata plan has been so registered any strata lot included therein may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as land under the operation of the Registration of Titles Act.

(3) A strata plan shall, for the purposes of the Registration of Titles Act, be deemed upon registration to be embodied in the Register Book kept under that Act; and notwithstanding the provisions of that Act the proprietor of each strata lot shall hold such strata lot and his share in the common property subject to—

(a) any interests affecting such strata lot or such share; and

(b) any amendments to strata lots or common property, notified, or shown, as the case may require, on the registered strata plan.

(4) Notwithstanding the provision in subsection (1) that

only land under the operation of the Registration of Titles Act may be subdivided into strata lots, a strata plan may be lodged for registration, and acts preparatory to the registration thereof may be done in relation thereto, before the land comprised therein is brought under the operation of the Registration of Titles Act.

(5) The provisions of any enactment, other than this Act, relating to the subdivision of land for sale or for the purpose of building thereon shall to such extent as may be prescribed regulations under this Act not apply to land comprised in a strata plan.

**3A.—**(1) There is hereby established for the purposes of this Act, a body to be known as the Commission of Strata Corporations which shall be a body corporate for the purposes of section 28 of the Interpretation Act.

Establishment of Commission of Strata Corporations.  
17/2009  
S. 3.

(2) The provisions of the Third Schedule shall have effect as to the constitution of the Commission.

Third Schedule.

**3B.—**(1) The functions of the Commission shall be to—

Functions of Commission.  
17/2009  
S. 3.

- (a) monitor, regulate and supervise corporations incorporated by section 4;
- (b) keep or cause to be kept a register of such corporations to be known as “The Register of Strata Corporations”;
- (c) facilitate the resolution of disputes, in particular, those between a corporation and a proprietor arising from any matter to which this Act relates;
- (d) consider complaints from proprietors that the amount of contribution levied under section 5(2)(b), is unreasonable or inequitable;
- (e) enforce the by-laws; and
- (f) perform such other functions as may be conferred upon it by or under this Act, or as the Minister may by order prescribe.

(2) In exercise of its functions the Commission may—

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- (a) order, by notice in writing to an executive committee or a proprietor or both—**
- (i) the demolition of any extension to the external wall of any strata lot or the removal from the relevant parcel of any structures, vehicles or other things, where the extension or the presence of the structure, vehicle or other thing is contrary to the by-laws;**
  - (ii) where it considers appropriate, that the interest payable by a proprietor in respect of the late payment of contribution be varied to the amount stated in the notice;**
  - (iii) the removal of animals from any strata lot or common property;**
  - (iv) that contributions be varied where they appear to the Commission to be excessive or inadequate;**
  - (v) that the manner of making any payment be varied where it appears to the Commission to be unreasonable;**
- (b) order, by notice in writing to a corporation—**
- (i) that a resolution passed by the corporation shall be of no effect where the voting rights of a proprietor have been compromised;**
  - (ii) the holding of an annual general meeting for the election of an executive committee, within the period stated therein and the notification to the Commission, within fourteen days of the annual general meeting, of the names of the members of that executive committee; and**
- (c) make such enquiries and collect such information as it may consider necessary or desirable for the purpose of monitoring, regulating and supervising the functions of corporations.**

(d) do anything and enter into any transaction which in the opinion of the Commission is necessary for or incidental to ensure the proper performance of its functions.

(3) Where a proprietor fails to comply with an order under subsection (2)(a)(i), the corporation may—

(a) demolish the unauthorized extension;

(b) restore the strata lot or common property, as the case may be, to its original state; and

(c) recover the expenses incurred by the corporation in such demolition or restoration,

and any such expenses which remain unpaid shall, in addition to any other remedy, be a first charge on the strata lot concerned.

(4) Where the corporation fails to comply with an order under subsection (2) (b) (ii), the Commission shall convene the annual general meeting for the purpose of the election of the executive committee and any decisions thereof shall be binding on the corporation and be effective as if made at a meeting called by the corporation.

(5) The corporation, a proprietor or any other person aggrieved by a decision of the Commission may appeal against the decision, so, however, that, the decision of the Commission shall, subject to subsection (7), be binding on the corporation, proprietor or any other person aggrieved, as the case may be, until the appeal is determined.

(6) An appeal pursuant to this section shall be made no later than thirty days from the date of the decision of the Commission.

(7) Subject to subsection (8), the implementation of a decision that is the subject of an appeal shall be suspended until the time for appeal has expired or the appeal has been disposed of.

(8) Notwithstanding subsection (7), a decision of the

Commission shall be implemented forthwith where continuation of the action or thing complained of, to which the decision relates, is likely to result in a nuisance or health hazard.

Power of  
Minister to  
give  
directions.  
17/2009  
S. 3.

**3C.** The Minister may, after consultation with the Chairman of the Commission, give to the Commission directions of a general character as to the policy to be followed by the Commission in the exercise and performance of its functions and the Commission shall give effect to such directions.

Funds and  
resources of  
the Commis-  
sion.  
17/2009  
S. 3.

**3D.** The funds and resources of the Commission shall consist of—

- (a) such sums as may be provided by Parliament for the Commission in the Estimates of Revenue and Expenditure of Jamaica;
- (b) revenue from charges imposed by the Commission for the use of any facility or services provided by it;
- (c) such sums as may be allocated from time to time to the Commission from loan funds;
- (d) sums borrowed by the Commission for the purpose of meeting any of its obligations or discharging any of its functions;
- (e) all other sums or property which become payable to or vested in the Commission in respect of any matter incidental to its functions.

Accounts and  
audits.  
17/2009  
S. 3.

**3E.—(1)** The Commission shall keep proper accounts and other records in relation to the business of the Commission and shall prepare annually a statement of accounts in accordance with generally accepted accounting principles.

(2) The accounts of the Commission shall be audited by an auditor or auditors appointed annually by the Commission.

(3) Within six months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, the Commission shall send, in respect of that financial year, a statement of its accounts referred



to in subsection (1) to the Minister, together with a copy of any report made by the auditors on that statement or on the accounts of the Commission.

(4) The auditor's fees and any expenses of the audit shall be paid by the Commission.

(5) The Auditor-General shall be entitled on the direction of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Commission.

**3F.—**(1) The Commission shall, within six months after the end of each financial year or within such further time as may be allowed by the Minister, cause to be made and transmitted to the Minister a report dealing generally with the affairs of the Commission during that financial year.

Annual  
report.  
17/2009  
S. 3.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be tabled in the House of Representatives and the Senate.

**4.—**(1) The proprietors of all the strata lots contained in any strata plan shall, upon registration of the strata plan, become a body corporate (hereafter referred to as "the corporation") under the name "The Proprietors, Strata Plan No. " (with the appropriate number of the strata plan inserted in the blank space).

The cor-  
poration.

(2) The corporation shall have perpetual succession and a common seal and be capable of suing and being sued in its name.

(3) The provisions of any enactment providing for the incorporation, regulation and winding-up of companies shall not apply to the corporation.

