



LAWS OF SARAWAK

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Chapter 75

STRATA (SUBSIDIARY TITLES) ORDINANCE, 2019

STRATA (SUBSIDIARY TITLES)
ORDINANCE, 2019

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STRATA (SUBSIDIARY TITLES) ORDINANCE, 2019

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Sarawak LawNet

LAWS OF SARAWAK

Chapter 75

STRATA (SUBSIDIARY TITLES) ORDINANCE, 2019

An Ordinance to make better provisions in the law relating to subsidiary titles and for matters connected therewith.

[1.3.2022]
[Swk. L.N. 50/2022]

Enacted by the Legislature of Sarawak—

PART I

PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the Strata (Subsidiary Titles) Ordinance, 2019, and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Application

2. This Ordinance shall apply to any subdivision of building or land approved pursuant to Part X of the Land Code [*Cap. 81 (1958 Ed.)*] and rules made thereunder.

Interpretation and construction

3. In this Ordinance—

“accessory parcel” means any parcel shown in a certified strata plan as an accessory parcel which is appurtenant to and used or intended to be used in conjunction with a parcel provided always that its usage shall be as approved by the Authority;

“approved building plan” means the plans and specifications for a building prepared by a qualified person and approved under the Buildings Ordinance, 1994 [*Cap. 8*];

“approved certified strata plan” means the certified strata plan approved by the Government surveyor;

“approved strata subdivision plan” means a strata subdivision plan approved by the Superintendent under section 10;

“architect” means an architect registered under the Architects Act 1967 [*Act 117*];

“Authority” means the State Planning Authority established under section 228(1) of the Land Code [*Cap. 81 (1958 Ed.)*];

“building” includes any completed building, partially completed building or building to be erected within a lot as shown or specified in a strata subdivision plan and when used with reference to a management corporation, the subdivided building or land for which the management corporation is established;

“building parcel” means an individual parcel in a building subdivided under Part II, held under a subsidiary title;

“certificate of incorporation” means a certificate certifying that a management corporation or subsidiary management corporation is a body corporate constituted under this Ordinance on the day specified in the certificate;

“certified strata plan” means, in relation to a subdivided building or land, a certified strata plan prepared for a parcel under section 10(2);

“Commissioner” means the Commissioner of Buildings as defined under the Strata Management Ordinance, 2019 [*Cap. 76/2019*];

“common property” means, in relation to a subdivided building or land,—

(a) so much of the lot not comprised in or appurtenant to any parcel (including any accessory parcel) or any provisional block as shown in the certified strata plan; and

(b) unless otherwise described as comprised in or appurtenant to any parcel and shown as capable of being and meant to be comprised in or appurtenant to such parcel, includes—

(i) foundations, columns, beams, supports, roofs, corridors, stairways, fire escapes, entrances and exits of the building;

(ii) visitor car parks, incinerators, recreational and communal facilities and gardens for the use of or serving the subdivided building or land;

(iii) storage places, rooms and other facilities shown in the certified strata plan for use by the management corporation;

(iv) lifts, escalators, service pipes, cables ducts and installations for water, electricity, telephones, gas and telecommunication services and facilities, existing for common use;

(v) all facilities described as common property in the certified strata plan; and

(vi) all other parts of the subdivided building or land not comprised in any parcel necessary or convenient to the existence and maintenance and for the reasonable usage and safety of the common property;

“comprehensive resolution” has the same meaning assigned to it in the Strata Management Ordinance, 2019 [*Cap. 76/2019*];

“Court” means the High Court in Sabah and Sarawak;

“Director” means the Director of Lands and Surveys, Sarawak, and includes his Deputy;

“document of subsidiary title” means the document of subsidiary title prepared under section 15;

“document of title” has the same meaning assigned to it in the Land Code [*Cap. 81 (1958 Ed.)*];

“engineer” means an engineer registered under the Registration of Engineers Act 1967 [*Act 138*];

“Government” means the Government of Sarawak;

“Government surveyor” has the same meaning assigned to it in the Land Surveyors Ordinance, 2001 [*Cap. 40*], and

includes a surveyor appointed under section 3 of the Land Code [*Cap. 81 (1958 Ed.)*];

“issue document of title” has the meaning assigned to it in the Land Code [*Cap. 81 (1958 Ed.)*];

“land” has the same meaning assigned to it in the Land Code [*Cap. 81. (1958 Ed.)*];

“land parcel” means an individual parcel delineated within a land subdivided under Part II, in which is comprised of a building which is held under a subsidiary title, which may have a shared basement, comprises accessory parcels and common property;

“land surveyor” means any person who has been issued with a licence to practice in Sarawak as a land surveyor under the Land Surveyors Ordinance, 2001 [*Cap. 40*];

“limited common property” means, in relation to a subdivided building or land, such part of the common property in a lot that is—

(a) in the case of common property to be comprised in a certified strata plan, designated in the sale and purchase agreement of any proposed parcel in the lot, for the exclusive benefit of the purchasers of two or more (but not all) of those proposed parcels in the lot; or

(b) in the case of common property comprised in a certified strata plan, designated in the limited common property plan or a comprehensive resolution referred to in section 23(1)(a) for the exclusive benefit of the subsidiary proprietors of two or more (but not all) parcels in that certified strata plan,

but does not include—

(i) the foundations, columns, beams, supports, walls, roofs of, and any window installed in any external wall of, any building within that parcel; and

(ii) any chute, pipe, wire, cable, duct and other facility for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating and cooling systems, or other similar services, not comprised in

any parcel or proposed parcel and necessary for the common use of the occupiers of all parcels or proposed parcels in that parcel;

“limited common property plan” means a plan prepared for such part of the common property designated as limited common property under section 23(2);

“lot” means an alienated land having a government survey lot number which has been approved for development pursuant to Part X of the Land Code [*Cap. 81. (1958 Ed.)*] and capable of being subdivided into parcels under section 4;

“management corporation” means, in relation to a subdivided building or land, the management corporation established under section 21;

“Minister” means the Minister for the time being charged with the responsibility for resource planning;

“new certified strata plan” means, in relation to a subdivided building or land, the new certified strata plan prepared for a parcel under section 19 or the Second Schedule;

“parcel” means, in relation to a subdivided building or land, a parcel of a subdivided building or land;

“proprietor” means, in relation to a subdivided building or land, the proprietor of the lot immediately before the issuance of the subsidiary titles;

“provisional block” means—

(a) in relation to a subdivided building, a block consisting of the proposed building parcels to be erected on a building or lot, for which a provisional subsidiary title is applied for; or

(b) in relation to a subdivided land, a block consisting of the proposed land parcels, for which a separate provisional subsidiary title is applied for;

“provisional share units” means the share value allotted to a provisional block pursuant to section 12;

“provisional subsidiary title” means the document of subsidiary title issued under section 15 to any of the provisional blocks;

“Register” has the same meaning assigned to it in the Land Code [*Cap. 81. (1958 Ed.)*];

“Registrar” means a Registrar appointed under section 3 of the Land Code [*Cap. 81 (1958 Ed.)*];

“schedule of parcels” means a schedule showing the parcel number, area and share units of each parcel and the total share units of all the parcels; or in the case of provisional block shows the proposed quantum of provisional share units for each provisional block;

“share units” means the share units specified for a parcel in the book of subsidiary register relating thereto;

“special resolution” has the same meaning assigned to it in the Strata Management Ordinance, 2019 [*Cap. 76/2019*];

“storey” means any division of a building whether or not on the same level throughout, and whether above or below the surface of the ground;

“strata subdivision plan” means a strata subdivision plan prepared and submitted under section 6;

“strata subdivision plan approval” means a strata subdivision plan submitted for the approval of the Superintendent under section 6;

“subsidiary management corporation” means, in relation to a limited common property, the subsidiary management corporation constituted for that limited common property under section 23(4);

“subdivided building” means a building subdivided into building parcels under Part II;

“subdivided land” means a land subdivided into land parcels under Part II;

“subsidiary proprietor” means the proprietor of a parcel;

“subsidiary register” means the register of subsidiary title prepared and maintained under section 14;

“subsidiary title” means strata title issued under Part III to any of the individual parcel subdivided pursuant to Part II;

“Superintendent” means the Superintendent of Lands and Surveys of the Division in which the lot is situated.

