

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly
88—04—09



GUYANA

BILL No. 8 of 1988

CONDOMINIUM (REGULATION AND MISCELLANEOUS
PROVISIONS) BILL 1988

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A BILL

Intituled

AN ACT to regulate the division of properties into parts that are to be owned individually and parts that are to be owned in common and to make provision for the use and management of such properties; to make provision for the assignment of certain properties owned by the Government, etc. to the tenants thereof; and for matters connected therewith.

A.D. 1988 Enacted by the Parliament of Guyana :-

PART 1

PRELIMINARY

Short title,
commence-
ment and
application.

1. (1) This Act may be cited as the Condominium (Regulation and Miscellaneous Provisions) Act 1988 and shall come into operation on such date as the Minister may appoint by order.

(2) This Act shall apply also to condominiums constructed or to be constructed by the Government under a condominium scheme.

Interpreta-
tion

2. (i) In this Act —

- (a) “approved condominium scheme” means a condominium scheme approved or deemed to be approved, by the Minister under section 6;
- (b) “Board of Management”, in relation to any property, means the Board of Management of the body corporate established with reference to the property;
- (c) “body corporate”, in relation to any property, means a body corporate established under section 16;
- (b) “building” means any building or buildings to which a condominium scheme applies and forming part of a property;
- (e) “by-laws”, in relation to any property, means the by-laws made by the body corporate established with reference to that property, and includes, where the property is owned by a company, the articles of association of the company;
- (f) “common expenses”, in relation to a property, means all sums levied in accordance with this Act against unit proprietors by the body corporate established with reference to that property and includes —
 - (i) the expenses of the management of the property;
 - (ii) any expenses, other than the expenses referred to in paragraph (i), declared to be

common expenses by or under this Act, the condominium scheme or the by-laws applicable thereto; and

- (iii) any other expenses declared to be common expenses by the body corporate;
- (g) “common property”, means that part or parts of a property designated as common property in a condominium scheme;
- (h) “company” has the same meaning as in the Cap. 89:01 Companies Act;
- (i) “condominium” means any building divided units, each unit being attached to, or dependent to a substantial degree on, the other units forming the building for support, shelter or easements relating to services referred to in sections 26, 27 or 28, irrespective of whether the units of the condominium belong to different persons or one person;
- (j) “condominium scheme” or “scheme” means a scheme in relation to a condominium;
- (k) “management” in relation to a property, means the control, management and administration thereof, and includes the maintenance, repair replacement and improvement of the common property;
- (l) “prescribed” means prescribed by regulations made by the minister.
- (m) “property” means any land to which a condominium scheme relates and the building thereon, together with all other structures, installations, fixtures, easements, rights and appurtenances belonging to or enjoyed with such land and building;
- (n) “Registrar” has the same meaning as in the Cap. 5:01 Deeds Registry Act;
- (o) “unit” means part of a building which —
 - (a) is described as a unit by the condominium scheme relating to the property of which the building forms part; and

- (b) has direct access to a public road or public place or to common property leading to a public road or public place, and includes —
- (i) a balcony, terrace or patio; and —
 - (ii) any place or construction specified in the scheme as being contained within the limits and boundaries of the unit, or forming part thereof whether or not contiguous therewith;
- (p) “unit entitlement” means the unit entitlement of a unit fixed in accordance with section 10 (c);
- (q) “unit proprietor” means the person registered as proprietor of a unit in accordance with this Act. and includes any person lawfully entitled to exercise any of the powers of a unit proprietor.

(2) A reference in this Act to construction of any building under a condominium scheme shall be deemed to include a reference to conversion of any existing building into units.

PART II

CONDOMINIUMS GENERALLY

Approval And Registration of Condominium Schemes

Approval of Minister required for condominium scheme.

3.(1) Where after the commencement of this Act it is proposed to construct on any land any condominium, or to convert any existing building into a condominium, for residential, business or commercial purposes, or any combination of such purposes, a condominium scheme in relation thereto shall be submitted to the Minister for approval by the promoter, or, if there are more promoters than one, by all the promoters of the scheme.

Particulars of condominium scheme.

4.(1) A condominium scheme submitted for the approval of the Minister under section 3 may be in several parts, shall have annexed thereto, besides the drawings, plans and estimates referred to below, such drawings, plans and schedules as may be prescribed or may be deemed necessary or convenient by the promoter or promoters of the scheme and shall contain or have annexed thereto the following —

- (a) a title or heading describing it as a condominium scheme;

- (b) a statement of the interests which the promoter or promoters of the scheme have in the property;
- (c) a statement expressly declaring the property comprised in the scheme to be subject to the provision of this Act;
- (d) a description of the land comprised in the scheme sufficient to identify it, and its location, precisely, with a survey plan thereof prepared and certified by a land surveyor;
- (e) a description of the building, including its location in relation to the land comprised in the scheme, the number of storeys, basements, cellars and units;
- (f) the principal materials of which the building is proposed to be constructed or, in the case of the conversion of an existing building into a condominium, the principal materials of which the existing building is constructed and proposed to be used for its conversion into a condominium;
- (g) a description of every unit by reference to its number or other symbol, location, approximate floor area and limits and boundaries defined in accordance with section 10 (a) and any other data necessary for its proper identification, with copies of the drawings or plans of the building prepared in accordance with the requirements of section 10 (d);
- (h) an estimate, with necessary particulars, of the cost of construction of the building, where a new building is proposed to be constructed, or, in the case of the conversion of an existing building into a condominium, of the present value of the building and the cost of its conversion into a condominium;
- (i) a description by reference to location, area and limits and boundaries of the common property with a plan thereof prepared by a land surveyor;
- (j) a statement of covenants, conditions, and restrictions affecting the use, occupancy and transfer of each unit in the building;
- (k) a statement of the financial resources and experience of the promoter or promoters of the scheme; and
- (l) such other particulars as may be prescribed.

(2) Where the plan of a building proposed to be constructed under a condominium scheme is required by any written law to be approved by any authority other than the Minister, then, the condominium scheme shall be submitted by the promoter or promoters thereof for the approval of the Minister only after the plan for the building has been approved by that authority.

(3) A condominium scheme submitted for the approval of the Minister under section 3 shall be accompanied by such fees as may be prescribed.

Cap. 97:01

(4) In this section "land surveyor" has the same meaning as in section 2 of the Land Surveyors Act.

Approval of condominium scheme.

5. (1) Where the Minister is satisfied that a condominium scheme is consistent with the provisions of this Act and any other written law applicable thereto and is in the public interest, he may, by order, approve the scheme and if he is not so satisfied he may reject the scheme:

Provided that the Minister may, within a period of six months after the submission of a condominium scheme for his approval, and not thereafter, direct the promoter or promoters of the scheme to amend it in such manner as may be specified by the Minister.

(2) Without prejudice to the provisions of subsection (1), in approving or rejecting a condominium scheme the Minister shall have regard to the financial resources and experience of the promoter or promoters of the scheme.

(3) It shall be lawful for the Minister, before approving or rejecting a condominium scheme to direct the promoter of the scheme to furnish to the Minister or any other person specified by him, within such time as may be specified by the Minister, such particulars or clarifications, in respect of the scheme, as may be specified by the Minister and where the promoter refuses or fails to comply with the direction within the time so specified, the Minister may reject the scheme.

(4) No condominium scheme shall be rejected by the Minister under subsection (1) unless the promoter or the promoters have been given a reasonable opportunity of being heard.

Time limit for approving condominium scheme.

6. (1) The Minister shall decide before the expiry of a period of six months, from the date of the submission of a condominium scheme, whether he approves or rejects the scheme or whether the scheme requires amendment and where the Minister does not, within that period, communicate to the promoter, or, if there are more promoters than one, to one of the promoters, of the scheme, in the prescribed manner,

his decision to reject the scheme or his direction for its amendment the scheme shall be deemed to have been approved by the Minister.

(2) Where an amended condominium scheme is submitted to the Minister pursuant to a direction by him under the proviso to section 5 (1), the Minister shall decide before the expiry of three months from the date of the submission thereof whether he approves or rejects the scheme as amended and where the Minister does not within that period communicate to the promoter, or, if there are more promoters than one, to one of the promoters, of the scheme, in the prescribed manner, his decision to reject the amended scheme, the amended scheme shall be deemed to have been approved by the Minister.

(3) Every approval or rejection of a condominium scheme, or a direction to amend it, by the Minister shall be communicated to the promoter, or, if there are more promoters than one, to any one of the promoters, who submitted the scheme for approval, in such manner as may be prescribed.

