

PARLIAMENT OF CEYLON

5th Session 1969-70



Condominium Property Act, No. 12 of 1970

Date of Assent : March 1, 1970

Printed on the Orders of Government

Printed at the DEPARTMENT OF GOVERNMENT PRINTING, CEYLON. To be purchased at the GOVERNMENT PUBLICATIONS BUREAU, COLOMBO

Annual Subscription (including Bills) Rs. 30 (Local), Rs. 40 (Foreign), payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, P. O. Box 500, COLOMBO 1, before 20th December each year in respect of the year following. Late subscriptions will be accepted on the condition that Bills issued before the date of payment will not be supplied

Price : 95 cents

Postage : 20 cents

Condominium Property Act, No. 12 of 1970

L D.—O. 3/69

AN ACT TO PROVIDE FOR THE SUB-DIVISION OF PROPERTIES INTO PARTS THAT ARE TO BE OWNED INDIVIDUALLY AND PARTS THAT ARE TO BE OWNED IN COMMON; TO FACILITATE THE DISPOSITION OF TITLES THERETO; TO PROVIDE FOR THE USE AND MANAGEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: March 1, 1970]

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Condominium Property Act, No. 12 of 1970, and shall come into operation on such date (hereinafter referred to as the "appointed date") as the Minister may appoint by Order published in the *Gazette*.

Short title
and date of
operation.

CONDOMINIUM PLANS

2. (1) Any person claiming to be the owner of any land to which this Act applies may make application to the Registrar of Lands for the registration of a Condominium Plan.

Application for
registration of
Condominium
Plans.

(2) A Condominium Plan shall be an instrument affecting land for the purposes of the Registration of Documents Ordinance.

Cap. 117.

3. (1) Every application for the registration of a Condominium Plan shall be in the prescribed form and shall—

Requisites for
registration
of Condominium
Plans.

- (a) specify the name or assessment number if any and the extent of the land to which title is claimed;
- (b) contain a description of the land by reference to its extent, boundaries and situation;
- (c) contain particulars of the deeds, instruments or other documents and of other evidence of title relied upon by the applicant in support of his claim;
- (d) contain particulars of every encumbrance, *lis pendens*, seizure, order or decree affecting the land to the knowledge of the applicant or his proctor, if any.

(2) The Condominium Plan shall—

- (a) delineate the horizontal surface boundaries of the parcel and the location of the building in relation thereto;
- (b) include a drawing illustrating the units and distinguishing such units by numbers or other symbols;
- (c) define the boundaries of each unit by reference to the floors, walls or ceiling and the approximate floor area of each unit;
- (d) have attached to it a schedule with the names and addresses of the designated owners of each unit;
- (e) define any portion of the parcel or part of the building not within the unit itself but intended to be used in conjunction with the enjoyment of the unit;
- (f) have endorsed upon it a schedule specifying in whole numbers the unit factor for each unit in the parcel;
- (g) be signed by the owners of the property;
- (h) have endorsed upon it the address at which documents may be served on the body corporate;
- (i) have endorsed upon it the name of the scheme and the number of the block, if any;
- (j) contain all other particulars and information as may be prescribed by regulation;
- (k) be endorsed or accompanied by a certificate of a licensed surveyor that the building shown in the plan is within the external horizontal boundaries of the parcel;
- (l) be endorsed or accompanied by a certificate of a chartered architect or chartered civil or structural engineer that the units shown in the plan are the same as those existing on the land;
- (m) be endorsed or accompanied by a certificate of the local authority within whose administrative jurisdiction the building comprised in the plan is situated, that the proposed division of the building as illustrated in the plan has been approved by such authority.

4. (1) Where the Registrar of Lands is satisfied that the application for registration of the Condominium Plan conforms in all respects to the provisions of this Act and the regulations made thereunder and where it appears to him that the applicant is the owner of the land to which this Act applies, he may register the Condominium Plan under the Registration of Documents Ordinance as an instrument affecting land.

Registration of Condominium Plan and appeals against refusal.

Cap. 117.