PART II

PROCEDURE PRIOR TO ISSUANCE OF SUBSIDIARY TITLE

Building or land capable of being subdivided into parcels

4. The proprietor of any alienated land held as one lot under a document of title may subdivide such lot into parcels, each to be held under a separate subsidiary title, whereby—

(a) any building thereon having two or more storeys shall be capable of being subdivided into building parcels, and any land on the same lot shall also be capable of being subdivided into land parcels; or

(b) any land thereon having two or more buildings shall be capable of being subdivided into land parcels.

Circumstances where it is compulsory for proprietor to submit for strata subdivision plan approval

5.—(1) The proprietor of any lot capable of being subdivided into parcels under section 4 shall submit for the strata subdivision plan approval.

(2) Notwithstanding subsection (1), the proprietor of any lot capable of being subdivided into parcels under section 4 shall, within the period specified in subsection (3), submit in accordance with section 6 for the strata subdivision plan approval:

Provided that upon application in writing by the proprietor, the Minister may, subject to such conditions as he may deem fit to impose, exempt any proprietor from the provisions of this subsection.

(3) The time within which the requirement of subsection (1) shall be complied with shall be—

(a) in the case where the building is completed or in the course of being erected before the commencement of this Ordinance, three months from the date of commencement of this Ordinance; or

(b) in the case where the building is to be erected after the commencement of this Ordinance, three months from the date of the approved building plan, or before the sale of any parcel is entered into, whichever is the earlier:

Provided that upon application in writing by the proprietor within the period specified above, the Director may, subject to such conditions as he may deem fit to impose, extend the same for a period of not more than three months.

(4) Where a submission is not made within the period specified in subsection (3) or within such extended period as the Director may allow thereunder, the proprietor commits an offence and shall, upon conviction, be punished with a fine of not exceeding fifty thousand ringgit and to a further fine of one thousand ringgit for each day the offence continues from the day of such conviction.

Procedure for strata subdivision plan approval

6.—(1) Any submission of the strata subdivision plan for the approval of the Superintendent shall be made in writing in the form as may be determined by the Director and shall be accompanied by—

(a) such fee as may be prescribed by the Director;

(b) a strata subdivision plan comprising an index plan, storey plan, delineation plan and the proposed schedule of parcels, in triplicate for the proposed parcels and duly certified by a land surveyor as follows:

(i) that he has made a comparison of the strata subdivision plan to the approved building plan and any approved amendments thereto under the Buildings Ordinance, 1994 [*Cap. 8*];

(ii) in the case of a storey plan, that the boundaries of the proposed parcels shown thereon defined by reference to features of permanent construction appearing in the building;

(iii) that the boundaries of all the proposed parcels shown thereon have been endorsed by the proprietor to be correct and in accordance with what was sold or agreed to be sold by the proprietor;

- (iv) that each of the proposed parcels has—
 - (A) an adequate means of access not passing through another parcel; and
 - (B) an adequate means of internal communication not passing through the common property;
 - (v) that the position of each building or land intended to be subdivided into parcels as delineated on the delineation plan is within the boundaries of the lot in question;
 - (vi) that the proposed share unit assigned to each proposed parcel by the proprietor is in accordance with section 12(3); and
 - (vii) shall contain such other certifications as may be required by the Superintendent;
 - (c) an approved building plan and any approved amendments thereto under the Buildings Ordinance, 1994 [*Cap. 8*], in triplicate; and
 - (d) contain such other details as the Superintendent may require.
- (2) Every index plan shall—
- (a) specify the number of the lot and the title number of the lot comprised therein;
 - (b) include a locality plan showing the boundaries of the lot, its number, area, the abuttals and adjoining lot numbers, roads and all other relevant details as may be required;
 - (c) include a vertical section of each building, define by reference to permanent construction of floors or ceilings and showing the height of each storey; and
 - (d) contain such other details as the Superintendent may require.
- (3) Every storey plan shall—

(a) specify the number of the lot, the title number of the lot comprised therein, and the building and numbered storey thereof to which the plan relates;

(b) define by reference to walls of permanent construction (but without it being necessary to show any bearings) the boundaries of each of the proposed parcels within the storey;

(c) indicate in respect of each proposed parcel the index-letter or number in the form as may be determined by the Director;

(d) specify the total area of each proposed parcel;

(e) distinguish such parts of the storey as are not to be included in any of the proposed parcels but are to become part of the common property;

(f) show a legend of all the proposed parcels and common property; and

(g) contain such other details as the Superintendent may require.

(4) Every delineation plan shall—

(a) specify the number of the lot and the title number of the lot comprised therein;

(b) delineate the boundaries and boundary marks of the lot in question and the position of all buildings thereon, showing which of those buildings are to be subdivided into building parcels, and in the case of a land to be subdivided into land parcels, delineate the boundaries and boundary marks of the lot in question and the land parcels, showing the position of all the buildings thereon by reference to the lot boundary showing the bearings and distances of each boundary;

(c) indicate in respect of each proposed building the index-letter or number in the form as may be determined by the Director;

(d) specify the superficial area on the ground of each proposed building;

(e) distinguish such parts of the ground as are not to be included in any of the proposed buildings but are to become part of the common property;

(f) show a legend of all the proposed buildings, proposed land parcel and common property; and

(g) contain such other details as the Superintendent may require.

(5) Every proposed schedule of parcels shall—

(a) show the number of the lot, the title number of the lot comprised therein, and the building and numbered storey thereof to which the schedule relates;

(b) show all the accessory parcels, and specify therein the proposed parcels they are made appurtenant to, irrespective of whether the accessory parcels are contiguous to those specified proposed parcels;

(c) show the proposed share units in whole numbers of each proposed parcel and the total share units of all the proposed parcels; and

(d) contain such other details as the Superintendent may require.

(6) Where an accessory parcel—

(a) consists of a building or parts thereof and is bounded by external walls, floors and ceilings, the dimensions and boundaries of such accessory parcel shall be shown in the plans in accordance with the requirements of subsections (2), (3) and (4); or

(b) does not consist of a building or parts thereof, the external boundaries of the accessory parcel shall be ascertained from the approved building plan and any approved amendments thereto under the Buildings Ordinance, 1994 [*Cap. 8*], and the accessory parcel shall be up to a reasonable height or to extent of any projection above or encroachment below ground level by another part of the parcel.

Procedure for strata subdivision plan approval in the case of phased development

7.—(1) Any submission made under section 6 may include an application for the issuance of a provisional subsidiary title in respect of a provisional block which is capable of being subdivided into parcels under section 4.

(2) In addition to the requirements under section 6, any application made under subsection (1) shall be made in writing to Superintendent in the form as may be determined by the Director and shall be accompanied by—

(a) the index plan, in triplicate which shall include a legend, and shall delineate the position of each provisional block, showing in accordance with the approved plans and any approved amendments thereto by the Authority under Part X of the Land Code [*Cap. 81 (1958 Ed.)*], the vertical section and dimensions of the building or shared basement for land parcels, if any, to which the provisional block relates;

(b) the storey plan, in triplicate in respect of each provisional block, which shall delineate the external boundaries, and show, in accordance with the approved plans and any approved amendments thereto by the Authority under Part X of the Land Code [*Cap. 81 (1958 Ed.)*], the horizontal dimensions of the building or shared basement for land parcels if any, to which the provisional block relates, without it being necessary to show any bearing;

(c) the delineation plan, in triplicate which shall—

(i) delineate the proposed block or blocks by reference to the lot boundary showing the bearings and distances of each boundary;

(ii) specify the superficial area for provisional block or blocks; and

(iii) contain such other details as the Superintendent may require;

(d) the approved plans and any approved amendments thereto by the Authority under Part X of the Land Code [*Cap. 81 (1958 Ed.)*], in triplicate;

(e) the proposed quantum of provisional share units for each provisional block; and

(f) the proprietor—

(i) giving the date by which he undertakes that the construction of the building or each building to which the provisional block or blocks relate will be completed;

(ii) paying to the Superintendent in respect of each provisional block a deposit of such amount as the Director may require; and

(iii) furnishing to the Superintendent a written statement to the effect that he agrees that the amount of the deposit be forfeited to the Government in the event that by that date or by such later date as the Director may allow, the construction of the building to which the provisional block relates is not completed or, if completed, the building has not been certified under the Buildings Ordinance, 1994 [*Cap. 8*], to be fit for occupation or use.