(4) The corporation shall within ninety days after becoming a body corporate make an application to the

17/2009  
S. 4.

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Commission for registration under this Act and pay the prescribed fee.

17/2009  
S. 4.

(5) A corporation shall in each year pay to the Commission a prescribed annual fee and in default of such payment, such fee shall be recoverable by the corporation as a civil debt by action in a court of competent jurisdiction.

17/2009  
S. 4.

(6) Where the corporation fails to comply with subsection (4), it commits an offence, and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars.

17/2009  
S. 4.

(7) The corporation shall file with the Commission within one hundred and twenty days after the end of the current year—

(a) audited financial statements or subject to the approval of the Commission, a copy of the accounts, prepared in accordance with generally accepted accounting principles, signed by the chairman and at least one other member of the executive committee relating to—

(i) in the case of a new corporation, the period commencing on the date of its incorporation and ending at the close of the first financial year; or

(ii) in any other case, the whole of that financial year; and

(b) a report of its activities during the financial year including—

(i) meetings held by the corporation;

(ii) the appointment of the executive committee;

(iii) the passing of resolutions adopting a budget; and

(c) a copy of the certificate of insurance for the current year,

and the filing shall be accompanied by the prescribed fee.

(8) The prescription of any fee under this section shall be subject to affirmative resolution of the House of Representatives.

17/2009  
S. 4.

**4A.—**(1) Fees collected by the Commission shall be used to assist in meeting its administrative expenses.

Application  
of fees by  
Commission.  
17/2009  
S. 5.

(2) Where—

- (a) the average income of the proprietors that constitute the corporation is less than such amount as the Minister may, by order, prescribe; and
- (b) the Commission is satisfied that it is reasonable to waive or reduce the fee payable by the corporation, having regard to the financial circumstances of the corporation,

the Commission may waive or reduce the required registration fee.

(3) For the purposes of subsection (2) (a) average income shall be determined by using such measures as the Commission considers reasonably practicable in the circumstances of the particular case.

**4B.—**(1) The Commission shall keep the Register of Strata Corporations in such form as the Commission may determine, which shall contain the names and other particulars of all corporations and the members of the respective executive committees, in relation thereto, and any other particulars relevant to the corporations or the strata lots administered thereby.

Register of  
Strata  
Corporations.  
17/2009  
S. 5.

(2) The Register shall be kept at the office of the Commission and shall be available for inspection at all reasonable times on payment of the prescribed fee.

Audit of  
corporation by  
Commission.  
17/2009  
S. 5.

**4C.—(1) The Commission shall—**

(a) carry out an audit of the accounts and other records;  
and

(b) conduct an investigation into the activities,

of a corporation, in any case where it considers that the circumstances so require.

(2) The expenses incurred by the Commission under subsection (1), shall be recoverable from the corporation as a debt by action in a Court of competent jurisdiction.

Duties and  
powers of  
the cor-  
poration.

**5.—(1) The duties of the corporation shall include the following—**

(a) to insure and keep insured the building to the replacement value thereof against fire, earthquake, hurricane and such other risks as may be prescribed, unless the proprietors by unanimous resolution otherwise determine;

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

(c) to insure against such risks other than those referred to elsewhere in this subsection as the proprietors may from time to time by unanimous resolution determine;

(d) subject to the provisions of section 14 and to such conditions as may be prescribed, to apply insurance moneys received by it in respect of damage to the building in rebuilding and reinstating the building so far as it may be lawful to do so;

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

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

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

(h) to comply with any reasonable request for the names and addresses of the members of the executive committee;

(i) in any case where the corporation defaults in payment of any premium on any policy of insurance which consequently lapses or is cancelled—

17/2009  
S. 6(a)(ii).

(i) to inform any proprietors or any agents of the proprietors of such lapse or cancellation by notice in writing within fourteen days thereof; and

(ii) to display a copy of the notice in a conspicuous manner within the common property.

(2) The powers of the corporation include the following—

(a) to establish a fund for administrative expenses sufficient in the opinion of the corporation for the control, management and administration of the common property, for the payment of any premiums of insurance and for the discharge of any of its other obligations;

(b) to determine from time to time the amounts to be raised for the fund referred to in paragraph (a) and to raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective lots;

(c) to recover from any proprietor, by an action for debt in any court of competent jurisdiction, any sum of money expended by the corporation for repairs to or work done by it or at its direction in complying with any notice or order by a competent public or local

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authority in respect of that portion of the building which constitutes or includes the strata lot of that proprietor;

- (d) to enter any strata lot and effect repairs or carry out work pursuant to its duty under paragraph (g) of subsection (1);
- (e) to exercise a power of sale in respect of a strata lot in accordance with the provisions of this Act.

17/2009  
S. 6(b)(ii).

(3) Subject to the provisions of subsection (4) any contribution levied pursuant to subsection (2) shall be due and payable on the passing of a resolution to that effect and in accordance with the terms of such resolution, and may be recovered as a debt by the corporation in an action in any court of competent jurisdiction from the proprietor entitled at the time when such resolution was passed and from the proprietor entitled at the time when such action was instituted, both jointly and severally.

17/2009  
S. 6(c).

(4) The corporation shall, on the application of a mortgagee or a proprietor or any person authorized in writing by him, certify—

- (a) the amount of any contribution determined as the contribution of that proprietor;
- (b) the manner in which such contribution is payable;
- (c) the extent to which such contribution has been paid by that proprietor,

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

(5) A policy of insurance authorized by this section and in respect of the building shall not be liable to be brought into contribution with any other policy of insurance save another policy authorized by this section in respect of the same building.

(6) An implied covenant shall exist between the corporation and each proprietor binding the latter, his heirs, executors, administrators and transferees, to pay contributions or other monies due and owing to the corporation in respect of the relevant strata lot prior to the transfer of the strata lot.

17/2009  
S. 6 (d).

5A.—(1) Where for a period exceeding thirty days, a proprietor fails, neglects or refuses to pay to the corporation, all or any part of the contribution levied pursuant to section 5(2)(b), the corporation shall act in the manner specified in subsection (2).

Failure to  
pay contri-  
bution.  
17/2009  
S. 7.

(2) For the purposes of subsection (1), the corporation shall notify in writing the proprietor concerned and his agent, if any, and the mortgagee of the strata lot, if any—

- (a) of the outstanding amount of the contribution owing by the proprietor and the period for which the contribution is owed, outlined in a related statement of accounts;
- (b) of the amount of interest accruing on the contribution and the period for which interest is payable, outlined in a related statement of accounts;
- (c) that the proprietor is required, within thirty days from the date of the service of the notice, to pay the outstanding contribution and the amount of interest, if any, accruing thereon;
- (d) that if the outstanding contribution and interest accrued thereon are not paid within the period specified under paragraph (c) or make suitable arrangements to pay that amount, the corporation may sell the strata lot by public auction or by private treaty in accordance with section 5C(4);
- (e) that the proprietor, if aggrieved by the amount of contribution stated in the notice, may lodge an appeal if he has paid at least fifty percent of the amount owing or such other amount as may be agreed with the corporation.