7. (1) No person shall, unless a condominium scheme has been approved,

- Restriction on doing of certain things under condominium scheme unless scheme approved.
- (a) start the construction of any building, or the conversion of any existing building into units, under that scheme;
 - (b) accept any sum of money from any person for or in connection with the sale of any unit of the building including as an advance towards the price of any such unit or as a deposit under any agreement to sell the unit; or
 - (c) do any other thing under the scheme.

(2) When approving a condominium scheme the Minister may impose such conditions as he thinks fit and without prejudice to the generality of the foregoing, and in particular, where the promoter or promoters of the scheme seek to accept, from the prospective purchasers of units, or the public, deposits of sums of money, such conditions as in the opinion of the Minister are necessary to safeguard the interests of the persons from whom the deposits of money are received by the promoter or promoters, including conditions relating to payment of such sums to an account to be maintained by the promoter or promoters for that purpose in a bank, restricting withdrawals from that account to meet the expenses of executing the scheme, maintenance of proper accounts by the promoter or promoters and auditing of such accounts at such intervals as may be specified by the Minister.

(3) Without prejudice to the provisions of subsection (2), the approval by the Minister of a condominium scheme shall be subject to such conditions as may be prescribed.

Approved
condominium
scheme
required to
be registered.

8. (1) An instrument describing an approved condominium scheme shall, as soon as may be after the completion of the construction of the building under the scheme, be submitted to the Registrar for registration by the promoter or promoters of the scheme or the owner or owners of one or some or all of the units of the building:

Provided that where an instrument describing a condominium scheme is presented for registration only by the promoter or promoters of the scheme or by the owner or owners of one or some of the units of the building, notice of the application for registration shall be given, in such manner as may be prescribed, to the owners of the units of the building, who have not joined in the application for registration, giving them a reasonable opportunity of being heard in respect of the ownership of the units of the building.

(2) An instrument describing a condominium scheme shall contain —

- (a) the particulars referred to in section 4 (1) as approved by the Minister;
- (b) a schedule specifying the unit entitlement of each unit expressed in the manner specified in section 10 (c);
- (c) the names and addresses, and such other particulars as may be prescribed, of the proprietor of each unit of the building;
- (d) the name of the body corporate, the appropriate number of the condominium scheme to be inserted by the Registrar upon the registration of the said scheme, as provided in section 9 (1);
- (e) the by-laws applicable to the property;
- (f) any other matter (not inconsistent with this Act) relating to the property which the person or persons executing the instrument think desirable and which the Registrar approves;
- (g) a statement of the manner in which, and the conditions subject to which, the scheme may be amended by the unit proprietors, the amendment being not inconsistent with this Act;
- (h) such particulars as may be prescribed.

(3) Every application under subsection (1) for the registration of an instrument describing a condominium scheme shall be accompanied by the order of the Minister approving the scheme, except where

the scheme is deemed to be approved by the Minister under section 6 (1) or (2).

(4) In this section owner of a unit of a building means a person who shall be the owner of the unit but for the provisions of section 12 (3).

9. (1) Where the Registrar is satisfied that —

Registration of condominium scheme.

- (a) the condominium scheme has been approved by the Minister under section 5 or is to be deemed to be approved by the Minister under section 6; and
- (b) the instrument of the condominium scheme is in accordance with the provisions of this Act,

he may register the instrument of the condominium scheme and insert in the blank space provided therefor in that instrument the appropriate number of the scheme.

(2) Where the instrument of the condominium scheme is not in accordance with the provisions of this Act, and the Registrar deems it just and proper to do so, he may return it to the person or persons, who have presented it for registration, for amending it, so as to conform to the provisions of this Act, and presenting it again for registration.

(3) An instrument describing a condominium scheme shall not be registered by the Registrar until the scheme has been approved by the Minister.

(4) No instrument describing a condominium scheme which is presented to the Registrar for registration under section 8 shall be refused to be registered unless the Registrar has given to the person or persons, who presented it for registration, a reasonable opportunity of being heard.

10. In any condominium scheme submitted under section 3 for the approval of the Minister or instrument describing a condominium scheme submitted under section 8 to the Registrar for registration —

Certain matters relating to preparation of condominium scheme and instrument describing condominium scheme

- (a) the limits and boundaries of each unit under the scheme shall, so far as is practicable, be defined by reference to floor, walls and ceilings and, unless the scheme otherwise provide, the common boundary of a unit with another unit or with the common property shall be the line that passes at every point through the centre of the thickness of the floor, wall or ceiling, as the case may be;

- (b) the limits and boundaries of the common property shall be defined in accordance with regulations made by the Minister;
- (c) the unit entitlement of a unit under the scheme shall be expressed as a fraction or percentage and shall be fixed either —
 - (i) as the approximate proportion which the estimated price of the unit at the date of the submission of the scheme under section 3 for the approval of the Minister bears to the then aggregate estimated price of all the units under the scheme taken together; or
 - (ii) as the approximate proportion which the floor area of the unit bears to the aggregate floor area of all the units taken together and the estimated price referred to in paragraph (i) shall reflect any substantially exclusive advantages which may be enjoyed by one or more, but not all, unit proprietors in any part of the common property;
- (d) the drawings and plans required to be attached to the scheme shall —
 - (i) be a complete set of drawings and plans of each floor, basement and cellar of the building;
 - (ii) describe each unit by reference to its layout, location, designation and approximate dimensions.

Application
of Land
Surveyors
Act.
Cap. 97:01

11. (1) The provisions of the Land Surveyors Act shall apply to any plan or drawing, in respect of any land, prepared or furnished under this Act to the extent to which those provisions are not inconsistent with the provisions of this Act.

- (2) Where any doubt arises as to whether in a particular case —
 - (a) the provisions of the Land Surveyors Act; or
 - (b) the provisions of this Act,

have been complied with in relation to any plan or drawing in respect of any land, the signature of approval of the Superintendent of Surveys on the plan or drawing shall be *prima facie* evidence that in relation to the plan or drawing the aforesaid provisions have been complied with sufficiently so as to authorise the Registrar to register the condominium scheme to which it relates.

12. (1) When an instrument describing a scheme is registered it shall be binding on the proprietors of all the units of the building to which it relates and shall constitute constructive notice of its provisions to subsequent purchasers and all other persons.

Consequences of registration and non-registration of condominium scheme.

(2) Upon the registration of an instrument describing an approved condominium scheme —

- (a) the building comprised in the scheme shall be deemed to be divided into units, each unit having such limits and boundaries as are described in the instrument describing the scheme;
- (b) every person mentioned in the scheme as the owner of any unit of the building shall, notwithstanding anything contained in any other written law, be deemed to be registered as the proprietor of the unit;
- (c) the common property described in the scheme shall be held in undivided shares by all the unit proprietors in accordance with section 24 (1).

(3) Unless an instrument describing an approved condominium scheme has been registered by the Registrar, the division of any property purported to be effected by the scheme shall be of no effect and any purported transfer or other disposition of any unit or land comprised in the scheme shall be null and void.

13. (1) An approved condominium scheme may be amended with the approval of the Minister.

Amendment of approved condominium scheme.

(2) Every amendment of an approved condominium scheme shall, within six months of the amendment, be registered with the Registrar and unless so registered the amendment of the scheme shall not be valid and shall not in any way affect the property to which the scheme relates:

Provided that the aforesaid period of six months may be extended by the Minister for good and sufficient reason.

(3) The procedure for the amendment of an approved condominium scheme and the registration of the amendment shall be such as may be prescribed.

14. (1) Within six months after the date on which this Act comes into operation the owner or owners of the units of every condominium existing on the aforesaid date shall prepare an instrument describing a condominium scheme in respect of that condominium and submit the scheme to the Registrar for registration.

Condominium schemes for existing condominiums.

(2) A condominium scheme referred to in subsection (1) shall not require the approval of the Minister under this Act.

property, as if the scheme were an approved condominium scheme under subsection (1) shall contain the particulars referred to in section 8(2).

(4) Where the Registrar is satisfied that the scheme contains the particulars referred to in section 8(2) and is otherwise in accordance with the provision of this Act, the Registrar shall register the scheme and on such registration, save as otherwise provided in this Act, the provisions of this Act shall apply to, and in relation to, the condominium scheme, the property to which the scheme relates and the proprietor of every unit of the building forming part of the property, as if the scheme were an approved condominium scheme registered under section 9.