(2) Where the Registrar of Lands refuses to register the Condominium Plan, he shall comply with the provisions of section 37 of the Registration of Documents Ordinance.

(3) An appeal shall lie from every order made by the Registrar of Lands refusing registration of a Condominium Plan and the provisions of section 38 of the Registration of Documents Ordinance shall apply in relation to such appeal.

5. (1) Upon registration of a Condominium Plan the building depicted therein shall be deemed to be divided into the units in the manner provided in such plan and all rights, title and interest of the owners of the parcel shall vest in the designated owners of the units.

Effect of registration of a Condominium Plan.

(2) Notwithstanding anything to the contrary in any other law, but subject to the provisions of this Act, after the registration of a Condominium Plan, any unit depicted therein may be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as any land registered under the Registration of Documents Ordinance.

6. (1) The common property comprised in the registered plan shall be held by the owners of the units as co-owners thereof in shares proportionate to the unit factors of their respective units.

Shares in common property.

(2) No share in the common property shall be disposed of except as appurtenant to the unit of the owner thereof and any alienation of a unit by an owner shall convey the share of that owner of the common property without express provisions relating thereto.

4 *Condominium Property Act, No. 12 of 1970*

Title to unit
subject to
registered
interests.

7. (1) An owner shall hold his unit and his share in the common property subject to any interest affecting the unit or the common property notified on the registered plan.

(2) Except to the extent that any interest notified on a registered plan relates to a particular unit, the owner of a unit shall be only liable in respect of any such interest in proportion to the unit factor for his unit.

(3) Unless otherwise stipulated in the registered plan, the common boundary of any unit with another unit or with common property shall be the centre of the floor, wall or ceiling, as the case may be.

Redivision of
unit.

8. (1) Any owner or owners may, with the approval of the local authority, redivide his or their units by registering a Condominium Plan relating to the unit or units so redivided in the manner provided by this Act for the registration of Condominium Plans.

(2) Except as provided in this section the provisions of this Act relating to Condominium Plans shall apply *mutatis mutandis* to a redivision under subsection (1).

(3) The owners of units in a Condominium Plan of redivision shall, as from the date of registration of the plan of redivision, be the members of the corporate body constituted under section 11 on the registration of the original plan.

(4) On the registration of a Condominium Plan of redivision, units comprised therein shall be subject to the burden and shall have the benefit of any easements affecting such of the units in the original registered plan as are included in the plan of redivision.

(5) The schedule accompanying a plan of redivision shall apportion among the units the unit factor or factors for such unit or units in the original plan as are included in the redivision.

(6) Before registering a Condominium Plan of redivision, the Registrar of Lands shall amend the original registered plan.

(7) Upon registration of a Condominium Plan of redivision the land comprised therein shall not be dealt with by reference to units in the original plan.

9. After registration of a Condominium Plan, there shall be implied in respect of each unit shown therein—

Easements in
favour of or
against
owner.

(a) in favour of the owner of the unit and as appurtenant thereto—

- (i) an easement for the subjacent and lateral support thereof by the common property and by every other unit capable of affording support;
- (ii) an easement for the shelter thereof by the common property and by every other unit capable of affording shelter; and
- (iii) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone and radio services) through or by means of any pipes, wires, cables or ducts for the time being existing in the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of the unit;

(b) as against the owner of the unit, to which his unit shall be subject—

- (i) an easement for the subjacent and lateral support of the common property and of every other unit capable of enjoying support;
- (ii) an easement to provide shelter to the common property and to every other unit capable of enjoying the shelter; and
- (iii) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone and radio services) through or by means of any pipes, wires, cables or ducts for the time being existing within the units, as appurtenant to the common property and also to every other unit capable of enjoying those easements.

Ancillary
rights and
obligations
implied.

10. All ancillary rights and obligations reasonably necessary to make easements effective shall apply in respect of easements implied by this Act, including the right of an owner of a dominant tenement to enter a servient tenement and replace, renew or restore anything the dominant tenement is entitled to benefit from.

CONDOMINIUM CORPORATION

Owners of
units in
Condominium
Plan to be a
body
corporate.