(3) Upon receiving the application made under subsection (1), the Superintendent, if satisfied that it is in order, shall transmit the same to the Director for his approval.

Approved building plans not available

8. If the approved building plan, was given, is not available, so that it is not possible to comply with section 6(1), the submission made under section 6, shall be accompanied by—

(a) in lieu of the approved building plan, building plans, in triplicate, certified by a qualified person defined under the Buildings Ordinance, 1994 [*Cap. 8*], as having been drawn according to the actual features of the building and as truly representing those features; and

(b) a certificate of a duly authorized officer by the local authority under the Buildings Ordinance, 1994 [*Cap. 8*], that the building as represented by the plans referred to in paragraph (a) was erected with the requisite approvals given under the Buildings Ordinance, 1994 [*Cap. 8*], but the approved building plan is no longer available, but

nevertheless, that the building, as represented by the plans mentioned in paragraph (a) satisfies the requirements of the Buildings Ordinance, 1994 [*Cap. 8*].

Conditions for approval of strata subdivision plan

9.—(1) The Superintendent shall approve the strata subdivision plan submitted under section 6 if the following conditions are satisfied:

(a) it has been certified by a land surveyor as follows—

(i) that the proposed share unit assigned to each proposed parcel by the proprietor is in accordance with section 12 (3);

(ii) that the proposed parcel has an adequate means of access not passing through another parcel;

(iii) that the proposed parcel has an adequate means of internal communication not passing through the common property;

(iv) that he has made a comparison of the strata subdivision plan to the approved building plans and any approved amendments thereto under the Buildings Ordinance, 1994 [*Cap. 8*];

(v) in the case of a storey plan, that the boundaries of the proposed parcels shown thereon defined by reference to features of permanent construction appearing in the building; and

(vi) that the boundaries of all the proposed parcels shown thereon have been endorsed by the proprietor to be correct and in accordance with what was sold or agreed to be sold by the proprietor;

(b) that in the case of any building for the erection of which development or planning permission pursuant to Part X of the Land Code [*Cap. 81 (1958 Ed.)*], was required has been obtained; and

(c) that the subdivision of building or land approved pursuant to Part X of the Land Code [*Cap. 81 (1958 Ed.)*], is not contrary to the provisions of any written law for the time being in force, and that any requirements imposed with

respect thereto by or under any such written law have been complied with.

(2) In the case of a submission involving a provisional block or blocks under section 7(1), the Superintendent shall approve such plan if the following additional conditions are also satisfied—

(a) that it has been certified by a land surveyor that the position of each proposed provisional block as delineated on the delineation plan is wholly within the boundaries of the lot in question;

(b) that the quantum of the proposed provisional share units assigned to each proposed provisional block by the proprietor in his submission under section 7 is in accordance section 12 (3); and

(c) that the proprietor has complied with section 7(2) and approved by Director under section 7(3).

Action after strata subdivision plan approval

10.—(1) On receiving any strata subdivision plan submitted under section 6, the Superintendent shall—

(a) approve the strata subdivision plan if the conditions specified in section 9 are satisfied; or

(b) in any other case, reject the strata subdivision plan.

(2) Where he has approved the strata subdivision plan submitted under section 6, the Superintendent shall—

(a) carry out or cause to be carried out by a land surveyor such survey of the lot in question, and any of the parcels thereon, as he may consider desirable; and

(b) from the relevant approved strata subdivision plan, prepare or cause to be prepared by a land surveyor, with such modifications as he may consider necessary in the light of any such survey, a certified strata plan complying with the requirements of subsection (3), and containing such details as specified in the Land Surveyors Ordinance, 2001 [*Cap. 40*] and Land Surveyors (Conduct of Cadastral Land Surveys) Rules, 2003 [*Swk. L.N. 137/2003*].

(3) The certified strata plan prepared pursuant to subsection (2)(b) shall, on as many folios as the Superintendent may consider most suitable for the purpose, be a plan delineating the parcels and every such plan shall also contain—

(a) an index plan showing vertical section of the building, showing the floors, ceilings, height and position therein of the storeys to which it relates;

(b) a delineation plan of the lot in question, showing the position of every subdivided building or land thereon;

(c) a storey plan showing the boundaries of each of the proposed parcels within the storey;

(d) a schedule of parcels showing all the accessory parcels, and specify therein the parcels they are made appurtenant to, and show the share units in whole numbers of each proposed parcel and the total share units of all the parcels; and

(e) such other details as the Superintendent may require.

(4) For the purposes of the preparation of any such plan under subsection (3), the common boundary of any parcel or accessory parcel with any other parcels or accessory parcels, or with any part of the building or land which is not included in any of the parcels or accessory parcels, shall, except in so far as it may have been otherwise provided in the relevant approved strata subdivision plan, be taken to be the centre of the floor, wall or ceiling, as the case may be, or in the case of land parcels, the boundary at ground level may be defined by their demarcation on the land.

(5) For the purpose of this section, the certified strata plan in respect of a provisional block shall contain a plan showing the position of each provisional block and the vertical section and dimension of the building or shared basement for land parcels, if any.

(6) The certified strata plan prepared under subsection (2)(b) shall be submitted for approval of the Government surveyor under the Land Surveyors Ordinance, 2001 [*Cap. 40*].

Filing of certified strata plan

11.—(1) No certified strata plan for a lot shall be filed under this section unless it is in writing to the Superintendent in the form as may be determined by the Director and shall be accompanied by—

(a) the approved certified strata plan, in triplicate;

(b) a certification by a land surveyor that the building or buildings are situated wholly within the boundaries of the lot in question, but discounting any eave, awning, and any balcony not forming part of the proposed parcel, which projects over road or statutory reserve to which there subsists a permit or easement issued under Land Code [*Cap. 81 (1958 Ed.)*], in respect of every such eave, awning and balcony.

(c) a certification by a land surveyor that the share unit assigned to each parcel by the proprietor in the schedule of parcels is in accordance with section 12 (3);

(d) in the case of any building approved under the Buildings Ordinance, 1994 [*Cap. 8*], a certification by an architect or an engineer that the building was constructed in accordance with such approval, stating therein the date and reference number of the approval;

(e) the issue document of title to the lot, or in the case of section 19(3), the issue document of provisional subsidiary title, or in the case of Second Schedule, the document of subsidiary title;

(f) the proposed name of the management corporation, the address for the service of documents thereon;

(g) a certificate issued under the Buildings Ordinance, 1994 [*Cap. 8*], stating that the building is fit for occupation or use; and

(h) if any, a permit or easement issued under Land Code [*Cap. 81 (1958 Ed.)*], in respect of any eave, awning and balcony not forming part of the proposed parcel, which projects over road or statutory reserve;

(2) The certified strata plan shall be filed under this provision if the documents under subsection (1) have been submitted and the following conditions are satisfied—

(a) the issue document of title to the lot has a remaining lease term of not less than twenty years;

(b) there are no arrears in respect of land rents or rates; and

(c) the sublessee of a sublease of the whole or any part thereof, other than a part corresponding precisely with or included within, one of the parcels to be created on the subdivision, or of any charge of the land or a sublease, has consented in writing to the filing of the certified strata plan.

(3) Upon receiving the submission made under subsection (1), the Superintendent, if satisfied that the approved certified strata plan and other documents submitted therewith are in order and if the conditions specified in subsection (2) are satisfied, shall transmit copies of such plan and other documents to the Registrar who shall cause a note of the filing thereof to be endorsed on the Register.

(4) Upon filing of certified strata plan under subsections (1) and (2), as soon as the fees chargeable in connection with the preparation and registration of documents of subsidiary title to the individual parcels have been paid, the Superintendent shall require the Registrar to open a book of subsidiary register in accordance with the provisions of section 14, and to prepare and register the documents of subsidiary title in accordance with the provisions of section 15.