(3) Where the mortgagee sells the property, the amount of contributions owing shall be deducted from the proceeds of sale, and the mortgagee shall be responsible for remitting that amount, to the corporation.

(4) Where a proprietor appeals against the amount of contribution, the corporation shall not exercise its power under subsection (2) (d) until the appeal is determined.

(5) Where in any appeal under this section the Tribunal is satisfied that contributions owing to a corporation are due and have been owing for at least sixty days prior to the appeal being lodged, the Tribunal may make an order for such payment.

(6) Where on appeal the Tribunal determines that the amount paid by the proprietor pursuant to subsection (2)(c) ought not to have been paid, the Tribunal may order—

- (a) that the corporation refund the amount to the proprietor; or
- (b) if there is any other amount outstanding with respect to that proprietor, that the corporation use the amount to offset the amount outstanding;

**5B.**—(1) The contributions imposed pursuant to section 5(2)(b), shall be a charge on each strata lot contained in a strata plan and shall run with the strata lot.

(2) The contributions referred to under subsection (1), shall rank in priority to existing mortgages or charges on the strata lot.

**5C.**—(1) Prior to the exercise of the power of sale by the corporation, the corporation shall satisfy the Commission that the corporation has taken all reasonable measures to recover the amounts owing by giving notice to the proprietor and his agents, if any, and the mortgagee of the strata lot, if any, in accordance with the notice referred to in section 5A(2).

(2) Where the Commission is satisfied that the corporation has exhausted all means of notifying the proprietor in

Unpaid contributions shall be charge on strata lot. 17/2009 S. 7.

Procedure to be satisfied prior to exercise of power of sale. 17/2009 S. 7.



accordance with section 5A, it may direct the corporation to take any additional action it deems fit in the circumstances, including the publication of a notice of the proposed sale of the strata lot.

(3) A notice referred to in subsection (2) shall—

(a) be published within thirty days after the Commission has given the direction in relation thereto, in a daily newspaper, printed and circulating in Jamaica; and

(b) shall contain—

(i) a brief description of the land including the area of the unit;

(ii) the number of rooms;

(iii) the strata lot and strata plan numbers;

(iv) the relevant Volume and Folio numbers of the Register Book of Titles;

(v) the civic address and name of the complex, if any; and

(vi) the land use.

(4) Where the Commission is satisfied that the corporation has taken all reasonable steps in accordance with section 5A(2) for the purpose of—

(a) obtaining payment of amounts owing to the corporation; and

(b) notifying the proprietor of the proposed sale,

it shall issue a certificate in the prescribed form to that effect.

(5) The corporation may only exercise a power of sale where it has received from the Commission a certificate under subsection 4.

**5D.**—(1) Where a strata lot is to be sold by the corporation in exercise of a power of sale, the corporation shall ensure as far as is reasonably practicable that the strata lot is sold at the best price reasonably obtainable.

Prior  
valuation and  
advertise-  
ment of strata  
lot to be sold.  
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(2) The strata lot to which this section relates shall be valued by the corporation in accordance with subsection (3) and within twenty-one days of the valuation, the corporation shall give notice of the valuation determined to the proprietor in accordance with section 5F(1) prior to the exercise of its power of sale, and to the mortgagee of the strata lot, if any, at the address for the mortgagee appearing in the Register Book of Titles.

(3) The corporation shall ensure that two separate valuations of the strata lot are obtained, each to be determined by a duly qualified person appointed by the corporation with the approval of the registered mortgagee, if any.

(4) Upon receipt by the corporation of a certificate under section 5C(4), and in any event not less than thirty days prior to the sale of the strata lot, the corporation shall advertise the proposed sale at least once in a daily newspaper circulating in Jamaica.

(5) The corporation shall treat the proceeds of sale of the strata lot sold pursuant to this section, as if it were monies received by a mortgagee arising from a sale.

(6) Where having been valued under this section, and the strata lot is sold, the corporation shall within twenty-one days of the sale, give notification thereof to the proprietor in accordance with section 5F(1) and to the mortgagee of the strata lot if any, at the address of the mortgagee appearing in the Register Book of Titles.

**5E.—**(1) Where a corporation has exercised its power of sale under section 5(2), any money received in respect of the sale shall be apportioned in the following order—

Application  
of proceeds  
of sale.  
17/2009  
S. 7.

- (a) firstly to pay any costs associated with and incidental to the sale of the strata lot; then**
- (b) to pay all amounts owing to the corporation; and then**
- (c) in the absence of a mortgage on the strata lot, to pay the balance to the proprietor.**

**(2) The corporation shall forthwith upon the exercise of the power of sale, furnish a statement of accounts of the sale, to the proprietor and mortgagee, if any.**

**(3) Where there is a mortgage on the strata lot, the mortgagee shall be paid the amount owed upon the mortgage, and the balance, if any, shall be given to the proprietor.**

**(4) In the event that a proprietor cannot be located subsequent to the exercise of a power of sale, the money received in respect of the property shall be deposited in an interest bearing account in a bank or other financial institution licensed to accept deposits, in the name of the Corporation, in trust for the proprietor.**

**(5) For the purposes of executing its powers of sale under section 5(2), the corporation shall be entitled to execute all relevant instruments and documents necessary, pursuant to the Registration of Titles Act, to transfer ownership of the strata lot.**

**(6) Subject to subsection (8), the corporation shall not be liable to the proprietor for any loss occasioned by the sale of the strata lot in accordance with section 5(2) and a purchaser is not bound to see or enquire as to—**

- (a) whether there has been a default in payment of contribution;**

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- (b) whether notice has been served or otherwise; or
- (c) the propriety or regularity of such sale.

(7) The Registrar of Titles upon the production of a transfer made in professed exercise of the power of sale, shall not be concerned or required to make any enquiry in relation to the exercise of the power of sale.

(8) Any person wronged by an unauthorized or improper or irregular exercise of the power exercised in accordance with subsection 5(2) shall have his remedy in damages only, against the corporation exercising the power.

**5F.** A notice issued by the corporation shall be in writing and served by—

- (a) giving such notice to the proprietor and his agent;  
or
- (b) leaving it on some conspicuous part of the strata lot;  
or
- (c) sending it to the proprietor of the strata lot and his agent if any, through the post office by registered letter directed to them at the address provided by the proprietor or the address appearing in the Register Book of Titles for such proprietor.

**5G.—(1)** Notwithstanding the other provisions of this Act, the corporation may submit an application to the court for an order for possession of the strata lot where—

- (a) for a period exceeding sixty days, contribution have not been paid in respect of that strata lot;
- (b) all efforts to locate the proprietor of the strata lot have been unsuccessful; and

Service of  
documents.  
17/2009  
S. 7.

Application  
for order for  
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(c) the corporation intends to rent the strata lot to recover the amount outstanding as contributions to the corporation until the proprietor or his agent—

(i) is found; and

(ii) has paid all the amount outstanding and has resumed his obligations with respect to the contributions.