11. (1) Upon registration of a Condominium Plan, the owner or owners of the units in the parcel to which the Condominium Plan applies shall constitute a body corporate under the name and style of "The Owners: Condominium Plan No.:" (the number to be specified being the number given to the plan upon registration).

(2) Subject to the provisions of this Act, the body corporate shall have a common seal and right to perpetual succession and shall have the right to sue and be sued, and shall be responsible for the enforcement of its by-laws and the control, management and administration of the condominium property.

VOTING RIGHTS, POWERS AND DUTIES OF CORPORATION

Voting rights.

12. The voting rights of the owner of a unit shall be determined by the unit factor for his unit.

Board of
Managers.

13. The powers and duties of a body corporate shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by a Board of Managers which shall be constituted as provided for in the by-laws of the body corporate.

By-laws.

14. (1) A building shall be regulated by by-laws made by the body corporate which shall provide for the control, management, administration, use and enjoyment of the units and of the common property, and shall include—

- (a) the by-laws set forth in the First Schedule to this Act which shall not be added to, amended or repealed; and
- (b) the by-laws set forth in the Second Schedule to this Act which shall not be added to, amended or repealed except by a three-fourths majority of the total number of members of the body corporate.

(2) Subject to the provisions of sub-section (1), until by-laws are made in that behalf, the by-laws set forth in the First Schedule and Second Schedule to this Act shall, as on and after the registration of a Condominium Plan, be in force for all purposes in relation to the parcel and the units and common property therein.

(3) No addition or amendment or repeal of any by-law pursuant to sub-section (2) shall have effect until the body corporate shall have lodged a copy thereof with the Registrar of Lands, and the Registrar of Lands has made reference thereto on the registered plan.

(4) No by-law or addition to or amendment or repeal of any by-law of a body corporate shall operate to prohibit or restrict the devaluation of units or any transfer, lease, mortgage or other dealing therewith or to destroy or modify any easement implied or created by this Act.

(5) The by-laws of a body corporate shall bind the body corporate and the owners to the same extent as if the by-laws had been signed and sealed by the body corporate and by each owner and contained covenants on the part of each owner with every other owner and with the body corporate to observe and perform all the provisions of the by-laws.

(6) A body corporate shall, on the application of an owner or any person authorized in writing by him, make its by-laws available for inspection.

15. (1) In addition to its other powers under this Act, the powers of a body corporate shall include the following:—

Administrative
expenses.

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

(b) to determine from time to time the amounts to be raised from the owners for the purposes mentioned in paragraph (a);

(c) to recover from any owner of a unit any sum of money due to the body corporate—

(i) for repairs effected or work executed by it or under its direction or any other expenses incurred in the maintenance of a unit;

(ii) for any rates, taxes or charges paid by the body corporate under section 18 (1).

(2) Where any sum of money due to the body corporate under paragraph (c) of sub-section (1) has not been paid by any owner of a unit from whom such sum is due, the Chairman of the Board shall certify in writing the amount which is due from such owner.

(3) (a) Upon the production of a certificate issued by the Chairman of the Board under sub-section (2) before any Court of Requests within whose jurisdiction the body corporate is situated, the Court shall direct a writ of execution to be issued to the Fiscal authorizing him and requiring him to seize and sell all or any of the property movable or immovable or such part thereof as may be necessary for the recovery of that sum and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to the execution of such writ and to such seizure and sale.

Cap. 101.

(b) Notwithstanding anything in any other law as to the limitation to the monetary jurisdiction of a Court of Requests any such Court shall be competent to entertain any application under the preceding provisions of this sub-section.

(4) Where the Chairman of the Board issues a certificate under sub-section (2) he shall notify in writing any owner of a unit specified in the certificate that the sum specified in the certificate is payable but the non-receipt of such notice by the owner of any unit shall not invalidate proceedings under this section.

Insurance by
body
corporate.

16. A body corporate shall insure and keep insured the entire building for the replacement value thereof against risk of fire, civil commotion and riots, and the premium or premia paid by the body corporate shall be recovered from the owners of the building in proportion to their unit factors.