(5) Where the owner or owners of the units of any condominium referred to in subsection (1) refuse or fail to comply with subsections (1) and (3), each one of them who wilfully refuses or fails to do so shall on summary conviction be liable to a fine of five thousand dollars, and for every day, after the first day, on which such wilful refusal or failure continues to a further fine of five hundred dollar for each such day.

(6) A complaint for an offence under subsection (5) shall be made only by a public officer authorised by the Minister in that behalf

(7) Without prejudice to the provisions of subsection (5), every transfer of the whole or any part of any condominium referred to in subsection (1) after the coming into operation of this Act shall be null and void if made before the instrument describing a condominium registered by the Registrar under subsection (4).

Fees for registration.

15. (1) There shall be paid to the Registrar such fee as may be prescribed for the registration of an instrument describing a condominium scheme or any amendment thereto.

Cap. 36:20

(2) Notwithstanding anything contained in subsection (1), the Minister may by order direct that no fees shall be payable under that subsection for the registration of any instrument describing a condominium scheme owned or promoted by the Government, any local Government authority, the Central Housing and Planning Authority constituted under the Housing Act or any corporate body owned by, or in which the controlling interest vests in, the State or any agency on behalf of the State.

Body Corporate and Board of Management

Incorporation.

16. (1) Upon registration of a condominium scheme under this Act, the proprietors from time to time, of all the units under

the scheme shall be deemed to be established as a body corporate with the name and number referred to in section 8 (2) (d).

(2) The provisions of any enactment relating to the incorporation and winding up of companies shall not apply to any body corporate referred to in subsection (1).

(3) Subject to the provisions of this Act, the Minister may by order supply to a body corporate any provision of the Companies Act with such modifications, exceptions and qualifications, as he may specify in the order. Cap. 89:01

(4) An order under subsection (3) shall be subject to negative resolution of the National Assembly.

17. (1) The provisions of section 16 shall not apply in respect of a condominium scheme where and so long as the whole of the property under the scheme is owned by — When body
corporate
not estab-
lished.

- (a) a company or other corporate body; or
- (b) the Government, any local government authority or one individual.

(2) In any case where the whole of the property under a condominium scheme is owned by a company or other corporate body, the Board of Directors of the company or the management committee of the corporate body, by whatever name called, shall be responsible for complying with the provisions of the scheme and this Act in respect of that property.

(3) Where the whole of the property under a condominium scheme is owned by the Government, a local Government authority or one individual, it or he shall be responsible for complying with the provisions of the scheme and this Act in respect of that property.

(4) In a case referred to in subsection (1), with effect from the date on which any unit in the property ceases to be held by the company, other body, corporate, the Government, the local Government authority or the individual, as the case may be, the proprietors of all the units under the scheme shall be deemed to be established as a body corporate under the name "The proprietors, Condominium Scheme No (the appropriate number of the scheme as given by the Registrar under section (9) (1) to be inserted in the blank space)" and the other provisions of this Act shall apply accordingly.

By-laws of
body corpo-
rate.

18. (1) Subject to the provisions of this Act, every body corporate shall make by-laws in relation to the management of its affairs and the affairs of its Board of Management and the management of the property with reference to which it is established.

(2) Without prejudice to the provisions of subsection (1), the by-laws made by a body corporate may, in particular, provide for all or any of the following matters —

- (a) the procedure for the transaction of the business of the body corporate, including the quorum for its meetings and the procedure in relation to special and other resolutions;
- (b) the date within which the annual general meeting shall be held;
- (c) the constitution, and the procedure for the election of the members of its Board of Management;
- (d) the procedure for removal from office of members of the Management Board;
- (e) the functions of the Board of Management;
- (f) the procedure for the transaction of the business of the Board of Management including the quorum for its meetings.
- (g) the management of the property of the body corporate by the Board of Management;
- (h) the determination and manner of collection from unit proprietors of common expenses in relation to the said property;
- (i) the rate of interest payable to the Board of Management on unpaid contributions from a unit proprietor;
- (j) such requirements and restrictions respecting the maintenance and use of units and the use of common property, not set fourth in the condominium scheme, as are designed to prevent unreasonable interference with the use of units by persons entitled to use them, or restricting the use of certain parts of the common property exclusively to persons entitled to use certain units;

(k) such other matter as may be prescribed.

(3) Every unit proprietor under any condominium scheme and the body corporate established with reference to that scheme shall be bound by the by-laws made or deemed to be made by the body corporate.

(4) Subject to the provisions of this Act, the by-laws made by a body corporate may prescribe the consequences of non-compliance with any by-law by a unit proprietor, who is a member of the body corporate, or by the body corporate.

(5) The by-laws made or deemed to be made by a body corporate shall not be amended or repealed except by special resolution.

(6) The by-laws made by a body corporate and any amendment or repeal thereof shall not come into operation unless and until registered with the Registrar.

(7) Save as may otherwise be specifically provided by by-laws made by a body corporate established with reference to a condominium scheme, the by-laws set out in the Schedule shall have effect in relation to the property to which that condominium scheme relates, the body corporate and its Board of Management as if they were by-laws made by the body corporate.

(8) There shall be to the Registrar such fees as may be prescribed for the registration of the by-laws made by a body corporate and any amendment or repeal of those by-laws.

19. (1) Any powers of voting conferred by or under this Act may be exercised

Voting rights.

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

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

(2) Where on the application of a body corporate or any unit proprietor the High Court is satisfied that there is no person able, or that no person can be traced who is able, to vote in accordance with subsection (1), the High Court —

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

(b) may, in any other case,

(a) such other matter as may be prescribed

(b) Every such provision shall be deemed to be made by the body corporate

(c) Subject to the provisions of this Act, the provisions of a body corporate may be varied or amended in any manner which may be deemed to be made by a body corporate

(d) The provisions of a body corporate may be varied or amended in any manner which may be deemed to be made by a body corporate

(e) The provisions of a body corporate may be varied or amended in any manner which may be deemed to be made by a body corporate

(f) Where an order is made by a body corporate for the variation or amendment of its provisions, the order shall be deemed to be made by a body corporate

(g) There shall be no effect in law as if any provision of a body corporate were amended or repealed by any other provision of a body corporate

(h) Any provision of a body corporate which is amended or repealed by any other provision of a body corporate shall be deemed to have been amended or repealed by that other provision

(i) In the case of a body corporate, the provisions of a body corporate shall be deemed to be made by a body corporate

(j) Where an order is made by a body corporate for the variation or amendment of its provisions, the order shall be deemed to be made by a body corporate

(k) Where an order is made by a body corporate for the variation or amendment of its provisions, the order shall be deemed to be made by a body corporate

(l) Where an order is made by a body corporate for the variation or amendment of its provisions, the order shall be deemed to be made by a body corporate

(m) Where an order is made by a body corporate for the variation or amendment of its provisions, the order shall be deemed to be made by a body corporate

Improvements of Laws...

(v) The exercise of any other...
by the corporation...

...of any part thereof...
to the corporation...

...to be raised for...
to the corporation...

...the amount of...
on the part of...

...shall be...
in any one...

(i) exercise the powers of...
in relation to...
the members of the...
in relation to the...
of the provisions of...
for the purpose of...
of the provisions of...
of the provisions of...

(ii) exercise any other powers...
of the provisions of...

All powers...
of the provisions of...
of the provisions of...
of the provisions of...

i) the establishment of reserves for capital improvements or renewals of common property; and

(iv) the discharge of any other obligations of the body corporate or the Board of Management.

(b) expend sums of money for repairs or other work undertaken by it in respect of the property or any part thereof and which it is required or entitled to undertake under this Act or the condominium scheme, or for complying with any notice or order issued by a competent public authority;

(c) determine from time to time amounts of money to be raised for the purpose referred to in paragraphs (a) and (b);

(d) raise the amounts of money as determined under paragraph (c) by levying contributions on the unit proprietors in proportion to the unit entitlement of their respective units;

(e) employ such staff as it thinks necessary to carry out its functions;

(f) receive the proceeds of any insurance taken out by the Board of Management in respect of the property in trust for the unit proprietors, who are members of the body corporate, in proportion to their respective interests and, subject to the provisions of the Act, apply the same for the repair or reconstruction of the whole or part of the building or for such other purposes as may be determined by the body corporate;

(g) exercise any other powers conferred on the body corporate or the Board of Management by the condominium scheme in respect of which it is established or the by-laws applicable thereto.

(3) All agreements, decisions and determinations lawfully made by a Board of Management of a body corporate in accordance with this Act, the relevant condominium scheme and the by-laws made by the body corporate shall be binding on all unit proprietors who are members of the body corporate.

22. (1) Every body corporate and Board of Management shall maintain an office in the property in relation to which the body corporate and Board of Management is established.