(2) The corporation shall apply to the court to obtain vacant possession of the strata lot where the corporation intends to exercise its power of sale.

(3) Where possession of a strata lot that is rented is granted to the corporation, the court may direct that contributions be deducted from the rent and paid over to the corporation by the tenant.

**5H.** Proceeds of rental which remain after the deduction of contributions levied pursuant to section 5(2) and other related expenses in respect of a strata lot that is, by an order of the court, in the possession of the corporation, shall be kept in an interest bearing account, in the name of the corporation, in trust for the proprietor in a bank or other financial institution licenced to accept deposits.

Proceeds of rental to be kept in interest bearing account.  
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**5I.** The court may, in relation to an application submitted by the corporation under section 5G, make a determination as to the best interest of the parties concerned with regard to the administration of the strata lot concerned.

Determination regarding administration of strata lot.  
17/2009  
S. 7.

**6.—(1)** The corporation shall cause to be kept at a conspicuous place at or near the front of the land to which the relevant strata plan relates a receptacle suitable for purposes of postal delivery, with the name of the corporation clearly shown thereon.

Service of documents on the corporation.

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(2) Any summons, notice, order or other document may be served on the corporation by post in a prepaid letter addressed to the corporation at the address shown on the strata plan, or by placing it in the receptacle referred to in subsection (1).

Require-  
ments of a  
strata plan.

**7.—(1) Every strata plan shall—**

- (a) have a title or heading in which it is described as a strata plan;
- (b) show the whole or any part of the land comprised therein as being divided into two or more strata, whether or not any of such strata is divided into two or more strata lots;
- (c) delineate the external surface boundaries of the parcel and the location of the building in relation thereto;
- (d) bear a statement containing such particulars as may be necessary to identify the title to such parcel;
- (e) include a drawing illustrating the strata lots and distinguishing such strata lots by numbers or other symbols;
- (f) define the boundaries of each strata lot in the building by reference to floors, walls and ceilings, so, however, that it shall not be necessary to show any bearing or dimensions of a strata lot;
- (g) show the approximate floor area of each strata lot;
- (h) have endorsed upon it a schedule specifying in whole numbers the unit entitlement of each strata lot and a number equal to the aggregate unit entitlement of all the strata lots;

- (i) have endorsed upon it the address at which documents may be served on the corporation;
- (j) contain such other particulars as may be prescribed.

(2) A strata plan which is lodged for registration shall be accompanied by such certificate and other documents as may be prescribed.

(3) The common boundary of any two strata lots or of a strata lot and common property shall, unless otherwise specified in the relevant strata plan, be the centre of the floor, wall or ceiling between such strata lots or between such strata lot and common property, as the case may be.

(4) The unit entitlement of each strata lot shall, as respects the proprietor of such strata lot, determine—

- (a) the quantum of his undivided share in the common property; and
- (b) the proportion payable by him of contributions levied pursuant to subsection (2) of section 5; and
- (c) the proportion of property tax payable by him whether jointly or severally, pursuant to this Act.

13/1986  
S. 2(a)  
and (b).

8.—(1) In respect of every strata lot there shall be implied—

Easements.

- (a) in favour of the proprietor thereof, and as appurtenant thereto—
  - (i) an easement for the subjacent and lateral support thereof, by the common property and by every other strata lot capable of affording support thereto;
  - (ii) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, and other services (including telephone, radio and television services) through or by

means of any pipes, wires, cables or ducts for the time being existing in the land to which the relevant registered strata plan relates, to the extent to which such pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of such strata lot;

(b) as against the proprietor thereof and to which it shall be subject—

(i) an easement for the subjacent and lateral support of the common property and of every other strata lot capable of enjoying support from such strata lot;

(ii) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being existing within such strata lot, as appurtenant to the common property and to every other strata lot capable of enjoying such easements.

(2) The proprietor of a strata lot shall be entitled to have his strata lot sheltered by all such parts of the building as are capable of affording shelter thereto.

(3) The right created by subsection (2) shall be an easement to which the aforesaid parts of the building shall be subject and such easement shall entitle the proprietor of the dominant tenement to enter on the servient tenement to replace, renew or restore any shelter.

(4) All ancillary rights and obligations reasonably necessary to make easements effective shall apply in relation to easements implied or created by this section.



9.—(1) Subject to the provisions of this Act the control, management, administration use and enjoyment of the strata lots and the common property contained in every registered strata plan shall be regulated by by-laws. By-laws.

(2) The by-laws shall include—

(a) the by-laws set forth in the First Schedule, which shall not be amended or varied except by a resolution passed by at least seventy-five percent of the proprietors; First  
Schedule.  
17/2009  
S. 8(a).

(b) the by-laws set fourth in the Second Schedule, which may be amended or varied by the corporation. Second  
Schedule.

(3) Until by-laws are made by the corporation in that behalf the by-laws set forth in the First Schedule and the Second Schedule shall as and from the registration of a strata plan be in force for all purposes in relation to the parcel and the strata lots and common property therein.

(4) No by-law shall operate to prohibit or restrict the devolution of strata lots or any transfer, lease, mortgage or other dealing therewith or to destroy or modify any easement implied or created by this Act.

(5) No amendment or variation of any by-law shall have effect until the corporation has lodged with the Registrar of Titles a notification thereof in such form as may be prescribed and until the Registrar of Titles notifies the corporation that he has made reference thereto on the relevant registered strata plan.

(6) The corporation shall on the application of a proprietor or any person authorized in writing by him make

available for inspection the by-laws for the time being in force.

17/2009  
S. 8(b).

(7) Each proprietor shall give to a person in lawful possession of the proprietor's strata lot, a copy of the by-laws in force for the time being and any notifications lodged with the Registrar of Titles pursuant to subsection (5).

17/2009  
S. 8(b).

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

17/2009  
S. 8(c).

(9) A mortgagee or chargee (as the case may be) in possession of a strata lot shall be bound, to the same extent as the proprietor, by the by-laws referred to in this section.

(10) Each corporation shall, upon the request of the Commission, lodge with the Commission—

(a) a copy of the by-laws in force for the time being and any notifications lodged with the Registrar of Titles pursuant to subsection (5); and

(b) an address for service for each proprietor of a strata lot.

No action  
lies against  
a proprietor  
for *bona  
fide* acts.  
17/2009  
S. 9.

9A. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any proprietor who is a member of the executive committee in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

10.—(1) The common property shall be held by the proprietors as tenants in common in shares proportional to the unit entitlement of their respective strata lots.

Owner-  
ship of  
common  
property.

(2) The Registrar of Titles shall, in making out a certificate of title for any strata lot, certify therein the proprietor's share in the common property.

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

11.—(1) The proprietors may by unanimous resolution direct the corporation to transfer or lease the common property or any part thereof.

Disposition  
of com-  
mon  
property.