17. (1) The owner of a unit may effect a policy of insurance in respect of any damage to his unit in a sum equal to the amount secured, at the date of any loss referred to in the policy, by mortgage upon his unit.

Insurance by owner.

(2) Nothing in section 16 or in sub-section (1) shall limit the right of an owner to insure against risks other than damage to his unit.

18. (1) Where any rates, taxes or charges leviable in respect of any unit by any local authority or public authority are due or payable and the owner has failed to make payment thereof, such authority may serve upon the body corporate a copy of the notice of assessment of such rates, taxes or charges, together with a notice requiring the body corporate to pay such rates, taxes or charges within a specified time from the date of such service.

Recovery of rates, &c.

(2) If, under sub-section (1), a body corporate fails to pay the rates, taxes or charges within the period specified, the local authority or public authority may, without prejudice to its right against any owner, sue the body corporate for the recovery of such rates, taxes or charges as a debt in a court of competent jurisdiction and may exercise any other remedies available to that authority under any other written law, as if the body corporate were the sole owner of the unit and the rates, taxes or charges levied were the rates, taxes or charges applicable to that unit.

19. Where any public or local authority or any person authorized by such an authority has a statutory right to enter upon any part of a parcel or unit, such authority or person shall be entitled to enter upon any other part of the parcel or other unit to the extent necessary or expedient to enable it or him to exercise its or his statutory powers.

Right of entry.

20. (1) The condominium status of a building may be terminated by an unanimous resolution of the body corporate.

Termination of condominium.

(2) An application to terminate the condominium status of a building may be made to the District Court where the property to which the Condominium Plan relates is situated, by the body corporate or by an owner.

(3) On an application being made under this section, if the Court is satisfied that, having regard to the rights and interests of the owners as a whole, it is just and equitable that the condominium status of the building should be terminated, the Court may make a declaration to that effect subject to such conditions and directions as it may consider necessary.

Effect of
termination of
condominium.

21. (1) The Court shall cause a copy of the declaration made under section 20 together with any conditions and directions attached thereto to be transmitted to the Registrar of Lands of the district or each of the districts in which the land or each of the lands to which such declaration relates is situated.

(2) Upon receipt of a notice under sub-section (1), the Registrar of Lands shall make a note thereof on the registered Condominium Plan and the folio related thereto and, upon such note being made, the owners of the units described in the plan shall be co-owners of the property in proportion to the unit factors of their respective units.

REGULATIONS

Regulations.

22. (1) The Minister may make regulations in respect of all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) In particular, but without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations in respect of the following matters:—

- (a) any matter in respect of which regulations are authorized or required by this Act to be made;
- (b) forms to be used for applications made under this Act;
- (c) fees for services rendered by any authority under the provisions of this Act;
- (d) all other matters connected or incidental to the matters aforesaid.

(3) No regulation made by the Minister shall have effect until it is approved by the Senate and the House of Representatives and notification of such approval is published in the *Gazette*. Every regulation so approved shall be valid and effectual as though it were herein enacted.

SPECIAL PROVISIONS RELATING TO CERTAIN
MATTERS

23. (1) Where any property comprised in a registered Condominium Plan is under mortgage to the Commissioner for National Housing (hereinafter referred to as "the Commissioner") and the Board of Managers constituted under section 13 persistently refuses or defaults in carrying out such special or general directions that the Commissioner may issue, the Commissioner may dissolve such Board and exercise all or any of the powers that such Board was unable to exercise in respect of the body corporate under the provisions of this Act.

Special powers
of the
Commissioner.

(2) Where any property comprised in a registered Condominium Plan is under mortgage to the Commissioner, no structural alteration shall be effected to such property without the prior approval of the Commissioner.

24. The Commissioner may delegate in writing to the Deputy Commissioner or any Assistant Commissioner any of his powers, functions or duties under this Act or any subsidiary written law made or issued thereunder.

Delegation of
powers, &c.,
by the
Commissioner.

25. The Partition Act shall not apply to any land or building comprised within any registered Condominium Plan and accordingly the provisions of that Act shall be read and construed subject to the provisions of this section.