Service of documents on body corporate or Board of Management.

(2) There shall be provided and fixed at a prominent and easily accessible place of the office —

- (i) a notice board; and
- (ii) a receptacle suitable for the purposes of receiving letters and other articles by post or otherwise.

(3) Every body corporate and Board of Management shall nominate a person to receive the service of summonses, notices or other processes and the name and place of residence or business (which shall be located within twenty miles from the property in respect of which the body corporate or the Board of Management is established) of such person shall be —

- (a) exhibited on the notice board referred to in subsection (2);
- (b) registered with the Registrar upon the payment of such fee as may be prescribed; and
- (c) published in the **Gazette**.

23. (1) Every proprietor or mortgagee of a unit or any other person having an interest in any unit shall register with the Board of Management in respect of that unit an address for the service of notices upon him.

Service of notice by body corporate or Board of Management.

(2) Any notice which is required to be, or may be, given under this Act by a body corporate or Board of Management to any persons referred to in subsection (1) shall, save as otherwise provided in this Act, be sent by registered post addressed to the person for whom it is intended at the address registered by him with the Board of Management under subsection (1).

(3) When any notice referred to in subsection (2) is sent from Guyana to an address in another country it shall be sent by registered airmail.

(4) Any notice sent under this section by post to an address in Guyana shall, unless otherwise proved, be deemed to be served on the person to whom it is addressed on the seventh day after the day on which the notice is posted, and

any notice sent under this section, by airmail to an address outside Guyana, shall unless otherwise proved, be deemed to be served on the person to whom it is addressed on the thirteenth day after the day on which the notice is posted.

Rights and Liabilities of Unit Proprietors

Incidents of ownership of unit.

24. (1) The undivided share of each unit proprietor in the common property under any condominium scheme shall be of the same fraction or percentage of the whole common property as his unit entitlement is of the aggregate of all the unit entitlements under the scheme, and shall be held as a tenant in common with all other persons who are for the time being unit proprietors under the scheme.

(2) Save as otherwise provided in section 41, no share in the common property shall be disposed of except as appurtenant to the unit to which it relates and any disposition of a unit shall operate to dispose of the share of the disposing party in the common property appurtenant thereto, in favour of the person in whose favour the unit is disposed of, without express reference thereto.

(3) Save as otherwise provided by section 44, no unit proprietor under any condominium scheme or other person shall be entitled to bring any action for partition or the division of the whole of any part of or interest in the common property to which the schemes relates.

(4) The unit entitlement under any condominium scheme shall, unless otherwise provided by the scheme or by-laws, determine —

- (a) the proportion of the common expenses payable from time to time as contributions by such unit proprietor; and
- (b) the interest of a unit proprietor in the property upon termination of the application or this Act to the property.

(5) The unit entitlement under any condominium scheme shall have a permanent character and shall not be varied unless all the unit proprietors affected consent thereto in the manner specified by the scheme.

(6) Unless otherwise provided by the scheme, no unit proprietor shall be entitled to subdivide his unit.

25. (1) Subject to the other provisions of this Act, each unit together with the undivided share in the common property held therewith shall for all purposes constitute an interest in land and may be disposed of or dealt with in the same manner and form as land under the Deeds Registry Act.

Transfer of
units.

Cap. 5:01

(2) Every instrument relating to a unit shall include the following particulars —

- (a) description of the property, including a reference to the folio where the scheme is registered;
- (b) the unit number or symbol of the unit and any other data necessary for its proper identification;
- (c) a statement as to the user of the unit and any covenants, conditions and restrictions relating thereto; and
- (d) the unit entitlement.

26. In respect of each unit under a condominium scheme there shall be implied —

Easement
relating to
support.

- (a) in favour of the proprietor of such unit and as appurtenant thereto, and as against other unit proprietors under the scheme, an easement for the subjacent, suprajacent and lateral support thereof by every other unit and by the common property, to the extent to which it is capable of providing such support;
- (b) as against the proprietor of such unit and to which the unit shall be subject, and in favour of every other unit proprietor under the scheme, an easement for the subjacent, suprajacent and lateral support of every other unit and of the common property, to the extent to which the unit is capable of providing it.

27. (1) Every unit proprietor shall be entitled, as appurtenant to his unit, to have the unit sheltered by all such part of the building as are capable of affording shelter.

Easement
relating to
shelter.

(2) The right of shelter created by this section shall be an easement to which all of the said parts as are capable of affording the shelter shall be subject.

Easement
relating to
services.

28. In respect of each unit under a condominium scheme there shall be implied —

- (a) in favour of the proprietor of such unit and as appurtenant thereto, and as against other unit proprietors under the scheme, such easements, as may be provided in the scheme, for passage, or for 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, wire, cables or ducts for the time being existing in the property, including other units, to the extent to which those pipes, wires, cables or ducts are capable of being used for the purpose of enjoyment of those easements;
- (b) as against the proprietor of such unit and to which the same shall be subject, and in favour of every other unit proprietor under the scheme, such easements; as may be provided in the scheme for passage, or for provision of the services mentioned in paragraph (a) through or by means of any pipes, wires, cables or ducts for the time being existing within such unit, to the extent to which those pipes, wires, cables or ducts are capable of being used for the enjoyment of those easements.

Ancillary
rights.

29. All ancillary rights and obligations reasonably necessary to make those easements effective shall apply in respect of any easement implied or created by this Act.

Compliance
with by-laws,
covenants,
restrictions,
etc.

30. (1) Without prejudice to any other provision of this Act every unit proprietor, with reference to any property, his tenants, the employees of such proprietor or tenants, and any other person who in any manner uses the property shall be subject to and shall comply with any by-laws in force relating to the orderly conduct and proper use of the property.

(2) Every unit proprietor and any person deriving any interest in the unit, or the common property appurtenant thereto, from such unit proprietor, shall comply strictly with the covenants, conditions and restrictions set forth in the relevant condominium scheme or in any other instrument relating to the unit, and all such covenants, conditions and restrictions shall run with and bind the unit.

(3) An action to enforce the provision of this section shall be maintainable by the relevant Board of Management or by an aggrieved unit proprietor.

(4) In any action arising from the breach of any by-law referred to in subsection (1) by any person referred to therein, or any covenant, condition or restriction referred to in sub-section (2) by any person referred to therein, the court may, in addition to giving equitable relief by way of an injunction or otherwise, award damages against such person or direct the relevant Board of Management to take such steps as the court thinks reasonable to remedy the breach and to recover from such person any expenses incurred in relation thereto.

(5) In any case of wilful or repeated failure by any person to comply with by-laws, covenants, conditions or restrictions referred to in subsection (1) or (2), on an application made therefor by the relevant Board of Management, the High Court may order such person to give sufficient security with or without surety or sureties for his future compliance with the said by-laws, covenants, conditions or restrictions, as the case may be.

31 (1) A contribution levied by a Board of Management of a body corporate on any unit proprietor, who is a member of it, shall be due and payable by the unit proprietor on the expiry of seven clear days after the service on him of a notice in writing of the levy of such contribution. **Recovery of contributions.**

(2) Any contribution which is not paid by a unit proprietor upon its becoming due from him may be recovered as a debt by the Board of Management levying it.

(3) A unit proprietor shall not be entitled to exempt himself from his liability to make contributions to the Board of Management by waiver of the use or enjoyment of any of the common property or by the abandonment of his unit.

32 (1) Upon the transfer of a unit the transferee shall be jointly and severally liable with the transferor for all unpaid contributions due by the latter to the relevant Board of Management up to the date of the transfer, but a transferee of a unit who makes any payment under this subsection shall be entitled to recover it from the transferor of the unit. **Joint and several liability.**

(2) For the purposes of this section, on the application of any unit proprietor or any person authorised in writing by him, the Board of Management in respect of that unit shall give a certificate stating —

- (a) the amount of any contribution which on the date of such certificate is due and payable to it by such unit proprietor;
- (b) the time within which such contribution is payable, and any such certificate shall, unless otherwise proved.

be conclusive as against such unit proprietor and the Board of Management.

Charge on unit.

33. (1) Subject to subsection (2), any unpaid contribution due from the proprietor of a unit, together with interest thereon at such rate as may be specified in the relevant by-laws, shall constitute a charge on such unit with effect from the date on which the contribution or the interest, as the case may be, becomes payable.