Share units of parcels

12.—(1) Each parcel (except in the case of an accessory parcel) shall have a share unit, which—

(a) shall be expressed in whole numbers; and

(b) shall be assigned by the proprietor and specified in the form as may be determined by the Director, submitted under section 11.

(2) The share unit in respect of a provisional block shall be expressed in whole numbers.

(3) The share unit shall be determined in accordance with the Fourth Schedule or the Land Surveyors (Conduct of Cadastral

Land Surveys) Rules, 2003 [*Swk. L.N. 137/2003*], or rules made under this Ordinance.

(4) The share unit of a parcel shall determine—

(a) the voting rights of the subsidiary proprietors;

(b) the quantum of the undivided share of each subsidiary proprietor in the common property in the event—

(i) Where a subdivided building or land is damaged but is not totally destroyed is continued to be use in accordance with section 27;

(ii) the subdivision of building or land into parcels is terminated in accordance with section 28; and

(iii) the common property is required for public purposes under section 48 of the Land Code [*Cap. 81 (1958 Ed.)*]; and

(c) the amount of contributions levied by a management corporation on the subsidiary proprietors of all the parcels in a subdivided building or land.

(5) Subject to subsections (6), (7) and (8), the share unit of any parcel in the document of subsidiary title shall not be altered in any manner after the filing of certified strata plan.

(6) The Superintendent may alter the share unit of a parcel consequent upon the division of the parcel into two or more parcels or the amalgamation of two or more parcels.

(7) The Registrar may rectify any entry in the document of subsidiary title in respect of the share unit of a parcel if he is satisfied that there is an error in the entry.

(8) The court may order the share unit of a parcel shown in a document of subsidiary title to be amended when the court is satisfied that the value was fraudulently assigned to the parcel.

Accessory parcel

13. No accessory parcel shall be dealt with independently of the parcel to which such accessory parcel has been made appurtenant to as shown on the approved certified strata plan.

PART III

REGISTRATION AND ISSUANCE OF SUBSIDIARY TITLE

Preparation and maintenance of register of subsidiary title

14.—(1) The Registrar shall prepare and maintain a register of subsidiary title, to be known as the subsidiary register.

(2) The subsidiary register shall consist of a series of books, each relating to one lot and every such book shall contain—

(a) an index in Form A in the First Schedule relating to the individual parcels comprised in the lot;

(b) a statement in Form B in the First Schedule which, subject to subsection (4), shall—

(i) set out or, where appropriate, summarize so far as they relate to matters capable of affecting any of those parcels or provisional blocks, all memorials, endorsements and other entries which appeared on the Register at the time the statement was authenticated by the Registrar; or

(ii) confirm that there were no such entries;

(c) a copy of the certified strata plan filed under section 11; and

(d) a register document of the subsidiary title to each individual parcel and each provisional block.

(3) The name of the management corporation, and the address for the service of documents thereon, required to be stated in the index in the form as determined under subsection (2)(a) shall be supplied to the Registrar by the proprietor.

(4) For the purposes of the statement made under subsection (2)(b), no account shall be taken of any sublease or tenancy relating to a part of the land or building which corresponds precisely with, or is included within, one of such parcels created on the subdivision or of any charge of such sublease, but any such sublease, tenancy or charge shall be endorsed on the register of the document of subsidiary title to the parcel in question.

Documents of subsidiary title

15.—(1) The Registrar shall prepare documents of subsidiary title in respect of—

- (a) the parcel; and
- (b) the provisional block, if any.

(2) The document of subsidiary title to be prepared by the Registrar in respect of the parcel or provisional block under subsection (1) shall consist of—

- (a) a register document of subsidiary title in Form C or Form E in the First Schedule, as the case may be;
- (b) an issue document of subsidiary title in Form D or Form F in the First Schedule, as the case may be; and
- (c) the certified strata plan filed under section 11:

Provided that, in the case of a parcel created on the division or amalgamation of any existing parcels, the plan to be attached to the issue documents of subsidiary title shall be such as may be prepared in accordance with the Second Schedule.

(3) Every document of subsidiary title shall be prepared in the name of the proprietor of the lot in question, or where it relates to a parcel created on the division or amalgamation of the existing parcel, in the name of the person last registered as the subsidiary proprietor of the existing parcel.

(4) In the case of a provisional block, the Registrar shall endorse the word “Provisional” on both the register and issue document of subsidiary title and enter an appropriate caution thereon prohibiting the registration of any dealings in respect of the provisional block comprised therein.

(5) The registration of the documents of subsidiary title shall consist of their authentication under the hand and seal of the Registrar and the date of registration shall be inscribed by him on every document.

(6) The provisions of Part VII of the Land Code [*Cap. 81 (1958 Ed.)*], shall apply to documents of subsidiary title as they apply to other documents of title.

Effect of opening book of subsidiary register

16.—(1) On authenticating the statement made under section 14(2)(b), the Registrar shall make on the Register and issue document of title in question, a memorial to the effect that the book has been opened, and that the common property is vested in the management corporation, and upon registration of its document of vesting under the Land Code [*Cap. 81 (1958 Ed.)*], shall return the issue document of title to that management corporation.

(2) No entry shall thereafter be made on a document of title except one affecting the common property.

PART IV

PROCEDURE PRIOR TO ISSUANCE OF SUBSIDIARY TITLES FOR PARCELS WITHIN PROVISIONAL BLOCK

Procedure for strata subdivision plan approval

17.—(1) The proprietor of a provisional subsidiary title shall submit the strata subdivision plan for the approval of the Superintendent for the parcels within the provisional block within the period specified in section 5.

(2) The submission made under subsection (1) shall be made in writing to the Superintendent in the form as may be determined by the Director and shall be accompanied by—

(a) such fees as may be prescribed;

(b) an approved building plan and any approved amendments thereto under the Buildings Ordinance, 1994 [*Cap. 8*], in triplicate;

(c) a strata subdivision plan comprising an index plan, storey plan and delineation plan, in triplicate for the proposed parcels and duly certified by a land surveyor as required under section 6 (1)(b) and containing such details as are specified in section 6;

(d) a copy of approved certified strata plan for the provisional block or blocks; and

(e) a statement showing the proposed allocation of the provisional share units among the new parcels.

(3) Upon receiving any submission made under subsection (1), the Superintendent, if satisfied the strata subdivision plan and the other documents submitted therewith are in order, shall transmit copies of such plan and other documents to the Registrar who shall cause a note of the submission thereof to be endorsed on the register document of provisional subsidiary title of the provisional block.

Conditions for approval of strata subdivision plan

18. The Superintendent shall approve any strata subdivision plan submitted under section 17 if the following conditions are satisfied—

(a) there has been no change in the total area and position of the building or land as submitted pursuant to section 7 (2) and 9 (2)(a);

(b) there has been no change in the total share units for the parcels from the quantum of provisional share units shown pursuant to section 9 (2)(b); and

(c) all the conditions specified in section 9(1) are satisfied.

Action after strata subdivision plan approval

19.—(1) On receiving any strata subdivision plan submitted under section 17, the Superintendent shall—

(a) approve the strata subdivision plan if the conditions specified in section 18 are satisfied; or

(b) in any other case, reject the strata subdivision plan.

(2) Where he has approved the strata subdivision plan submitted under section 17, the Superintendent shall—

(a) carry out or cause to be carried out by a land surveyor such survey of the provisional block in question, and any of the parcels thereon, as he may consider desirable; and

(b) from the relevant approved strata subdivision plan, prepare or cause to be prepared by a land surveyor, with such modifications as he may consider necessary in the light of any such survey, a new certified strata plan complying with the

requirements of section 10(3), and containing such details as specified in the Land Surveyors Ordinance, 2001 [*Cap. 40*], and Land Surveyors (Conduct of Cadastral Land Surveys) Rules, 2003 [*Swk. L.N. 137/2003*].

(3) Upon approval of the new certified strata plan, such plans shall be filed pursuant to section 11.

Modification of subsidiary register, registration and preparation of new documents of subsidiary title and cancellation of provisional subsidiary title

20.—(1) Upon filing of the new certified strata plan under section 11 and the fees chargeable in connection with the preparation and registration of documents of subsidiary title have been paid, the Superintendent shall require the Registrar to take action as specified in subsection (2).