Provisions of
Partition Act
not to
apply in
certain cases.
Cap. 69.

OFFENCES

26. (1) Every person who contravenes or fails to comply with the provisions of this Act or of any subsidiary written law made or issued thereunder shall be guilty of an offence and be liable on conviction after summary trial before a Magistrate to a fine not exceeding two hundred rupees and if such offence is a continuing offence, to an additional fine of fifty rupees for each day on which the offence is continued after conviction or after written notice of such contravention is served on such person by the Chairman of the Board.

Offences.

(2) No prosecution for an offence under this Act shall be instituted in any court except with the written sanction of the Chairman of the Board.

Provisions of
the act to
prevail over
other law.

27. The provisions of this Act or of any regulations made thereunder shall have effect notwithstanding anything in any other law, and where there is any conflict or inconsistency between the provisions of this Act and any other law, the provisions of this Act shall prevail over such other law.

Interpretation.

28. In this Act, unless the context otherwise requires—

“ Board ” means the Board of Managers of a body corporate as provided for in section 13;

“ body corporate ” means a body corporate incorporated under section 11;

“ building ” means the building or buildings shown in a Condominium Plan;

“ by-laws ” mean the by-laws of a body corporate;

“ common property ” means so much of the property for the time being comprised in a Condominium Plan as is not comprised in any unit shown in such plan;

“ Condominium Plan ” means a plan which conforms to sub-section (2) of section 3 and includes any schedule attached thereto;

“ encumbrance ”, in relation to any land, means—

(i) a mortgage of the land or of any limited interest therein, whether arising by act of parties or by operation of law;

(ii) a lease of the land or interest;

(iii) a servitude or restrictive covenant binding upon the land; and

(iv) an agreement to convey or reconvey the land or to mortgage or lease the land;

“ land ” includes an allotment of land the boundaries of which have been delineated by a surveyor or any portion of any such allotment divided or capable of being divided from the remainder of such allotment, any plantation on land, any building, house, parts of houses or buildings, flats or any other erection on land, anything attached to the earth or permanently fastened to any other thing attached to the earth and any

right or interest in or over land or any benefit to arise out of any land, space or anything or everything on, over or under it;

“land to which this Act applies” means land which is not held in undivided shares;

“local authority” means, in relation to a parcel, the local body governing the area in which the parcel is situated;

“owner” means—

(a) any person whether corporate or unincorporate or having title to the land whose title is not qualified by the existence in favour of any other person of any other interest whether vested or contingent other than—

(i) an encumbrance, or

(ii) any interest arising by reason only of any *lis pendens*, or of any seizure under the Civil Procedure Code or of any order or decree which has not been executed;

Cap. 101.

(b) in relation to any land which is subject to a trust, includes the trustee of the land if, but only if, the trustee is empowered by the instrument creating the trust to sell the land free of the trust and such power of sale is not otherwise restricted,

but does not include a person whose title is in any manner whatsoever subject to defeasance;

“parcel” means the land comprised in a Condominium Plan;

“property” means the land comprised in a Condominium Plan including buildings thereon;

“regulations” mean the regulations made by the Minister under this Act;

“unanimous resolution” means a resolution unanimously passed at a duly convened meeting of the body corporate at which all persons entitled to exercise the powers of voting

14 *Condominium Property Act, No. 12 of 1970*

conferred by this Act or the by-laws are present personally or by proxy at the time of the motion;

“ unit ” means an area designated as a unit by a Condominium Plan;

“ unit factor ” means the unit factor for a unit as specified or apportioned in accordance with paragraph (b) of sub-section (2) of section 3 or sub-section (5) of section 8, as the case may be.

FIRST SCHEDULE

Duties of
owner.