(2) If the corporation is satisfied that the resolution was duly passed and that all persons having interests, of which the corporation has notice, in the parcel have consented in writing to the release of those interests in the land comprised in the proposed transfer or lease or, in the case of a lease, have approved in writing of the execution of the lease, the corporation shall execute the appropriate transfer or lease and such transfer or lease shall be valid and effective without execution by any person having an interest in the common property, and the receipt of the corporation for the purchase money, rent or other money payable to the corporation under the terms of the transfer or lease shall be a sufficient discharge and shall exonerate all persons taking under the transfer, or the lease, as the case may be, from any responsibility for the application of the moneys expressed to have been received.

*REGISTRATION (STRATA TITLES)*

(3) Every such transfer or lease lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed, that the transfer or lease conforms with the terms thereof and that all necessary consents were given and such certificate shall, in favour of purchasers of the common property and in favour of the Registrar of Titles, be conclusive evidence of the facts stated therein.

Creation  
of ease-  
ments and  
covenants.

12.—(1) The proprietors may by unanimous resolution direct the corporation—

- (a) to execute on their behalf a grant of easement or a restrictive covenant burdening the parcel;
- (b) to accept on their behalf a grant of easement or a restrictive covenant benefiting the parcel.

(2) If the corporation is satisfied that the resolution was duly passed and that all persons having interests, of which the corporation has notice, in the parcel have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition the corporation shall execute the appropriate transfer or covenant, and the transfer or covenant shall be valid and effective without execution by any person having an interest in the parcel, and the receipt of the corporation for any money payable to it under the terms of the transfer shall be a sufficient discharge and shall exonerate all persons taking under the transfer from any responsibility for the application of the moneys expressed to have been so received.

(3) Every such transfer or covenant lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed and that all necessary consents were given, and such certificate

shall, in favour of persons dealing with the corporation pursuant to this section and in favour of the Registrar of Titles, be conclusive evidence of the facts stated therein.

13.—(1) The Commission, the corporation or any person having an interest in a strata lot may apply to the court for appointment of an administrator.

Administra-  
tion.  
17/2009  
S. 10.

(2) The court may in its discretion on cause shown appoint an administrator for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit.

The remuneration and expenses of the administrator shall be an administrative expense within the meaning of this Act.

(3) The administrator shall, to the exclusion of the corporation, have the duties and powers of the corporation or such of those duties and powers as the court shall order.

(4) The administrator may delegate any of the powers vested in him by virtue of subsection (3).

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

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

14.—(1) Where the building is destroyed—

(a) the corporation shall forthwith lodge with the Registrar of Titles, in such form as may be prescribed, a notification of such destruction;

Destruction  
of the  
building.

**REGISTRATION (STRATA TITLES)**

- (b) the Registrar of Titles shall, upon receipt of such notification, make, in such form as may be prescribed, an entry thereof on the registered strata plan; and thereafter
- (c) the proprietors of all the strata lots contained in such strata plan shall be entitled to the parcel as tenants in common in shares proportional to the unit entitlement of their respective strata lots and the provisions of sections 11 and 12 shall apply in relation to the transfer or lease of the parcel and to the creation of any easement or restrictive covenant burdening or benefiting it.

(2) For the purposes of this Act the building referred to in subsection (1) is destroyed—

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

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

(4) An application for a declaration under paragraph (b) of subsection (2) may be made to the court by the corporation or by a proprietor or by a registered mortgagee of a strata lot.

(5) On any application to the court for a declaration under paragraph (b) of subsection (2) any insurer who has

effected insurance on the building or on any part thereof (being insurance against destruction of strata lots or damage to the building) shall have the right to appear in person or by counsel.

(6) The court may, on the application of the corporation or any member thereof or the administrator, by order make provision for the winding-up of the affairs of the corporation and may, by the same or a subsequent order, declare the corporation dissolved as on and from a date specified in the order.

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

(8) The court may from time to time vary any order made by it under subsection (3) or subsection (7).

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

(a) in the case of a proprietor who is an infant, by his guardian;

(b) in the case of a proprietor who is for any other reason unable to control his property, by the person who for the time being is authorized by law to control that property.

(2) Where the court upon the application of the corporation or of any proprietor is satisfied that there is no person able to vote in respect of a strata lot the court—

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

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

appoint some fit and proper person for the purpose of exercising such powers of voting under this Act as the court shall determine, and the court may in making such appointment

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

17/2009  
S. 11.

(3) Where the corporation is satisfied that a proprietor is able to vote but fails, after being served with due notice, to—

- (a) attend meetings; or
- (b) appoint a proxy,

the corporation may apply to the Commission for an order appointing a proxy to vote on resolutions requiring a unanimous vote.

(4) The court may order service of notice of the application referred to in subsection (2) on such person as it thinks fit or may dispense with service of such notice.

Establish-  
ment of  
Strata  
Appeals  
Tribunal.  
Fourth  
Schedule.  
17/2009  
S. 12.

**15A.**—(1) There is hereby established for the purposes of hearing appeals, a body to be known as the Strata Appeals Tribunal, and the provisions of the Fourth Schedule shall have effect with regard to the constitution and operation of the Tribunal and otherwise in relation thereto.

(2) Any person aggrieved by a decision of—

- (a) the corporation, in the case of the aggrieved person being a proprietor of a strata lot; or
- (b) the Commission,

may appeal to the Tribunal in the prescribed manner, upon payment of any prescribed fee.

(3) Before determining an appeal, the Tribunal shall give the parties the opportunity to be heard by the Tribunal.

(4) The Tribunal may, on an appeal under subsection (2)—

- (a) allow the appeal and set aside or vary the decision of the corporation or the Commission, as the case may be; or



(b) dismiss the appeal and confirm the decision of the corporation or the Commission, as the case may be.

(5) The amount in respect of which the Tribunal may order payment under subsection (6) of section 5A, shall not exceed the amount in respect of which a Resident Magistrate's Court has jurisdiction in actions arising from contract.

(6) Where an order of the Tribunal is made pursuant to subsection (6) of section 5A, the Tribunal shall forthwith cause the order to be lodged with the Clerk of the Courts for the parish in which the land comprising the strata lot to which the order relates is situated.

(7) An order which is lodged with the Clerk of the Courts in accordance with this section shall be treated as if it were an order made by the Resident Magistrate's Court for the payment of money, and the provisions of sections 213 to 247 of the Judicature (Resident Magistrates) Act in respect of execution, shall apply in relation thereto as they apply in relation to an order made by the Court.

(8) Costs of the appeal proceedings including court costs and any attorney's costs may be recovered from the unsuccessful party.

(9) All matters to be determined by the Tribunal shall be submitted to the Tribunal through the Commission.

(10) The Tribunal may also adjudicate upon matters affecting the administration and management of strata properties referred to it by—

- (a) the corporation;
- (b) the proprietor of a strata lot who has first notified the corporation of his intention to refer the matter; or
- (c) the Commission,

and may make an order in settlement of each matter.

(11) A decision made by the Tribunal on an appeal made pursuant to this section shall be binding on the parties to the

appeal.