(2) The Registrar shall—

(a) replace the copy of the original certified strata plan in the relevant book of the subsidiary register with the copy of the new certified strata plan prepared for his retention;

(b) amend the schedule of parcels and make such other alterations in the relevant book of the subsidiary register as are necessary to take account of the changes as a result of the completion of the building;

(c) prepare and register the documents of subsidiary title in accordance with the provisions of section 15 in respect of the new parcels;

(d) endorse on the register document of subsidiary title in respect of the former provisional block a statement to the effect that the subsidiary titles (specifying the title numbers thereof) have been issued to the new parcels in the subdivided building or land; and

(e) cancel and destroy the issue document of provisional subsidiary title.

PART V
THE MANAGEMENT CORPORATION

Establishment of the management corporation

21.—(1) Upon the opening of a book of the subsidiary register in respect of a subdivided building or land, there shall, by the operation of this section, come into existence a management corporation consisting of all the subsidiary proprietors including, in the case of phased development, the proprietor of the provisional subsidiary title.

(2) Upon payment of the prescribed fee, the management corporation established under subsection (1) shall be issued by the Registrar with a certificate of incorporation in the form as may be determined by the Director and shall be known by the name appearing in the book of the subsidiary register for the subdivided land or building, and shall be a body corporate having perpetual succession and a common seal, and may sue and be sued.

(3) In the case where a certificate certifying the establishment of the management corporation was not issued during the opening of book of subsidiary register, the management corporation may apply to the Superintendent for a certificate certifying that the management corporation has been established in the form and such fee as may be determined by the Director.

Ownership of common property and custody of issue document of title

22. The management corporation upon its establishment shall become the proprietor of the common property and the custodian of the issue document of title of the lot in question.

Creation of limited common property and establishment of subsidiary management corporations

23.—(1) The common property comprised or to be comprised in a certified strata plan may be designated as limited common property and create one or more subsidiary management corporation only for the purpose of representing the different interests of the subsidiary proprietors —

(a) by the management corporation in respect of that the certified strata plan pursuant to a comprehensive resolution conducted in accordance with Strata Management Ordinance, 2019 [*Cap. 76/2019*]; or

(b) by the proprietor thereof for the lot in question when the certified strata plan is lodged with Government surveyor under section 10 (6).

(2) Subject to subsection (3), common property comprised or to be comprised in certified strata plan shall be designated as the limited common property under subsection (1) for the lot as follows:

(a) describes or identifies or defines the boundaries or area of the limited common property, as the case may be, in the limited common property plan;

(b) specifies in a schedule, number and share unit of each parcel and total share units of all the parcels comprised in that limited common property plan whose subsidiary proprietors are entitled to the exclusive benefit of the limited common property; and

(c) conform with any other details as the Superintendent may determine.

(3) The proprietor or management corporation shall make an application in writing to the Superintendent in the form as may be determined by the Director for the issuance of the certificate of subsidiary management corporation for the designated limited common property and shall be accompanied by—

(a) such fee as may be prescribed;

(b) in the case of designation by management corporation, a copy of the comprehensive resolution together with a certificate signed by the Commissioner certifying the receipt of the same filed with him by management corporation;

(c) in the case of designation by the proprietor of the lot, sale and purchase agreement of proposed parcels for the exclusive benefit of the purchasers of two or more of those proposed parcels; and

(d) a limited common property plan prepared under subsection (2) to be submitted in triplicate and certified by a land surveyor as follows:

(i) that the limited common property as described or identified or defined in the plan is situated within the boundary of common property as shown on a certified strata plan;

(ii) that the parcel and share unit specified in the schedule prepared under subsection 2(b) above is correct and in accordance with the certified strata plan and schedule of parcels prepared for the purpose of section 11.

(iii) that the prepared plan and schedule for limited common property are in compliance with Strata Management Ordinance, 2019 [Cap. 76/2019].

(4) The Superintendent shall thereupon, if he is satisfied that the application and the other documents presented therewith are in order, upon payment of the prescribed fee, issue a certificate of incorporation, and shall be a body corporate having perpetual succession and a common seal, and may sue and be sued.

Change of name and certificate of incorporation

24.—(1) With the approval of the Commissioner pursuant to Strata Management Ordinance, 2019 [Cap. 76/2019], the management corporation or subsidiary management corporation may by special resolution conducted in accordance with Strata Management Ordinance, 2019 [Cap. 76/2019], to change the name of the corporation.

(2) Upon receipt of a notification under subsection (1) in the form as may be determined by the Director and a copy of the special resolution together with a certificate signed by the Commissioner certifying the receipt of the same filed with him by management corporation, the Superintendent shall direct the Registrar to make necessary entry in the Register and the subsidiary register, and shall endorse the same on the certificate of incorporation.

(3) A change of name of a corporation under this section shall not affect any rights or obligations of the corporation or render defective any legal proceedings by or against the corporation, and any legal proceedings which might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

(4) A certificate of incorporation issued under section 21(2) and section 23(4), or any amendment thereof by the Registrar as the case may be, in respect of a management corporation shall be conclusive evidence that such management corporation is incorporated under this Ordinance.

Termination of limited common property

25.—(1) This section shall apply where a management corporation and the subsidiary management corporation concerned, has in accordance with the Strata Management Ordinance, 2019 [*Cap. 76/2019*], resolved to terminate the limited common property concerned of a subsidiary management corporation.

(2) Upon receipt of a notification under subsection (1) in the form as may be determined by the Director and a copy of the comprehensive resolution together with a certificate signed by the Commissioner certifying the receipt of the same filed with him by management corporation, the Superintendant shall direct the Registrar to make necessary entry in the Register and the subsidiary register.

(3) Upon such entry by Registrar, the subsidiary management corporation shall cease to exist.

Pre-existing charges

26.—(1) Where a subdivided land or building is subject to a charge which existed before the issuance of the subsidiary title, the chargee shall have the same rights and remedies as he would have had if the issuance of the subsidiary title had not taken place:

Provided that documents to be served or legal proceedings to be taken in connection with the charge shall be served or taken, as the case may be, on or against the management corporation in place of the chargor.

(2) Nothing in subsection (1) shall prevent the chargee from making alternative arrangements in respect of the charge by agreement with the proprietor, the management corporation or any of the subsidiary proprietors.

Power of Court where subdivided building or land is damaged

27.—(1) Where a subdivided building or land is damaged but is not totally destroyed, the Court on the application of the management corporation, a subsidiary proprietor or the registered chargee of any parcel may by order settle a scheme for the reinstatement or continued use of the building in whole or in part; and any such scheme may include provision for the transfer of the interests of subsidiary proprietors of parcels which have been wholly or partially destroyed to the other subsidiary proprietors in proportion to their share units.

(2) In the exercise of its powers under subsection (1), the Court may make such orders as it deems necessary or expedient for giving effect to the scheme, including orders—

(a) directing the application of insurance moneys received by the management corporation in respect of damage to the building;

(b) directing payment of money by the management corporation or by the subsidiary proprietors or by one or more of them;

(c) directing such amendment or replacement of the certified plan and such consequential amendment or replacement of the subsidiary register as the Court thinks fit; or

(d) imposing such terms and conditions as the Court thinks fit.

(3) Where an application is made under subsection (1), any insurer who has effected insurance on the building to which the application relates (or on any part thereof) shall have the right to appear on the hearing of the application.

Termination of subdivision of building or land

28.—(1) The management corporation, where—

(a) the subdivided land or building is totally destroyed;
or

(b) the subsidiary proprietors seek to demolish the subdivided land or building or, in the case of a subdivided land or building which has been partially destroyed, the remaining parts of the subdivided land or building; or

(c) there is only one subsidiary proprietor,

may be directed by comprehensive resolution conducted in accordance with the Strata Management Ordinance, 2019 [Cap. 76/2019], to take action to terminate the subdivision of building or land; and, subject to any order of the Court made under subsection (7), the management corporation if so directed shall lodge with the Superintendent a notification in the form as may be determined by the Director, together with the relevant issue document of title of the lot, issue documents of subsidiary title and a copy of the comprehensive resolution together with a certificate signed by the Commissioner certifying the receipt of the same filed with him by management corporation.