1. An owner shall—

- (a) permit the body corporate and its duly authorized agents, at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his unit for the purpose of inspecting the unit and maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the unit and capable of being used in connection with the enjoyment of any other unit or common property, or for the purpose of maintaining, repairing or renewing common property, or for the purpose of ensuring that the by-laws are being observed;
- (b) forthwith carry out all work that may be ordered by any public or local authority in respect of his unit, other than such work for the benefit of the building generally, and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his unit;
- (c) repair and maintain his unit, and keep 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 owners or the members of their families or visitors;
- (e) not use his unit or permit it to be used in any manner or for any purpose that will cause a nuisance or hazard to any occupier of a unit (whether an owner or not) or the family of such occupier;
- (f) notify the body corporate forthwith upon any change of ownership or of any mortgage or other dealing in connection with his unit.

Duties of
body
corporate.

2. The body corporate shall—

- (a) control, manage, and administer the common property for the benefit of all owners;

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

3. The body corporate may—

- (a) purchase, hire or otherwise acquire personal property for use by owners in connection with their enjoyment of common property;
- (b) make an agreement with any owner or occupier of a unit for the provision of amenities or services by it to that unit or to the owner or occupier thereof;
- (c) grant to an owner the right to exclusive use and enjoyment of a particular portion of the common property, or special privileges in respect thereof, but any such grant being determinable on reasonable notice unless the body corporate by unanimous resolution otherwise resolves; and
- (d) do all things reasonably necessary for the enforcement of the by-laws and the control, management and administration of the common property.

Powers of
body
corporate.

4. (1) The powers and duties of the body corporate shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the Board of Managers of the body corporate. A meeting of the Board at which a quorum is present shall be competent to exercise all or any of its authorities, functions or powers.

Board of
Managers.

(2) At each annual general meeting of a body corporate there shall be elected a Board consisting of not less than two or more than seven owners; one of the owners so elected to the Board shall be elected as Chairman of the Board at such meeting. There may be elected such other office-bearers as may be deemed necessary. The Chairman elected at such meeting shall be the chief executive officer of the body corporate.

(3) Except where the Board consists of all the owners, the body corporate may by resolution at an extraordinary general meeting remove any member of the Board before the expiration of his term of office and appoint another owner in his place to hold office until the next annual general meeting.

16 *Condominium Property Act, No. 12 of 1970*

(4) Any casual vacancy on the Board may be filled by the remaining members of the Board.

(5) Except where there is only one owner, a quorum of the Board shall be two, where the Board consists of two to four members, three, where it consists of five or six members four, and five where it consists of seven members.

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

(7) In the absence of the duly elected Chairman, the Board shall at the commencement of a meeting appoint a chairman to preside over that meeting.

(8) At meetings of the Board all matters shall be determined by simple majority vote.

(9) The Board may—

(a) meeting together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit, but shall meet when any member of the Board gives to the other members not less than seven days' notice of a meeting proposed by him, specifying the reason for calling the meeting;

(b) employ for and on behalf of the body corporate such agents and servants as it thinks fit in connection with the control, management and administration of the common property, and the exercise and performance of the powers and duties of the body corporate;

(c) subject to any restriction imposed or direction given at a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.

(10) The Board shall—

(a) keep minutes of its proceedings;

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

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

(d) cause proper books of accounts to be kept in respect of all sums of money received and expended by it and the matters in respect of which such receipt and expenditure take place;

(e) prepare proper accounts relating to all assets and liabilities of the body corporate, and the income and expenditure thereof, for each annual general meeting;

- (f) on application of an owner or mortgagee, or any person authorized in writing by him, make the minutes of general meetings, records of unanimous resolutions, books of account and records relating to books of account available for inspection at all reasonable times;
- (g) have its own fund and all moneys received by the Board shall be payable into such fund and placed to the credit of the Board bearing the name of that fund at a bank approved by the body corporate;
- (h) pay into the fund of the Board all such sums of moneys as may be received by the Board under section 15;
- (i) pay out of the fund of the Board all sums of moneys incurred for administrative expenses, payment of insurance, rates and taxes and any other sum from time to time incurred by the Board to meet any obligations of the body corporate;
- (j) have its accounts in such form and manner as may be directed by the body corporate and the accounts of the Board shall be audited in like manner as may be directed by the body corporate.