(2) The charge on a unit created by subsection (1) shall not become effective until a notice in writing under the common seal of the body corporate is registered with the Registrar, by the Board of Management of the body corporate, stating —

- (a) the name of the body corporate and the address of the property;
- (b) the reference to the folio in which the relevant condominium scheme is registered;
- (c) the name of the proprietor of the unit and the unit number or symbol of the unit and any other data necessary for its identification;
- (d) the amount due by way of contribution and the date on which it is payable;
- (e) the rate of interest payable on the amount.

(3) A charge created by subsection (1) shall continue in force until —

- (a) all sums by way of contribution and interest is fully paid; or
- (b) the expiry of six years from the date on which a notice in respect of the charge was registered with the Registrar under sub-section (2) or the date on which last payment (if any) was made on account of such contribution or interest thereon, whichever first occur .

(4) Upon payment of all sums, including interest, secured by a charge under subsection (1) the unit proprietor shall be entitled, on demand made to the Board of Management of the relevant body corporate, to a certificate under the common seal of the body corporate in respect of the payment and on the registration of such certificate with the Registrar such charge shall be deemed to be satisfied.

(5) Without prejudice to other rights available to a Board of Management to recover the sums secured by a charge created by subsection (1), section 4 of the Debtors Act shall **mutatis mutandis** apply in relation to the sums so secured on the court awarding a judgment for the sum in favour of the relevant Board of Management. Cap. 6:04

(6) Such fees as may be prescribed shall be payable to the Registrar for the registration of a Notice under subsection (2) or a certificate under subsection (4).

34. A unit proprietor shall have no personal liability for the acts or omissions of the body corporate, of which he is a member, or the Board of Management of the body corporate, and his liability for the common expenses shall be limited to the amounts of the contributions from time to time levied upon him. Extent of liability of unit proprietors.

Insurance of Property

35. (1) Where the Board of Management in relation to a property insures the property in pursuance of section 21 (1) (c), subsections (2) and (3) of this section shall apply notwithstanding anything contained in any other written law relating to insurance for the time being in force. Insurance by body corporate.

(2) The Board of Management, in relation to the property, shall give written notice of any insurance effected by it on the property, and any change in the insurance or the termination thereof, to the proprietor of each unit of the property and, on the written request of the proprietor, or mortgagee, of any unit of the property shall produce for inspection by such unit proprietor or mortgagee, or any person authorised in writing by such unit proprietor or mortgagee, the policy or policies of insurance effected by the Board of Management on the property and the receipt or receipts for the last premium or premiums paid in respect thereof.

(3) Any policy of insurance taken out by a Board of Management in respect of a property under section 21 (1) (c) shall not be taken into account for the purpose of contribution with any other policy of insurance save another policy taken out by the Board of Management under that provision in respect of the same property.

36. (1) Where a property has been insured or not by the Board of Management in relation to that property, the proprietor of a unit of the property may insure the unit in respect of any damage thereto in a sum equal to the amount secured by any mortgage or mortgages of his unit at the date on which any loss referred to in the policy of insurance occurs, and where any such policy of insurance is in force and the contingency mentioned therein arises. — Power of unit proprietor to insure.

- (a) subject to the terms and conditions of the policy of insurance —
 - (i) where there is only one mortgagee whose interest is noticed in the policy of insurance, payment shall be made by the insurer under the policy of insurance to that mortgagee;
 - (ii) where there are more mortgagees than one whose interests are noticed in the policy of insurance, payment shall be made by the insurer under the policy of insurance to those mortgagees in the order of their respective priorities;
 - (iii) the insurer shall be liable to pay under the policy of insurance the value stated in such policy, the amount of the loss or the amount sufficient at the date of the loss to discharge any mortgage or mortgages to which the unit is subject, whichever is the least;
- (b) where the amount paid by the insurer under paragraph (a) equals the amount necessary to discharge any mortgage to which the unit is subject, the insurer shall be entitled to an assignment of that mortgage;
- (c) where the amount paid by the insurer under paragraph (a) is less than the amount necessary to discharge any mortgage to which the unit is subject, the insurer shall be entitled to a submortgage of that mortgage to secure the amount so paid on terms and conditions agreed upon as provided in subsection (4), or, failing agreement, on the same terms and conditions as those contained in the mortgage made by the unit proprietor.

(2) Where a property has not been insured or has been insured for less than its replacement value, by the Board of Management in relation to the property, the proprietor of any unit of the property may insure the unit in respect of any damage thereto in a sum equal to the replacement value thereof or for such replacement value less a sum representing the amount for which his unit is insured under any policy of insurance taken out on the property by the Board of Management, as the case may be.

(3) For the purposes of subsection (2), the amount for which a unit of a property is insured under a policy of insurance taken out in respect of the property by a Board of Management shall be determined by dividing the value for which the property is so insured by the sum of

the unit entitlement of all units of the property and multiplying the quotient by the unit entitlement of the unit first mentioned.

(4) For the purpose of subsection (1)(c) any insurer and any mortgagee or mortgagees may at any time, whether before or after a policy of insurance has been taken out by a unit proprietor in respect of his unit, agree upon the terms and conditions of the submortgage.

(5) Nothing in this section shall be deemed to limit the right of a unit proprietor to insure his unit against risks other than the risks to his unit referred to in subsections (1) and (2).

(6) Any policy of insurance taken out by a unit proprietor under subsections (1) or (2) in respect of his unit shall not be taken into account for the purpose of contribution with any other policy of insurance save another policy taken out by the unit proprietor under that provision in respect of the same unit.

(7) This section shall have effect notwithstanding anything contained in any other written law relating to insurance for the time being in force.

Repair and Reconstruction

37. (1) Where any building to which a condominium scheme applies has sustained any damage which —

- (a) renders less than seventy-five per cent of the accommodation in the building unfit for occupation; or
- (b) is in excess of the damage referred to in paragraph (a) and proprietors of ninety per cent or more of the units in the building have, within sixty days of the event causing the damage, resolved that the building be reconstructed, the Board of Management in relation to the building shall, subject to the provisions of sections 38 and 39, promptly repair or reconstruct the building.

**Repair and
reconstruction
of
building.**

(2) Any sums received under any policy of insurance taken out on the property, of which the building referred to in subsection (1) forms part, on account of the damage to the building, shall be used for the purpose of the repair or reconstruction of the building under this section and any deficiency in the amount required for the repair or reconstruction shall, subject to the provisions of sections 38 and 39, be deemed to be common expenses.

Scheme for
repair or re-
construction
of building.

38. (1) Where in pursuance of section 37 it becomes the duty of the Board of Management of a body corporate to repair or reconstruct any building to which a condominium scheme applies the Board of Management shall without undue delay draw up a scheme for the purpose and submit it for the approval of the body corporate at a meeting called for that purpose.

(2) If a scheme submitted to a body corporate for approval under subsection (1) is approved as submitted or with amendments by a special resolution by the body corporate, it shall be binding on the body corporate all unit proprietors who are the members of the body corporate and the Board of Management of the body corporate.

Settlement
of scheme
by High
Court for
repair or re-
construction
of building.

39. (1) Where a scheme drawn up under section 38 by the Board of Management of a body corporate for the repair or reconstruction of a building is not approved by the body corporate, with or without amendments, by special resolution, the Board of Management shall file a scheme, with an application for its approval, in the High Court which may, after giving the unit proprietors who are members of the body corporate a reasonable opportunity of being heard, settle a scheme for the repair or reconstruction of the damaged building, which, having regard to the rights and interests of such unit proprietors generally, appears to that court to be just and equitable.

(2) A scheme settled by the High Court under subsection (1) may include provision for —

- (a) permitting any unit proprietor, whose unit has been damaged and who does not agree to participate in the scheme, to convey his unit and his interest in the common property to any other unit proprietor or the body corporate in relation to the unit, on the payment of such compensation as the High Court considers just;
- (b) the reconstruction of part only of the building;
or
- (c) the conveyance of the interests of some unit proprietors to other unit proprietors in proportion to their unit entitlement,

(3) In the exercise of its powers under this section, the High Court may make such orders as it thinks necessary or expedient for giving effect to the scheme settled by it, including orders

- (a) directing how insurance moneys received in respect of the damage to the building shall be applied;

- (b) directing such consequential amendments of the relevant condominium scheme and the by-laws of the body corporate with reference to the condominium scheme in such manner as it thinks fit; and
- (c) imposing such terms and conditions as it thinks fit.

(4) Where an application to the High Court is made under this section, any insurer who has effected insurance on the property or any part thereof (being insurance against damage to the building) may appear in person or by attorney-at-law in all proceedings relating to the application as if he were a party thereto.