(2) On receipt of a notification under subsection (1), the Superintendent shall direct the Registrar to make necessary entry in the Register and the subsidiary register.

(3) Upon such entry by the Registrar under subsection (2)—

(a) the subdivision of land or building shall be terminated and the subsidiary proprietors shall cease to be the proprietors of the parcels; and

(b) the management corporation shall become the proprietor of the lot as the trustee of the former proprietors.

(4) Where the management corporation becomes proprietor of the lot under subsection (3)—

(a) any charge on a parcel which existed immediately before the termination of the subdivision of land or building shall become a personal obligation of the chargor to pay to the chargee what is due under the charge;

(b) each of the former proprietors shall continue to be a member of the management corporation, having the same

voting rights as he had immediately before the termination of the subdivision of land or building;

(c) the management corporation shall hold and manage the lot for the benefit of the former proprietors;

(d) the former proprietors may by comprehensive resolution conducted in accordance with the Strata Management Ordinance, 2019 [*Cap. 76/2019*], direct the management corporation to transfer the lot to any person or body; and

(e) the management corporation shall distribute any profits arising from its proprietorship of the lot, including any purchase money received on a transfer, to the former proprietors proportionately to the share units which they held immediately before the termination of the subdivision of land or building.

(5) Notwithstanding the termination of a subdivided land or building under this section, the relevant book of the subsidiary register shall continue in existence while the management corporation remains the proprietor of the lot and may be used in evidence as a record of matters relating to the subdivided land or building before its termination.

(6) Where the management corporation, having become the proprietor of the lot under subsection (3), transfers the lot in pursuance of a direction under subsection (4)(d)—

(a) the corporation shall continue in existence for so long as is reasonably necessary to wind up its affairs and shall then cease to exist; and

(b) the Registrar shall cancel the relevant book of the subsidiary register and the certificate of incorporation.

(7) The Court, if it is satisfied that the justice of the case so requires—

(a) may, on the application of the management corporation, a subsidiary proprietor or the chargee of a parcel, make an order—

(i) directing the management corporation to take action under subsection (1) notwithstanding the absence of a comprehensive resolution; or

(ii) prohibiting the management corporation from taking action under that subsection notwithstanding a direction given by comprehensive resolution; and

(b) where the corporation has transferred the lot in pursuance of a direction under subsection (4)(d), may, on the application of the management corporation, a former proprietor or a former chargee, make an order for the winding up of the corporation's affairs.

(8) In this section—

“former chargee” means the registered chargee of a parcel before the termination of the subdivided land or building;

“former proprietor” means the subsidiary proprietor of a parcel before the termination of the subdivided land and building.

PART VI

RIGHTS AND OBLIGATIONS ATTACHING TO INDIVIDUAL PARCELS

Rights of subsidiary proprietor in his parcel and in common property

29.—(1) Subject to the provisions of this Ordinance, a subsidiary proprietor shall have—

(a) in relation to his parcel, the powers conferred by the Land Code [*Cap. 81 (1958 Ed.)*], on a proprietor in relation to his land; and

(b) in relation to the common property, the rights of user which he would have had if he and the other subsidiary proprietors were co-proprietors thereof.

(2) No rights in the common property shall be disposed of by a subsidiary proprietor except as appurtenant to a parcel; and any disposition of a parcel by a subsidiary proprietor shall without express reference include a like disposition of the rights in the common property which are appurtenant to the parcel.

(3) The provisions of the Second Schedule shall have effect in relation to the division and amalgamation of parcels.

Rights of support, service and shelter

30.—(1) Subject to any written law, in favour of and against each subsidiary proprietor there shall be implied a right of support and a right of service.

(2) Each subsidiary proprietor shall be entitled to have his parcel sheltered by all such parts of the subdivided land or building as are capable of affording shelter and may, for the purpose of replacing, renewing or restoring any such shelter, enter upon the common property or any other parcel.

(3) The rights and obligations mentioned in subsections (1) and (2) shall be effective without memorial or notification in the subsidiary register, and there shall be implied in respect of them such ancillary rights and obligations as are reasonably necessary to make them effective.

(4) In this section—

“right of support” means a right to subjacent and lateral support by the common property and by every other parcel capable of affording support;

“right of service” means rights to the passage or provision of water, sewage, drainage, gas, electricity, garbage, artificially cooled or heated air and other services, including telephone, radio and television services through or by means of pipes, wires, cables or ducts.

PART VII

EFFECT OF ACQUISITION OF SUBDIVIDED BUILDING OR LAND

Procedure of taking formal possession of any subdivided building or land

31.—(1) Upon taking formal possession of the whole or part of subdivided building or land under Part IV of Land Code [*Cap. 81 (1958 Ed.)*], the Third Schedule shall apply in so far as they relate to the procedures for the modification of the subsidiary

register, affairs of the management corporation and other purposes connected therewith.

(2) Other provisions of this Ordinance which relate to the form of document of subsidiary title, the procedure for the preparation and registration of any document of subsidiary title, shall be read with modifications, amendments, additions, deletions, substitutions or adaptations as provided in the Third Schedule.

PART VIII ENFORCEMENT

Penalties

32. Any person who—

(a) knowingly makes any false statement, orally or in writing, in connection with any matter arising under this Ordinance;

(b) fraudulently alters, adds to, erases, defaces or destroys any document of title or other documents issued under this Ordinance, or any instrument or other entries on any such documents;

(c) fraudulently procures—

(i) the making of any instrument or other entries on any document of title or other documents issued under this Ordinance; or

(ii) the cancellation or amendment of any such documents, or of any instrument or other entries thereon; or

(d) suppresses or conceals from the Minister, Authority, Director, Superintendent or Registrar, or assists or joins in so doing, any material document, fact or matter,

commits an offence and shall, upon conviction, be liable to a fine of not exceeding one hundred thousand ringgit or imprisonment for a term of not exceeding five years, or to both.

Power of investigation

33.—(1) The Director may investigate the commission of any offence under this Ordinance.

(2) The Director may authorize in writing any person to exercise the powers of enforcement under this Ordinance (referred to in this Part collectively as “authorized officer”).

(3) Every authorized officer shall be issued with an authority card to be signed by the Director.

(4) Whenever an authorized officer exercises any of its powers of enforcement under this Ordinance, he shall on demand produce to the person against whom the power is being exercised the authority card issued to him under subsection (3).

(5) In any case relating to the commission of an offence under this Ordinance, the Director or an authorized officer carrying out an investigation may exercise all or any of the powers of a police officer of whatever rank in relation to police investigation in seizable cases as provided under the Criminal Procedure Code [*Act 593*], and such powers shall be in addition to the powers provided under this Part and not in derogation thereof.

Search and seizure with warrant

34.—(1) If it appears to a Magistrate, upon written information on oath from the Director or authorized officer and after such inquiry as he considers necessary, that there is reasonable cause to believe that an offence under this Ordinance or its subsidiary legislation is being or has been committed on any premises, so that any evidence or thing which is necessary to the conduct of an investigation into an offence may be found in any premises, the Magistrate may issue a warrant authorizing the Director or any authorized officer named in the warrant to enter the premises at any reasonable time by day or by night, with or without assistance.

(2) Without affecting the generality of subsection (1), the warrant issued by the Magistrate may authorize the Director or authorized officer to—

(a) search for and seize any book, register, document or other record;

(b) inspect, make copies of, or take extracts from, any book, register, document or other record so seized;

(c) take possession of, and remove from the premises, any book, register, document or other record so seized; or

(d) make such inquiry as may be necessary to ascertain whether the provisions of this Ordinance have been complied with.

(3) The Director or authorized officer conducting a search under subsection (1) may, for the purpose of investigating into the offence, search any person who is in or on the premises.

(4) The Director or authorized officer making a search of a person under subsection (1) or section 35 may seize, or take possession of, and place in safe custody all things other than the necessary clothing, found upon the person, and any other things, for which there is reason to believe were the instruments or other evidence of the offence, and they may be retained until the discharge or acquittal of the person.

(5) No person shall be searched except by another person of the same gender, and such search shall be conducted with strict regard to decency.

(6) If, by the reason of its nature, size or amount, it is not practicable to remove any book, register, document or other record seized under this section, the seizing officer shall by any means seal such book, register, document or other record in the premises or container in which it is found.