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

5. (1) A general meeting of owners shall be held within one month from the date of registration of the Condominium Plan. If no such meeting is held as aforesaid, the Commissioner shall summon such meeting. Meetings.

(2) Subsequent 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 that of the next.

(3) All general meetings other than the annual general meeting shall be called extraordinary general meetings.

(4) (a) The Board may whenever it thinks fit and shall upon a requisition in writing made by owners representing twenty-five *per centum* of the total unit factors for the units, convene an extraordinary general meeting.

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

(5) Subject to the provisions of the by-laws relating to special resolutions, seven days' notice of every general meeting specifying the place, the date and the hour of the meeting and in case of special business the general nature of that business,

18 *Condominium Property Act, No. 12 of 1970*

shall be given to all owners and registered first mortgagees who have notified their interests to the body corporate; but accidental omission to give the notice to any owner or to any registered first mortgagee or non-receipt of the notice by any owner or by any registered first mortgagee shall not invalidate any proceedings at any such meeting.

Conduct of
business.

6. (1) All business shall be deemed special that is transacted at an annual general meeting with the exception of the consideration of accounts and election of members to the Board or at an extraordinary general meeting.

(2) Except as otherwise provided in these by-laws no business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(3) One-half of the number of persons entitled to vote present in person or by proxy shall constitute a quorum.

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

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

(6) At the commencement of a general meeting, a chairman of the meeting shall be elected.

(7) At any general meeting resolutions may be passed by a simple majority vote, except where it is otherwise required by or under the Act.

(8) 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 owner present in person or by proxy.

(9) Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

(10) A demand for a poll may be withdrawn.

(11) 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.

(12) In the case of equality in the votes, whether on a show of hands or on a poll, the question shall be determined in the negative.

7. (1) On a show of hands each owner has one vote.

Voting, &c.

(2) On a poll the owners have the same number of votes as the unit factor of their respective units.

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

(4) 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.

(5) A proxy need not be an owner.

(6) Except in cases where by or under the Act an unanimous resolution is required, no owner shall be entitled to vote at any general meeting unless all contributions determined as payable under sub-section (1) (b) of section 15 in respect of his unit have been duly paid.

(7) Co-owners may vote by proxy jointly appointed by them, and in the absence of such a proxy shall be not entitled to vote on a show of hands, except when the unanimous resolution of owners is required by the Act.

(8) On any poll each co-owner is entitled to such part of the vote applicable to a unit as is proportionate to his interest in the unit.

(9) The joint proxy (if any) on a poll shall have a vote proportionate to the interests in the unit of such of the joint owners as do not vote personally or by individual proxy.

(10) Where owners are entitled to successive interests in a unit, the owner entitled to the first interest only shall be entitled to vote, whether on a show of hands or a poll; and whether by the Act the unanimous resolution of owners is required or not.

(11) Where an owner is a trustee he shall exercise the voting rights in respect of the unit to the exclusion of persons beneficially interested in the trust, and such persons shall not vote.

8. (1) The common seal of the body corporate shall at no time be used except by authority of the Board previously given and in the presence of the members of the Board or at least two members thereof, who shall sign every instrument to which the seal is affixed, but where there is only one member of the body corporate his signature shall be sufficient for the purpose of this clause.

Common seal of
body corporate.

(2) The Board shall make provision for the safe custody of the common seal.

9. The by-laws in the Second Schedule may be amended by special resolution of the body corporate and not otherwise

Amendment of
by-laws.

20 *Condominium Property Act, No. 12 of 1970*

Special
resolutions.

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

Interpretation.

11. In these by-laws, " the Act " means the Condominium Property Act of 1970.

SECOND SCHEDULE

Restrictions
on owners.

1. An owner or occupier shall not—

- (a) use his unit for any purpose that may be illegal or injurious to the reputation of the building;
- (b) make undue noise in or about any unit or common property; and
- (c) keep any animal on his unit or the common property after notice in that behalf from the Board.

Use of unit.

2. Where the purpose for which a unit is intended to be used is shown expressly or by necessary implication or by the registered Condominium Plan, an owner shall not use his unit for any other purpose, or permit the unit so to be used.