Management of Property by Administrator

40. (1) The Board of Management of a body corporate with reference to any property, or any judgement creditor of the body corporate or Board of Management, or any person having an interest in any unit may apply to the High Court for the appointment of an administrator for the management of the property. ^{Appointment of administrator and his functions}

(2) The High Court may, after giving the Board of Management, the proprietors of units in the property, the mortgagee of the units and the judgment creditors of the body corporate or Board of Management a reasonable opportunity of being heard, appoint an administrator for an indefinite or fixed period, on such terms and conditions as to remuneration or otherwise as that court thinks fit, for the management of the property.

(3) The remuneration and expenses of any administrator appointed under this section shall be deemed to be common expenses.

(4) An administrator appointed under this section shall, to the exclusion of the body corporate and its Board of Management, exercise all the functions of the body corporate or the Board of Management, or such of those functions as the High Court orders, and may delegate any of the functions so vested in him to any person employed by him.

(5) The High Court may, on the application of an administrator appointed under subsection (1) in respect of any property or any other person referred to in that subsection in relation to that property, remove or replace the administrator.

Sale and Partition of Property

41. (1) The sale of the whole of the property, or any part of the common property, of a condominium scheme may be authorised —

Procedure
and conse-
quences of
sale.

- (a) by a vote in favour of such sale by unit proprietors under the scheme, who own eighty per cent, or such greater percentage as is specified in the condominium scheme, of the aggregate of the unit entitlements of all the units in the property; and
- (b) with the consent of all the persons having claims against the property or part of the common property, sought to be sold, as the case may be, created after the registration of the condominium scheme and of which the relevant Board of Management has notice.

(2) The sale shall be effected by a deed of transfer executed by all the unit proprietors, who voted in favour of the sale, and such other unit proprietors under the scheme who are willing to join in the execution of the deed of transfer and a release or discharge shall be given by all the persons having claims, against the property or the part of the common property, being sold, created after the registration of the condominium scheme and of which the relevant Board of Management has notice.

(3) Upon the registration of the deed of transfer mentioned in subsection (2) in accordance with the written law in force relating to the registration of such deeds —

- (a) claims against the property or common property sold by the deed, created before the registration of the instrument describing the condominium scheme, applicable to the property shall continue to be as effective as if the scheme had not been registered;
- (b) claims against the property or common property sold by the deed, created after the registration of the instrument describing the said condominium scheme, shall be deemed to be extinguished;

- (c) where only part of the common property is sold, the condominium scheme applicable to the property shall cease to apply to the common property so sold from the date of the registration of the deed of transfer;
- (d) where the whole of the property subject to a condominium scheme is sold, the body corporate in relation to the property shall be deemed to be wound up from the date of the registration of the deed of transfer; and
- (e) where under the deed of transfer the purchasers will own the units separately, the body corporate shall continue to function, but the proprietors who sold the property shall cease to be members thereof from the date of the registration of the deed of transfer and the new proprietors of the units shall become members of the body corporate from the aforesaid date.

(4) Subject to the provisions of subsection (5), each of the proprietors of units in any property or part of common property sold under the preceding subsections shall be entitled to receive a share in the proceeds of the sale in the same proportion as his unit entitlement bears to the aggregate of the unit entitlements of all units of the property.

(5) Where the sale of any property or any part of the common property is made under this section, any unit proprietor who dissented from the decision to effect the sale may elect to have the fair market value of the property, or the part of the common property so sold, at the time of the sale determined by arbitration under the Arbitration Act by serving notice to that effect on the Board of Management of the relevant body corporate within ten days after the vote in favour of the sale under subsection (1) (a), and the unit proprietor who served the notice shall be entitled to receive from the proceeds of the sale the amount he would have received if the sale price had been the fair market value as determined by the arbitration.

Cap. 7:03

(6) Where the proceeds of the sale of any property or any part of the common property authorised to be sold under subsection (1) are inadequate to pay the amount determined under subsection (5) in relation to a unit proprietor who dissented from the decision to effect the sale, each unit proprietor who voted for the sale shall be liable to contribute towards the deficiency in the same proportion as his unit entitlement bears

to the aggregate of the unit entitlements of all units of the property, which, or part of the common property of which, was so authorised to be sold.

Cesser of application of Act of property.

42. (1) Where, on the application of any interested party, the High Court is satisfied that —

- (a) the whole or a substantial part of the building or, if there are more buildings than one, of all the buildings, forming part of any property has been destroyed or damaged and it has been decided by the body corporate in relation to the property not to reconstruct or repair the building under section 37;
- (b) it is proposed by the person or persons entitled to do so —
 - (i) to convert the only building forming part of the property into one unit; or
 - (ii) to demolish the building or, if there are more buildings than one, all the buildings, forming part of the property; or
- (c) circumstances have arisen that, having regard to the rights and interests of the unit proprietors as a whole, it is just and equitable to terminate the application of this Act to the property,

the High Court may by order direct that this Act shall cease to apply to the property from the date of the order or from such other subsequent date as may be specified in the order and thereupon the provisions of this Act shall cease to apply to the property from the date of the order or from the date so specified, as the case may be.

(2) For the purposes of this section, an interested party shall be deemed to be the body corporate in relation to the property, the proprietor of a unit in the property of a mortgagee of any unit in the property.

Effect of order under section 42.

43. Upon the making of an order by the High Court under section 42, in relation to any property to which a condominium scheme applies, the property shall be deemed to be owned in common by all persons who were unit proprietors in relation to the property before the making of the order

and an undivided share in the property shall accrue to each such unit proprietor in the same proportion as his unit entitlement bore to the aggregate of all unit entitlements under the scheme before the making of the order.

44. Where an order has been made under section 42, in relation to any property a majority in number of the proprietors of units in the property may apply to the High Court either — **Application for apportionment of property, etc.**

(a) to apportion so much of the property as remains among the unit proprietors in proportion to their unit entitlements immediately before the date of the order and to direct the Board of Management of the body corporate in relation to the property to effect the necessary transfers of title; or

(b) to order that so much of the property as remains shall be sold and that the net proceeds of the sale together with the proceeds (if any) of insurance policies taken on the property shall constitute one fund which shall be divided by the said Board of Management among all the unit proprietors in proportion to their respective unit entitlements immediately before the date of the order,

and the High Court may, if it considers it just and equitable to do so, allow the application and make such further orders and give such further directions in respect of the application as the High Court thinks fit.

45. (1) Where an order has been made under subsection 42 in relation to any property, the High Court may appoint a liquidator and give directions for the winding up of the affairs of any body corporate, which has been constituted under this Act with reference to the property, and the provisions of the Companies Act shall *mutatis mutandis* apply to and in relation to, the winding up of the body corporate as if it were a company and the members of its Board of Management were the directors of the company. **Winding up of body corporate**
Cap. 89:01

(2) Where a liquidator has been appointed under subsection (1) to wind up the affairs of a body corporate he shall exercise, to the exclusion of the Board of Management of the body corporate the functions conferred on the Board of Management by section 44.

(3) In the winding up of a body corporate under this section a unit proprietor who is a member of the body corporate

shall not be liable to contribute to the assets of the body corporate a sum exceeding five hundred dollars.

(4) The High Court may, by a subsequent order, declare the body corporate to be dissolved as from the date specified in the order.

General

Copies of instrument describing condominium scheme and by-laws to be open for inspection.

46. A body corporate in relation to any property shall keep true copies of the instrument describing the condominium scheme applicable to the property and the by-laws made by it, and of all amendments thereto, and shall make such copies available at convenient hours for inspection by any unit proprietor who is a member of the body corporate, any mortgagee of any unit of the property or any other person having an interest in the property or by any person duly authorised in writing by any of them.

Maintenance of accounts and audit.

47. (1) A Board of Management of a body corporate shall keep detailed and accurate accounts in chronological order of the receipts and expenditures in the course of the management of the property.

(2) All accounts kept under subsection (1), vouchers authorising payments and receipts for payments shall be available for inspection by any unit proprietor, who is a member of the body corporate at all reasonable times.

(3) The accounts maintained under this section by a Board of Management shall be audited annually by an auditor appointed by the body corporate.

(4) The members and employees of the Board of Management of a body corporate shall grant to the auditor appointed under subsection (3) access to all books, documents, cash and securities of the Board of Management and the body corporate and shall give to the auditor on request all such information as may be within their knowledge in relation to the functioning of the Board of Management.

Annual general meeting of body corporate.