(12) A person who fails to comply with a decision or an order made by the Tribunal, shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars and in default of payment to imprisonment for a term not exceeding one year.

Regulations.

16. The Minister may make regulations generally for the proper carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations—

- (a) as to the manner and form of registering strata plans;
- (b) providing for the amendment of registered strata plans;
- (c) prescribing the manner of registering transfers and leases of common property;
- (d) providing for cases where the building is damaged but is not destroyed;
- (e) providing for the insurance of strata lots by the proprietors thereof;
- (f) providing for the voting rights of mortgagees of strata lots;
- (g) prescribing the fees to be paid for anything required or permitted to be done under this Act;
- (h) prescribing the manner in which corporations are to be registered with the Commission;
- (i) prescribing the matters in respect of which developers are to inform prospective purchasers of strata lots;
- (j) prescribe the minimum period of notice to be given under section 3B(2)(a)(i) and (iii);
- (k) prescribing any other matter or anything which may be, or is required by this Act to be, prescribed.

17/2009  
S. 13(b).

17. Provision may be made by rules of court as to the practice and procedure to be followed in relation to applications which may be made to the court under this Act. Rules of court.

18.—(1) If there is failure to comply with any notice, order or request referred to in paragraph (g) or (h) of subsection (1) of section 5, or with any requirement of subsection (1) of section 6 or subsection (6) of section 9 or paragraph (a) of subsection (1) of section 14, the corporation and every member thereof who is knowingly a party to such failure shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars, or to imprisonment with or without hard labour for a term not exceeding six months. Offences.  
17/2009  
S. 14(a).  
  
17/2009  
S. 14(b).

(2) Where the Court is satisfied on receipt of an application of the corporation that a proprietor has contravened any of the provisions of the by-laws set out in paragraph 1 of the First Schedule or any of the by-laws set out in the Second Schedule then the Court may— First  
Schedule.  
Second  
Schedule.  
17/2009  
S. 14(c).

- (a) order the proprietor to pay to the corporation a pecuniary penalty not exceeding one million dollars; or
- (b) grant an injunction preventing the proprietor from engaging in conduct in contravention of the by-laws; or
- (c) grant such order and injunction.

(3) In exercising the powers referred to in subsection (2), the Court shall consider—

- (a) the nature of the default of the proprietor;
- (b) the nature of any loss or damage suffered by any person as a result of the default;
- (c) the circumstances of the default;
- (d) any previous determination in relation to a breach of the by-laws, against the proprietor to whom the application relates.

Minister  
may amend  
penalties,  
Schedule,  
etc. by order.  
17/2009  
S. 15.

**18A.—(1)** The Minister may, by order subject to affirmative resolution of the House of Representatives amend or vary any penalty or fine imposed by this Act.

**(2)** The Minister may by order, subject to affirmative resolution of the House of Representatives, amend any of the Schedules to this Act.

Liability  
for taxes.  
13/1986  
S. 3.

**19.—(1)** Subject to the provisions of this section, in relation to any parcel—

**(a)** the corporation; and

**(b)** the proprietors of strata lots in that parcel, to the extent prescribed in section 7(4)(c),

shall be jointly and severally liable for all property tax payable in respect of that parcel.

**(2)** Collector of Taxes, on his own initiative or consequent on agreement with the proprietor of a strata lot or the corporation, may, by memorandum in writing to the proprietor of a strata lot and to the corporation, direct that the proprietor shall, to the exclusion of the corporation, be responsible for the payment of any property tax payable in respect of the strata lot to which the direction relates, and thereupon or from such date as may be specified in the memorandum, the property tax shall be recovered as if—

**(a)** the proprietor of the strata lot were the owner in fee simple in possession of the lot and it were a separate parcel of land having a property tax liability equal to the appropriate tax apportioned to it under paragraph **(c)**;

**(b)** that proprietor were, subject to any exemptions or concessions that may be applicable to him or to the lot of which he is proprietor, liable for any tax made or levied on the owners or other person in possession of the land; and

**(c)** the tax on the lot were an amount that bears to the total tax payable on the parcel, the same proportion as

the unit entitlement of that lot bears to the aggregate unit entitlement.

20. There shall be a review of this Act by a Committee of both Houses of Parliament, appointed for that purpose, not later than three years after the date of commencement of the Registration (Strata Titles) (Amendment) Act, 2009.

Review of  
Act by  
Parliamentary  
Committee.  
17/2009  
S. 16.

## FIRST SCHEDULE

(Sections 2 and 9)

*Proprietors*

## 1. A proprietor shall—

- (a) permit the corporation and its agents, at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his strata lot for the purpose of inspecting it and maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the strata lot and capable of being used in connection with the enjoyment of any other strata lot or common property, or for the purpose of maintaining, repairing or renewing common property, or the purpose of ensuring that the by-laws are being observed;
- (b) pay all rates, taxes, charges, outgoings, levies and assessments that may be payable in respect of his strata lot;
- (c) repair and maintain his strata lot, and keep it in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted;
- (d) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors or their families or visitors;
- (e) not use his strata lot or permit it to be used in such manner or for such purpose as shall cause a nuisance or hazard to the occupier of any other strata lot (whether a proprietor or not) or the family of such occupier;
- (f) notify the corporation forthwith upon any change of ownership or of any mortgage or other dealing in connection with his strata lot;

17/2009  
S. 17.

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S. 17 & Sch.

- (g) where he is unable to carry out his obligations under this Act by reason of absence from Jamaica, or inability to act (whether due to illness or otherwise) appoint an agent to act on his behalf and shall notify the corporation and the mortgagee, if any, in writing thereof stating the period for which the agent is appointed to act;
- (h) inform the executive committee of any change of his address;
- (i) furnish any lessee, tenant or occupier of his strata lot with a copy of the by-laws for the time being governing the strata property.

*The Corporation***2. The corporation shall—**

- (a) control, manage and administer the common property for the benefit of all proprietors;
- (b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings (including elevators) used in connection with the common property;
- (c) where practicable establish and maintain suitable lawns and gardens on the common property;
- (d) maintain and repair (including renewal where reasonably necessary) pipes, wires, cables and ducts for the time being existing in the parcel and capable of being used in connection with the enjoyment of more than one strata lot or common property;
- (e) on the written request of the proprietor, or registered mortgagee of a strata lot, produce to such proprietor or mortgagee, or any person authorized in writing by such proprietor or mortgagee, the policy or policies of insurance effected by the corporation, and the receipt or receipts for the last premiums in respect thereof;
- (f) from time to time fix the rate of interest which shall be charged on arrears of contributions.

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S. 17 & Sch.