(7) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (6) or removes any book, register, document or other record under seal or attempts to do so commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Search and seizure without warrant

35. If the Director or an authorized officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 34

the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the Director or authorized officer may enter the premises and exercise all the powers referred to in section 34 in a full and complete manner as if he were authorized to do so by a warrant issued under that section.

Power of arrest

36.—(1) Any authorized officer may arrest without warrant any person whom he reasonably believes has committed or is attempting to commit an offence under this Ordinance or any regulation made under this Ordinance.

(2) An authorized officer making an arrest under subsection (1) shall without unnecessary delay take the person so arrested to the nearest police officer or, in the absence of a police officer, take such person to the nearest police station, and thereafter the person shall be dealt with as is provided for by the law relating to criminal procedure for the time being in force as if he had been arrested by a police officer.

Access to computerized data

37.—(1) The Director or authorized officer conducting a search under section 34 or 35 shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purposes of this section, “access”—

(a) includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerized data; and

(b) has the meaning assigned to it in sections 2(2) and (5) of the Computer Crimes Act 1997 [*Act 563*].

List of things seized

38.—(1) Except as provided in subsection (2), where any book, register, document or other record is seized under this Part, the seizing officer shall as soon as practicable prepare a list of the things seized and of the places in which they are respectively found and deliver a copy of the list signed by him to the occupier

of the premises which has been searched, or to his agent or servant, at the premises.

(2) Where the premises are unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously on the premises.

Release of things seized

39.—(1) If any book, register, document or other record has been seized under this Ordinance, the Director or authorized officer who effected the seizure, may at any time after that release the book, register, document or other record to the person as he determines to be lawfully entitled to the book, register, document or other record if he is satisfied that the book, register, document or other record is not otherwise required for the purpose of any proceedings under this Ordinance or its subsidiary legislation, or for the purpose of any prosecution under any other written law, and in such event neither the officer effecting the seizure, nor the Government or the Director shall be liable to any proceedings by any person if the seizure and the release of the book, register, document or other record had been effected in good faith.

(2) A record in writing shall be made by the Director or authorized officer effecting the release of any book, register, document or other record under subsection (1) specifying in detail the circumstances of and the reason for the release and he shall send a copy of the record to the State Attorney-General and to the Commissioner of Police within seven days of the release.

Power to require attendance of person acquainted with case

40.—(1) The Director or authorized officer making an investigation under this Ordinance or its subsidiary legislation may by order in writing require the attendance before himself of any person who appears to the Director or authorized officer to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If any person refuses to attend as so required, the Director or authorized officer may report such refusal to a Magistrate who shall issue a warrant to secure the attendance of such person as may be required by the order made under subsection (1).

Examination of person acquainted with case

41.—(1) The Director or authorized officer making an investigation under this Ordinance or its subsidiary legislation may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) The person examined under subsection (1) shall be legally bound to answer all questions relating to such case put to him by the Director or authorized officer, but such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to the questions.

(4) The Director or authorized officer examining a person under subsection (1) shall first inform the person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumbprint, as the case may be—

(a) after it has been read to him in the language in which he made it; and

(b) after he has been given an opportunity to make any correction he may wish.

Obstruction

42. A person who—

(a) refuses the Director or any authorized officer access to any premises which the Director or authorized officer is entitled to have under this Ordinance or in the execution of any duty imposed or power conferred by this Ordinance;

(b) assaults, obstruct, hinders or delays the Director or any authorized officer in effecting any entry which the Director or authorized officer is entitled to effect under this

Ordinance or in the execution of any duty imposed or power conferred by this Ordinance; or

(c) refuses to give the Director or any authorized officer any information relating to an offence or suspected offence under this Ordinance or its subsidiary legislation or any other information which may reasonably be required of him and which he has in his knowledge or power to give, but such person may refuse to answer or give any information where the answer or information given would lead or expose him to criminal charge or penalty or forfeiture,

shall be guilty of an offence and shall, upon conviction, be punished with a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Requirement to provide translation

43.—(1) Where the Director or an authorized officer finds, seizes, detains, or takes possession of any book, register, document or other record in the exercise of any power under this Ordinance, and such book, register, document or other record or any part of it is in a language other than the national language or the English language, or in any sign or code, the Director or authorized officer may orally or in writing require the person who had the possession, custody or control of such book, register, document or other record to furnish to the Director or authorized officer a translation in the national language or the English language of such book, register, document or other record within such period as, in the opinion of the Director or authorized officer, would be reasonable having regard to the length of the book, register, document or other record, or other circumstances relating to it.

(2) No person shall furnish a translation under subsection (1) which is not an accurate and true translation, or knowingly make a translation under that subsection which is not accurate and true.

(3) Any person who fails to comply with subsection (2) shall be guilty of an offence and shall, upon conviction, be punished with a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Power to compound offences

44.—(1) The Director or any officer authorized by the Director by notification in the *Gazette*, may compound any offence committed by any person under this Ordinance or its subsidiary legislation and prescribed to be a compoundable offence by making a written offer to the person who has committed an offence under this Ordinance or its subsidiary legislation to compound the offence upon payment to the Director an amount of money not exceeding fifty per centum of the maximum fine for that offence within such time as may be specified in the written offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Director may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) Where an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any book, register, document or other record seized under this Ordinance or its subsidiary legislation in connection with the offence may be released by the Director, subject to such terms and conditions as it thinks fit to impose in accordance with the conditions of the compound.

(4) All sums of money received under this section by the Director or any officer authorized by the Director under subsection (1) shall be deposited into the State Consolidated Fund.

Prosecution

45. Prosecution of any offence under this Ordinance or any of its subsidiary legislation may be conducted by the Public Prosecutor or any person authorized by him under section 377(b) of Criminal Procedure Code [*Act 593*].

Jurisdiction of the Sessions Court

46. Notwithstanding the provisions of any written law to the contrary, a Sessions Court shall have jurisdiction to try summarily any offence under this Ordinance or any of its

subsidiary legislation and to award a full punishment for any such offence.

Protection of informers

47.—(1) Except as provided in subsections (2) and (3), no witness in any civil or criminal proceedings under this Ordinance shall be obliged or permitted to disclose the name or address of any informer or the substance and nature of the information received from him or state any matter which might lead to his discovery.

(2) If any book, register, document or other record which is in evidence or is liable to inspection in any civil or criminal proceedings, contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated in so far as may be necessary to protect the informer from discovery.

(3) If in the trial for any offence under this Ordinance, the court after full enquiry into the case believes that the informer willfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of opinion that justice cannot be fully done between the parties thereto without the identification of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit enquiry, and require full disclosure concerning the informer.

Offences by body corporate

48. If a body corporate commits an offence under this Ordinance or its subsidiary legislation, any person who at the time of the commission of the offence was an officer of the Company as defined in the Companies Act 2016 [*Act 777*], or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

(a) may be charged severally or jointly in the same proceedings with the body corporate; and

(b) if the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—

(i) that the offence was committed without his knowledge, consent or connivance; and

(ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

PART IX

MISCELLANEOUS

Power of entry by public or local authority

49. A public or local authority which is authorized by any written law to enter upon part of a lot for the purposes of exercising any power conferred on it, may enter upon any other part of that lot if it is necessary to do so in order to exercise that power.

Legal proceedings

50. Where this Ordinance provides for any sum to be recoverable by any person or body including the management corporation from any other persons or body, the sum may be recoverable by an action for civil debt in any court of competent jurisdiction.

Indemnity and protection against suit and proceedings

51.—(1) No officer exercising his powers or performing his duties under this Ordinance shall be personally liable for any act or default done or omitted to be done in good faith and without negligence in the course of the exercise of such powers or the performance of such duties.

(2) The Public Authorities Protection Act 1948 [*Act 198*], shall apply to any action, suit, prosecution or proceedings against the Minister or the Authority or any officer in respect of any act, neglect or default done or committed by any of them in such capacity.

Amendment of Schedules

52. The Minister may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, by notification in the *Gazette*, amend the Schedules.

Power to make rules

53. The Minister may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, make rules generally for carrying out the provisions of this Ordinance and, in particular, such rules may provide for—

- (a) matters relating to the imposition of levies, fees, rates or charges; and
- (b) prescribing anything that may be, or is required to be, prescribed under this Ordinance.