48. The annual general meeting of a body corporate shall be held before the end of March every year and in addition to any other matter that is to be or may be considered by that meeting the Board of Management of the body corporate shall place before the annual general meeting of the body corporate —

- (a) a report of the transactions and activities of the Board of Management during the previous year; and

- (b) a statement of the accounts maintained under section 47 by the Board of Management for the previous year audited in accordance with section 47 (3).

PART III

CONDOMINIUMS IN PUBLIC SECTOR

49. (1) This Part applies to condominiums owned or promoted by the Government, any local Government authority, the Central Housing and Planning Authority constituted under the Housing Act and by any corporate body owned by, or in which the controlling interest vests in the State or any agency on behalf of the State.

Application
of this Part.
Cap. 36:20

(2) The provisions of Part II of this Act shall apply to any condominium referred to in subsection (1) subject to such modifications as are specified in this Part.

50. (1) After an instrument describing a condominium scheme has been registered under section 9 or 14 in respect of any condominium referred to in section 49 (1), any employee of the owner, being the Government or authority or body referred to in that section, authorised to do so by the owner thereof by notification in the *Gazette*, may issue on behalf of the owner, to any person to whom the owner has approved the sale of any unit in the condominium, a certificate to the effect that the unit has been sold to him, after satisfying himself that payment of the purchase price has been fully made and that other conditions of the sale, are required to be satisfied before the sale, have been satisfied by the person.

Sale of
units in cer-
tain cases.

(2) In selling under subsection (1) any unit in a condominium referred to in section 49(1) the owner thereof shall give preference to a tenant of the unit who has been residing in the unit immediately before the sale.

(3) While selling under subsection (1) any unit in any condominium referred to in section 49 (1) by the owner thereof, the owner may stipulate that the sale is subject to all or any of the following conditions, that is to say —

- (a) the purchaser and his successors in interest shall not sell the unit to any person for a period of ten years, or such shorter period as may be specified by the owner, from the date of the sale to the purchaser:

Provided that, where any such condition is imposed, the purchaser may within the period so specified sell the unit back to the owner who sold it to him at a price that may be agreed to between them;

- (b) the purchaser and his successors in interest shall not sell the unit after the period referred to in paragraph (a) to any person other than a person belonging to the categories specified by the Minister by order for the purposes of this subsection;
- (c) the purchaser and his successors in interest shall not, for such period from the date of the sale as may be specified by the owner while selling the unit to him, let out the unit to any person without the prior approval of the Minister,

and the conditions so stipulated shall be stated in the certificate issued under subsection (1).

(4) For the purposes of subsection 3 (c), where the proprietor of a unit has given possession of the unit to any other person, then, unless the contrary is proved, he shall be deemed to have let out the unit to the other person.

(5) A sale or letting out of any unit in contravention of any condition stipulated under subsection (3) shall be null and void and shall not confer any right on the purchaser of the unit or the person to whom the unit is let out.

(6) A certificate issued under subsection (1) in respect of any unit of any property shall be in such form as may be prescribed and shall specify the terms and conditions subject to which such sale is made and the terms and conditions specified in the certificate shall notwithstanding anything contained in any other written law be binding on the owner of the unit who sold it and the person who purchased it and their successors in interest.

(7) A certificate issued under subsection (1) by an employee authorised under that subsection shall be treated for all purposes as if it were a transport or other document effecting the conveyance of the unit mentioned therein and on the presentation of the certificate and on being satisfied of its genuineness the Registrar shall make such annotations on the records as may be necessary.

(8) No fees shall be payable to the Registrar for making any annotations on the records under subsection (7).

51.(1) Notwithstanding anything contained in section 20 or the Schedule, the chairman of the Board of Management of any body corporate, established for a condominium referred to in section 49, and the units of which have been sold under section 50, shall be a public officer or an employee of a local Government authority nominated by the Minister.

Chairman
of Board of
Management
in certain
cases.

(2) This section shall cease to apply to any condominium referred to in section 49 on such date as may be specified by the Minister by order.

PART IV

MISCELLANEOUS

52.(1) A proprietor of a unit of any property who refuses or fails to keep his unit in proper repair, or causes wilfully or by negligence any damage to any other part of the property, including the common property, or uses or allows or causes to be used the unit or the common property in a manner contrary to the provisions of this Act or the condominium scheme applicable to the property or, being a person to whom any unit has been sold under section 50(1), contravenes the provisions of section 50(3)(c) shall, without prejudice to any other liability he may incur thereby, be liable on summary conviction to a fine of one thousand dollars and imprisonment for six months and where the offence is a continuing one to a further penalty of one hundred dollars for each day after the first day during which the offence continues.

Penalties.

(2) Where a unit proprietor has been convicted a second time of any offence under subsection (1), in respect of any unit of any property or any other part of the property, including the common property, on application made therefor by the Board of Management of the body corporate in relation to the property, the High Court may forfeit the unit to the body corporate, and where the High Court forfeits any unit to a body corporate it may direct the body corporate to pay to the proprietor of the unit such reasonable compensation, having regard to the market value of the unit, as the High Court thinks appropriate.

(3) Where a Board of Management of a body corporate refuses or fails to exercise or perform the functions conferred on it by section 21, every member of the Board of Management shall, without prejudice to any other liability he may incur thereby, be liable on summary conviction to a fine of one thousand dollars and imprisonment for six months:

Provided that any member of the Board of Management who proves that he exercised the powers conferred on him as a member of the Board of Management to ensure that the Board of Management exercises and performs its functions properly, shall not be liable for the penalty provided for by this subsection.

Power of exemption from fees.

53.(1) The Minister may exempt any class of unit proprietors, the promoters of any class of condominium schemes or any class of bodies corporate or their Board of Management, or any unit proprietor, promoter or promoters of any condominium scheme or any body corporate or its Board of Management, wholly or partially from the payment of any fees payable under this Act.

(2) A notice of any exemption granted under subsection (1) shall be published in the *Gazette*.

Power to make regulations.

54.(1) The Minister may make regulations to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, the regulations made by the Minister may provide for all or any of the following matters —

- (a) the drawings, plans and schedules to be annexed to a condominium scheme, submitted for approval of the Minister, under section 4(1);
- (b) the particulars of a condominium scheme under section 4(1)(i);
- (c) for fees payable along with the application for the approval of a condominium scheme under section 4(3);
- (d) the manner of communication of approval or rejection of a scheme or a direction for its amendment under section 6(3);
- (e) the conditions attached to the approval of a condominium scheme under section 7(3);
- (f) the manner of service of a notice under section 8(1);
- (g) the particulars of owners of units under section 8(2)(c);

- (h) the particulars that an instrument describing a condominium scheme may contain under section 8(2)(h);
- (i) the manner of describing the limits and boundaries of the common property under a condominium scheme or an instrument describing a condominium scheme under section 10(b);
- (j) the procedure for the amendment of a condominium scheme and for the registration of the amendment under section 13(3);
- (k) the fees payable to the Registrar for the registration of an instrument describing a condominium scheme or any amendment thereto under section 15;
- (l) the matters in respect of which by-laws may be made under section 18(2)(k);
- (m) the fees payable to the Registrar for the registration of the by-laws of a body corporate or of amendment or repeal thereof under section 18(8);
- (n) the fees payable to the Registrar for registration of address under section 22(3)(b), a notice under section 33(2) or a certificate under section 33(4);
- (o) the form of a certificate under section 50(1);
- (p) any other matter that is required to be, or may be, prescribed by regulations by the Minister.

SCHEDULE

s. 18

BY-LAWS OF BODY CORPORATE

1. (1) The functions of the body corporate shall, subject to any restrictions imposed or direction given at a general meeting, be exercised by its Board of Management.

(2) Subject to paragraph (3) and section 51, the Board of Management shall consist of a chairman and not less than four nor more than ten unit proprietors and shall be elected at each annual general meeting.

(3) Where there are not more than five unit proprietors, the Board of Management shall consist of all the unit proprietors and in the case of any condominium to which section 51 applies also the chairman nominated under that section.

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

(5) Any casual vacancy in the Board of Management may be filled by the remaining members of the Board.

(6) Except where there is only one unit proprietor, a quorum of the Board shall be —

- (a) two, where the Board consist of five or less members;
- (b) four, where the Board consists of more than five members.

(7) The Board of Management may appoint persons who are unit proprietor (whether or not members of the Board of Management) to hold such offices and to perform such functions as the Board of Management may determine.

Meetings of Board of Management of body corporate. Board of Management.

2. (1) Every meeting of the Board of Management shall be presided over by the chairman of that Board and in the absence of the chairman by a member of the Board of Management elected, by the members thereof present at the meeting from among themselves, to preside at the meeting.