**3. The corporation may—**

- (a) purchase, hire or otherwise acquire personal property for use by proprietors in connection with their enjoyment of common property;
- (b) borrow moneys required by it in the performance of its duties or the exercise of its powers;
- (c) secure the repayment of moneys borrowed by it, and the payment of interest thereon, by negotiable instrument, or mortgage of unpaid contribution (whether levied or not), or mortgage of any property vested in it, or by combination of those means;

- (d) invest as it may determine any moneys in the fund for administrative expenses;
- (e) make an agreement with the proprietor or occupier of any strata lot for the provision of amenities or services by it to such strata lot or to the proprietor or occupier thereof;
- (f) do all things reasonably necessary for the enforcement of the by-laws and the control, management and administration of the common property.

*General Meetings*

4. A general meeting of proprietors shall be held within three months after registration of the strata plan.

5. Subsequent general meetings (hereafter referred to as annual general meetings) shall be held once in each year:

Provided that not more than fifteen months shall elapse between the date of one annual general meeting and of the next.

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

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

8. Subject to paragraph 8A, notice of every general meeting specifying the place, the date and the hour of meeting and, in case of special business, the general nature of such business, shall be given to all proprietors and registered first mortgagees who have notified their interests to the corporation but accidental omission to give such notice to any proprietor or to any registered first mortgagee or non-receipt of such notice by any proprietor shall not invalidate any proceedings at any such meeting.

17/2009  
S. 17 & Sch.

8A. In respect of all general meetings—

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- (a) notice of the meeting shall be in writing and shall be given to each proprietor or his agent, as the case may be, at least fourteen days before the date of the meeting;
- (b) service of the notice of the meeting shall—
  - (i) either be by personal service or by registered post addressed to the proprietor and his agent, or may be sent by electronic mail or facsimile, to the correct electronic mail address or facsimile number of the proprietor as may be notified by that proprietor from time to time in accordance with the by-laws; and

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- (ii) shall be deemed to be effected at the time at which a letter would be delivered in the ordinary course of post; and
- (c) the corporation shall, not less than fourteen days before the date of the meeting affix to a conspicuous place in the common property a copy of the notice of the meeting and such notice shall remain so affixed until the meeting has been held.
9. All business shall be deemed special that is transacted at an annual general meeting with the exception of the consideration of accounts, or at an extraordinary general meeting.

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

11. If within half an hour from the time appointed for a general meeting a quorum is not present the meeting shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the persons entitled to vote present shall be a quorum.

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

*The Executive Committee*

13. There shall be an executive committee of the corporation which shall, subject to any restriction imposed or direction given at a general meeting, exercise the powers and perform the duties of the corporation.

14. The executive committee shall consist of not less than three nor more than nine proprietors and shall be elected at the first general meeting of the corporation and thereafter at each annual general meeting:

Provided that where there are not more than three proprietors the executive committee shall consist of all the proprietors.

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

16. Any casual vacancy on the executive committee may be filled by the remaining members thereof.



17. The quorum of the executive committee shall be such number as the committee may fix from time to time, being not less than one-half the number of members thereof.

18. At the commencement of each meeting the executive committee shall elect a chairman for the meeting, and if any chairman so elected vacates the chair during the meeting the executive committee shall elect in his stead another chairman.

19. At meetings of the executive committee all matters shall be determined by simple majority vote and the chairman shall, in addition to an original vote, have a casting vote in any case in which the voting is equal.

20. Subject to the provisions of these by-laws the executive committee shall have power to regulate its own procedure.

21. The executive committee may—

- (a) employ for or on behalf of the corporation such agents and servants as it thinks fit in connection with the control, management and administration of the common property and the exercise and performance of the powers and duties of the corporation;
- (b) subject to any restriction imposed or direction given at a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit, and may at any time revoke such delegation.

22. The executive committee shall—

- (a) keep minutes of its meetings;
- (b) cause proper books of account to be kept in respect of all moneys received and spent by it;
- (c) prepare proper accounts relating to all moneys of the corporation, and the income and expenditure thereof, for each annual general meeting;
- (d) on the application of a proprietor or a mortgagee, or any person authorized in writing by either of them, make the books of account available for inspection at all reasonable times.

22A. The executive committee shall cause to be transmitted to the Commission a copy of the audited statement of accounts or subject to the approval of the Commission, a copy of the accounts prepared in accordance with generally accepted principles of accounting and signed by the chairman and at least one other member of the executive committee.

Audited  
statements  
of accounts.  
17/2009  
S. 17 & Sch.

23. The validity of the proceedings of the executive committee shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

**REGISTRATION (STRATA TITLES)***Voting*

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

25. A poll if demanded shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

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

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

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

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

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

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

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

33. Where a proprietor holds his strata lot as a trustee he shall exercise the voting rights in respect of the strata lot to the exclusion of persons beneficially interested in the trust, and such persons shall not vote.

33A. Where—

(a) a proprietor owns less than one hundred percent, but more than one-third of the total unit entitlement in a strata plan; and

(b) a vote by poll or resolution is called,

the value of that proprietor's vote shall be reduced to forty percent of his unit entitlement rounded down to the nearest whole number.

Limitation on voting rights. 17/2009 S. 17 & Sch.

*Use of common seal*

34. The corporation shall at the first general meeting held after registration of the strata plan, and may from time to time, at subsequent general meetings, determine how the common seal of the corporation shall be used.

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SECOND SCHEDULE

(Section 9)

1. The proprietor shall not—

- (a) use his strata lot for any purpose which may be illegal or injurious to the reputation of the building; or
- (b) make undue noise in or about any strata lot or common property; or
- (c) keep any animals on his strata lot or the common property after notice in that behalf from the executive committee.

2. When the purpose for which a strata lot is intended to be used is shown expressly or by necessary implication on or by the registered strata plan the proprietor of such strata lot shall not use it or permit it to be used for any other purpose.

## Part I

*Constitution of Commission of Strata Corporations*Appointment  
of members.

1.—(1) The Commission shall consist of not less than seven nor more than eleven members appointed by the Minister.

(2) The members of the Commission shall be selected by the Minister from among persons appearing to him to—

(a) have ability and experience in any or all of the following areas, namely; matters relating to the real estate industry (including the management of strata properties, land economy and valuation surveying), building societies, general insurance, accounting and law;

(b) otherwise be suitably qualified to be so appointed.

Chairman.

2.—(1) The Minister shall appoint one of the members of the Commission to be its chairman and, unless the Minister otherwise determines, the Chairman of the Real Estate Board shall be the Chairman of the Commission.

(2) In the case of the absence of the Chairman from or his inability to act at any meeting, members of the Commission present at such meeting shall elect one of their number to act as Chairman at that meeting.

Disqualifica-  
tion for  
appointment  
to Commis-  
sion.

3. No person shall be qualified for appointment as a member of the Commission who—

(a) is a member of the Senate or the House of Representative; or

(b) has been convicted of an offence involving fraud, dishonesty or moral turpitude.

Temporary  
appoint-  
ments.

4. The Minister may appoint any person to act temporarily in the place of any member of the Commission in the case of the absence or inability to act of such member and the provisions of paragraph 1 shall apply *mutatis mutandi* to such temporary appointment.

Tenure of  
office.

5. The appointment of every member of the Commission shall be evidenced by instrument in writing, which shall specify the period of office of the member, which shall not exceed three years, and each member shall be eligible for reappointment.

Resignation.

6.—(1) Any member other than the Chairman may at any time resign his office by instrument in writing addressed to the Chairman who shall forthwith cause it to be forwarded to the Minister and that member shall

cease to hold office as from the date of receipt of the instrument by the Minister.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of the instrument.

7. The Minister may terminate the appointment of any member if such member—

Revocation  
of appoint-  
ment.

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) becomes a person who would have been disqualified for appointment on the grounds indicated in paragraph 3;
- (e) fails, without reasonable excuse, to carry out any of the functions conferred or imposed on him under this Act.

8.—(1) The Commission may, with the approval of the Minister, appoint committees, for special purposes connected with the functions of the Commission, where in the opinion of the Commission such functions would be better regulated and managed by committees.

Appointment  
of commit-  
tees.

(2) The Commission shall in relation to the appointment of a committee determine—

- (a) the number of members;
- (b) the terms of their appointment;
- (c) the quorum; and
- (d) the area within which the committee shall exercise its authority.

(3) Each committee shall include one member who is a member of the Commission and such other members as the Commission thinks fit.

(4) The validity of the proceedings of a committee shall not be affected by any vacancy or defect in appointment of a member.

9. The names of all members of the Commission as first constituted, and every change in the membership thereof, shall be published in the *Gazette*.

Publication  
of member-  
ship.

10.—(1) The seal of the Commission shall be authenticated by the signatures of the Chairman or any member of the Commission authorized to act in that behalf and the Secretary of the Commission.

Seal and  
execution of  
documents.

*REGISTRATION (STRATA TITLES)*

(2) All documents other than those required by law to be under seal and all decisions of the Commission may be signified under the hand of the Chairman or any member authorized to act in that behalf or the Secretary of the Commission.

Procedure and meetings.

11.—(1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Commission shall determine.

(2) The Chairman may at any time call a special meeting of the Commission, and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Commission.

(3) The Chairman or the person appointed in accordance with paragraph 2(2) shall preside at the meetings of the Commission and when so presiding the Chairman or the person appointed, as the case may be, shall have an original and a casting vote in any case in which the voting is equal.

(4) The quorum of the Commission shall be fifty percent of the number of members rounded down to the nearest whole number.

(5) Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.

(6) The validity of any proceeding of the Commission shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Delegation.

12.—(1) The Commission may, either generally or as otherwise specified in the instrument of delegation, delegate to any of its officers so specified, any of its functions under this Act or any relevant Act, other than the power of delegation.

(2) A delegation under sub-paragraph (1) shall be revocable by the Commission and no delegation shall prevent the exercise of a power by the Commission.

Remuneration of members.

13. There shall be paid from the funds of the Commission to the Chairman and other members of the Commission such remuneration, if any (whether by way of honorarium, salary or travelling or other allowances), as the Minister may determine.

Disclosure of interest.

14.—(1) A member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Commission, or in any other matter whatsoever which falls to be considered by the Commission, shall disclose the nature of his interest at a meeting of the Commission and the

disclosure shall be recorded in the minutes of the meeting; and the member shall not take part in any deliberation or decision of the Commission with respect to the contract or to the other matter, as the case may be.

(2) A notice given by a member at a meeting of the Commission to the effect that he is a member of a specific company or firm and is to be regarded as interested in any contract which is made after the date of the notice with the company or firm shall, for the purposes of sub-paragraph (1), be a sufficient disclosure of his interest in relation to any contract so made.

(3) A member need not attend in person at a meeting of the Commission in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by notice which is taken into consideration and read at such a meeting.

15. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Commission in respect of any act done *bona fide* in pursuance or execution of or intended execution of this Act.

Indemnity.

## Part II

1.—(1) The Commission may appoint and employ at such remuneration and subject to such terms and conditions as it thinks fit, a Secretary and such other officers, employees and agents as it thinks necessary for the proper carrying out of the provisions of this Act, so, however, that no salary in excess of the prescribed rate shall be assigned to any post without the proper approval of the Minister with responsibility for the public service.

Appointment of Secretary and other officers, employees and agents.

(2) For the purposes of subsection (1), the prescribed rate means four million dollars per annum or such higher rate as the Minister with responsibility for the public service may, from time to time, by order, prescribe.

## FOURTH SCHEDULE

(Section 15A)

### *Constitution and Procedure of Appeals Tribunal*

1.—(1) The Tribunal shall consist of not less than three nor more than five members appointed by the Minister from the following—

Constitution of Tribunal.

- (a) a person who is a Judge or Resident Magistrate who has retired;
- (b) an attorney-at-law practising at the private bar;

**REGISTRATION (STRATA TITLES)**

(c) a person appearing to the Minister to have experience in property management matters; and

(d) two persons who are public accountants or members of the Institute of Chartered Accountants of Jamaica.

(2) The Minister shall appoint one of the members of the Tribunal to be the Chairman thereof.

(3) For the hearing of any appeal under this Act, the Tribunal may consist of one member sitting alone if the parties to the appeal agree.

Tenure of office.

2.—(1) The appointment of every member of the Tribunal shall be evidenced by instrument in writing and shall be for a period not exceeding three years.

(2) Every member of the Tribunal shall be eligible for reappointment.

(3) The Minister may at any time revoke the appointment of any member of the Tribunal.

Resignation.

3.—(1) Any member of the Tribunal other than the Chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Tribunal.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt of such instrument by the Minister.

Publication of membership.

4. The names of the members of the Tribunal as first constituted and every change in membership thereof, shall be published in the *Gazette*.

Authentication of documents.

5. All documents made by, and all decisions of, the Tribunal may be signified under the hand of the Chairman or any member of the Tribunal authorized to act in that behalf.

Procedure regarding meetings.

6.—(1) The Tribunal shall meet at such times as may be necessary or expedient for transaction of business or conduct of hearings and such meetings shall be held at such places and times and on such days as the Tribunal may determine.

(2) The Chairman or any other person appointed to act temporarily as Chairman shall preside at meetings of the Tribunal.

(3) Subject to paragraph 1(3), a decision of the Tribunal shall be by a majority of votes of the members and in any case in which the voting is



equal the Chairman shall have a casting vote in addition to his original vote.

(4) The Tribunal shall have power to regulate its own proceedings.

(5) Proper records of all proceedings of the Tribunal shall be kept.

7. There shall be paid from the funds of the Commission to the Chairman and other members of the Tribunal such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine. Remuneration of members.

8. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Tribunal in respect of an act done *bona fide* in pursuance of or execution or intended execution of the provisions of this Act. Protection of members.

9. Any member of the Tribunal who has any interest, directly or indirectly, in any matter brought before the Tribunal shall— Disclosure of interest.

(a) disclose the nature of the interest to the Tribunal; and

(b) not take part in any deliberation or decision of the Tribunal with respect to that matter.

10. The office of Chairman or member shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. Officer of member not a public office.