(2) The chairman or other person presiding at a meeting of the Board of Management shall have, in addition to a vote as a member of the Board of Management, a casting vote in the case of an equality of votes.

(3) At meetings of the Board of Management all matters shall be decided by simple majority vote.

(4) All acts done in good faith by the Board of Management shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the Board of Management or some technical irregularity in the proceedings of the Board of Management, be as valid as if such member had been duly appointed or had duly continued in office or as if there were no such irregularity in the proceedings.

3. (1) A general meeting of the proprietors of the units of any property, constituting the body corporate in relation to a condominium scheme, shall be held within three months after the registration of the condominium scheme.

General meetings of body corporate.

(2) Subsequent general meetings of the members of the body corporate shall be held once in each year:

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

(3) All general meetings of the members of the body corporate, other than the annual general meetings, shall be called extraordinary general meetings.

(4) The Board of Management may, whenever it thinks fit, and shall, upon a requisition in writing made by the unit proprietors entitled to twenty-five per cent of the aggregate of the unit entitlements of all the units in the property, convene an extraordinary general meeting of the body corporate.

(5) Seven days' notice of every general meeting of the body corporate specifying the place, the date and the hour of meeting and in the case of any special business the general nature of such business shall be given to all unit proprietors, who are members of the body corporate, and first mortgagees of units who have notified their interests to the Board of Management of the body corporate.

(6) Unless it be otherwise resolved by special resolution, all general meetings, of the body corporate shall be held on the property.

(7) Any resolution in writing in one or more parts signed by all unit proprietors who are members of the body corporate shall be as valid and effectual as if it had been passed at a meeting of the members of the body corporate duly called and constituted.

4. (1) Subject to these by-laws, no business shall be transacted at any general meeting of the members of the body corporate unless a quorum of persons entitled to vote is present in person or by proxy at the time when the meeting proceeds to business.

Proceedings at general meetings of body corporate.

(2) At any general meeting of the members of the body corporate one-half of the persons, entitled to vote at such meeting, present in person or by proxy, shall form a quorum.

(3) Where within thirty minutes, from the time appointed for a general meeting of the members of the body corporate, 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 where at the adjourned meeting a quorum is not present within thirty minutes from the time appointed for the meeting, the persons present and entitled to vote at such meeting in person or as proxy shall form a quorum.

(4) Every general meeting of the members of a body corporate shall be presided over by the chairman of the Board of Management and in his absence by a member of the body corporate elected, by the members thereof present at the meeting from among themselves, to preside at the meeting.

Manner of voting at general meeting.

5 (1) At any general meeting of the body corporate votes shall be taken by a show of hands unless a poll is demanded by any member thereof present at the meeting and entitled to vote either on his own behalf or as proxy.

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

(3) A demand for poll under this by-law may be withdrawn.

(4) A poll, if demanded under this by-law, shall be taken in such manner as the person presiding at the meeting of which it was demanded thinks fit and the result of the poll shall be deemed to be the decision of the meeting.

(5) In the case of equality of votes, whether on show of hands or on a poll being taken, the person presiding at the meeting shall be entitled to a casting vote in addition to his original vote.

Votes of unit proprietors.

6.(1) On a show of hands each unit proprietor shall have one vote.

(2) Save as otherwise provided in this Act, on a poll the votes of unit proprietors shall correspond to the unit entitlement 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 person appointing or his attorney and may be either general or for a particular meeting of the body corporate.

(5) A proxy need not be a unit proprietor.

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

(7) Co-unit proprietors may vote by proxy jointly appointed by all of them, and in the absence of such proxy shall not be entitled to vote on a show of hands, except where a unanimous resolution of unit proprietors is required by this Act; but any co-unit proprietor may demand a poll and shall be entitled to vote on a poll being taken.

(8) On any poll each co-unit proprietor shall be entitled to such part of the vote, to which all the co-proprietors of the units are entitled, as is proportionate to his interest in the unit.

(9) Where more than one co-proprietors of a unit in the property have appointed one person as a joint proxy, the joint proxy on a poll shall have votes proportionate to the interests in the unit of such of the said co-proprietors as do not vote personally.

7. The Board of Management may —

- (a) purchase, hire or otherwise acquire personal property for use by unit proprietors in connection with their enjoyment of the common property;
- (b) borrow on short term basis any moneys required by it in the exercise of its functions; and
- (c) invest in such manner as may be approved by the body corporate any moneys in the fund set apart for administrative expenses.

**Further
functions of
Board of
Management.**

8. A unit proprietor in the property shall —

- (a) permit the Board of Management and its agents, at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his unit for the purpose of —
 - (i) inspecting 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 the common property;

**Duties of a
unit pro-
prietor.**

- (ii) maintaining, repairing or renewing the common property; or
- (iii) ensuring that this Act and these by-laws are being observed;
- (b) forthwith carry out all work that may be ordered by any competent public authority in respect of his unit, other than such work as may be for the benefit of the property, generally, and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his unit;
- (c) repair and maintain his unit and keep the same in a state of good repair;
- (d) use and enjoy the common property in such manner as not unreasonably to interfere with the use and enjoyment thereof by other unit proprietors in the property of their families, visitors or employees;
- (e) not use his unit or permit the same to be used in such manner or for such purpose as shall cause a nuisance or hazard to any occupier of another unit in the property (whether he is a unit proprietor or not) or the family of such occupier; and
- (f) notify the body corporate forthwith upon any change of ownership or the creation of any mortgage or other dealing in connection with his unit.

Common seal.

9. The body corporate shall have a common seal which, subject to paragraph (2), shall at no time be used except by authority of its Board of Management previously given and in the presence of the members of that Board or at least two members thereof, who shall sign every instrument to which the seal is affixed:

Provided that where there is only one member of the body corporate his signature shall be sufficient for the purposes of this by-law.

Amendment of by-laws.

10. These by-laws may be amended only by special resolution of the body corporate.

EXPLANATORY MEMORANDUM

This Bill seeks to regulate the construction and management of condominiums. The major provisions of the Bill are dealt with below.

2. As proposed by the Bill every new condominium scheme shall require the approval of the Minister. (clause 3). The Minister can direct amendment in the scheme or may approve it without amendments or reject it. (clause 5). If the Minister does not communicate his decision approving or rejecting the scheme or directing its amendment within a period of six months from the date of its submission, the scheme shall be deemed to be approved by the Minister. (clause 6).

3. An instrument describing an approved condominium scheme has to be registered with the Registrar of Deeds. (clause 8). Upon the registration of a condominium scheme the proprietors of the units of the property to which the scheme applies shall be deemed to be constituted as a body corporate. (clause 16). There will be a Board of Management of the body corporate which by and large will be responsible for the management of the property, keeping the common property in a state of good repair, levying and collecting contributions from the unit proprietors for meeting common expenses, etc. (clauses 20 and 21).

4. Existing condominiums do not require the approval of the Minister, but in their case within six months after the commencement of the provisions of this Bill, an instrument describing a condominium scheme will have to be prepared in accordance with the provisions of the Bill and submitted to the Registrar of Deeds for registration. (clause 14).

5. Provisions regarding restrictions on the right of transfer of a unit can be made by the condominium scheme. (clause 4)(1)(j). Easements relating to support, shelter and services are dealt with in clauses 26 27 and 28 of the Bill.

6. Provisions for the insurance of the property by the Board of Management and units by unit proprietors are sought to be made by clauses 35 and 36.

7. Provisions are also sought to be made for the maintenance of proper accounts by the Board of Management of a body corporate, its auditing and the holding of annual general meetings of a body corporate (clauses 47 and 48).

8. Part III of the Bill makes certain special provisions in relation to condominiums owned or promoted by the Government, any local government authority, the Central Housing and Planning Authority or any corporate body owned by, or in which the controlling interest vests in, the State or any agency on behalf of the State. Clause 50 seeks to provide the manner of sale of units by the Government or any public sector authority

owning it. This clause seeks also to impose certain restrictions on the right of the purchasers of the units to re-sell it or to let it out so that the purposes for which the units were constructed will not be defeated and the economically weaker sections of society are not exploited by others. Clause 51 seeks to provide that during an initial period the chairman of the Board of Management of any body corporate established for any condominium referred to in that clause shall be a public officer or an employee of a local government authority nominated by the Minister.

9. Clause 52 seeks to prescribe penalties and clause 54 seeks to make provision relating to the power to make regulations.

10. The Schedule prescribes the by-laws applicable to the property, the body corporate and its Board of Management, where the body corporate has not made by-laws in respect of any matter referred to therein.

Hamilton Green,
Prime Minister.