Repeal and Saving

54.—(1) The Strata Titles Ordinance, 1995 [*Cap. 18*], is repealed.

(2) Nothing in subsection (1) shall affect the validity of anything lawfully done under and in accordance with the provisions of the repealed Ordinance.

(3) Any application for subdivision of a building or land submitted by any person under the repealed Ordinance and pending immediately before the date of commencement of this Ordinance shall be deemed to have been made under this Ordinance and for the purpose of considering any such application, the Director may, impose new conditions in addition to or in replacement of the conditions of approval under the repealed Ordinance.

FIRST SCHEDULE

FORM A

(Section 14(2)(a))

SUBSIDIARY REGISTER INDEX

Division :

BOOK FOR TITLE No. :

Description of Land :

Area :

Name of Management Corporation :

Address for Service of Documents :

SUMMARY OF CONTENTS

<i>Building/Provisional Block/Land Parcel</i>	<i>Purpose</i>	<i>No. of Parcels</i>	<i>Share Units/Provisional Share units</i>
Building(s)			
Provisional Block(s)			
Land parcel(s):			
Total Share Units/Provisional Share Units			

Total number of folio in Certified Strata Plan

Dated this

day of

[Continuation sheet to be added as required]

DETAILED INDEX**SHEET NO.**

<i>Building/ Provisional Block/Land Parcel</i>	<i>List of Storeys in each Building</i>	<i>List of parcels in each building/land area of each parcel</i>	<i>Share Units of each Parcel/Provisional Block/Land Parcel</i>	<i>Remarks</i>
Building(s):				
Provisional Block(s)				
Land Parcel(s):				

[Continuation sheet to be added as required]

Page No: 1/1 Note: Page No to be put in the event the information cannot fit in one page. Must be continuous and comply with this format of form.

LIST OF ACCESSORY PARCELS

<i>Accessory Parcel</i>	<i>Location of Accessory Parcel</i>	<i>Parcel to which Accessory Parcel is Appurtenant</i>

[Continuation sheet to be added as required]

Page No: 1/1 Note: Page No to be put in the event the information cannot fit in one page. Must be continuous and comply with this format of form.

Dated this

day of

Registrar/Asst. Registrar

FORM B

(Section 14(2)(b))

SUBSIDIARY REGISTER STATEMENT

BOOK FOR TITLE NO:

The appended schedule contains all those memorials, endorsements, and other entries, appearing this day in the register document of the above title, which relate to matters capable of affecting any of the parcels from this day held by title subsidiary thereto, not being matters capable of affecting one only of these parcels.

Dated this day of

Registrar/Asst. Registrar

SCHEDULE

FORM C
(Section 15(2)(a))

REGISTER DOCUMENT OF SUBSIDIARY TITLE					
(Section 15(2)(a))					
By virtue of this title the registered proprietor shall have the rights and obligations to his individual parcel as provided under Part IV of Strata (Subsidiary Titles) Ordinance, 2019 [<i>Cap. 75/2019</i>].					
LOT NO.	BUILDING NO.	TOWER NO.	STOREY NO.	MEZZANINE NO.	PARCEL NO.
NAME(S) OF PROPRIETOR(S)					
Description of Land/Building Parcel					
Term Of Lease			Expiry Date		
Share units of the parcel					
Permitted Usage					
Accessory parcel					
Total share units of all parcels on the Lot					
Certified Strata Plan					
RESTRICTIONS AND SPECIAL CONDITIONS (including any modification of implied conditions and restrictions)					
Dated this			day of		
Registrar/Asst. Registrar					

<i>Encumbrances, Limitation, Annotation & Etc.</i>	<i>Signature of Registrar/Asst. Registrar</i>

FORM D
(Section 15(2)(b))

ISSUE DOCUMENT OF SUBSIDIARY TITLE (Section 15(2)(b))						
By virtue of this title the registered proprietor shall have the rights and obligations to his individual parcel as provided under Part IV of Strata (Subsidiary Titles) Ordinance, 2019 <i>[Cap. 75/2019]</i> .						
LOT NO.	BUILDING NO.	TOWER NO.	STOREY NO.	MEZZANINE NO.	PARCEL NO.	
NAME(S) OF PROPRIETOR(S)	SARAWAK LAWYERS					
Description of Land/Building Parcel						
Term Of Lease						Expiry Date
Share units of the parcel						
Permitted Usage						
Accessory parcel						
Total share units of all parcels on the Lot						
Certified Strata Plan						
RESTRICTIONS AND SPECIAL CONDITIONS (including any modification of implied conditions and restrictions)						
Dated this			day of			
Registrar/Asst. Registrar						

<i>Encumbrances, Limitation, Annotation & Etc.</i>	<i>Signature of Registrar/Asst. Registrar</i>

FORM E

(Section 15(2)(a))

**REGISTER DOCUMENT OF SUBSIDIARY TITLE OF PROVISIONAL BLOCK
(DEALINGS PROHIBITED)**

(Section 15(2)(a))

By virtue of this title the registered proprietor shall have the rights and obligations to his individual parcel as provided under Part IV of Strata (Subsidiary Titles) Ordinance, 2019 *[Cap. 75/2019]*.

	LOT NO.	BUILDING NO.	
NAME(S) OF PROPRIETOR(S)			
Description of Provisional Block			
Term Of Lease		Expiry Date	
Share units of the parcel			
Permitted usage			
Accessory parcel-			
Total share units of all parcels on the Lot			
Certified Strata Plan			
RESTRICTIONS AND SPECIAL CONDITIONS (including any modification of implied conditions and restrictions)			
Dated this	day of		
Registrar/Asst. Registrar			

<i>Encumbrances, Limitation, Annotation & Etc.</i>	<i>Signature of Registrar/Asst. Registrar</i>

FORM F
(Section 15(2)(b))

**ISSUE DOCUMENT OF SUBSIDIARY TITLE OF PROVISIONAL BLOCK
(DEALINGS PROHIBITED)**

(Section 15(2)(b))

By virtue of this title the registered proprietor shall have the rights and obligations to his individual parcel as provided under Part IV of Strata (Subsidiary Titles) Ordinance, 2019 [Cap. 75/2019].

	LOT NO.	BUILDING NO.	
NAME(S) OF PROPRIETOR(S)			
Description of Provisional Block			
Term Of Lease		Expiry Date	
Share units of the parcel			
Permitted Usage			
Accessory parcel—			
Total share units of all parcels on the Lot			
Certified Strata Plan			
RESTRICTIONS AND SPECIAL CONDITIONS (including any modification of implied conditions and restrictions)			
Dated this		day of	
		Registrar/Asst. Registrar	

<i>Encumbrances, Limitation, Annotation & Etc.</i>	<i>Signature of Registrar/Asst. Registrar</i>

SECOND SCHEDULE

(Sections 15(2) and 29)

DIVISION AND AMALGAMATION OF PARCELS

Interpretation

1. In this Schedule—

“affected”, in relation to a parcel, means affected or intended to be affected by a division or amalgamation;

“amalgamation” means an amalgamation of parcels;

“application” means an application under paragraph 4;

“division” means a division of a parcel;

“new”, in relation to a parcel, means resulting or intended to result from a division or an amalgamation;

“storey” has the same meaning as in Part I.

Parcel or parcels capable of being divided or amalgamated

2.—(1) A subsidiary proprietor—

(a) may divide his parcel into two or more new parcels, each to be held by him under a separate subsidiary title; or

(b) who holds two or more contiguous parcels may amalgamate them to form one parcel, to be held by him under a single subsidiary title.

(2) For the purpose of this paragraph, any two or more parcels shall be taken to be contiguous if each of them shares at least one boundary (including a boundary which consists of a floor or a ceiling) with another of them.

Conditions for approval of division or amalgamation

3. The Director shall approve a division or amalgamation if the following conditions are satisfied:

(a) A division of parcel or an amalgamation of parcels which required planning permission pursuant to Part X of the Land Code [*Cap. 81 (1958 Ed.)*] where necessary has been obtained;

(b) On a division, that the number of share units of each parcel shall be a whole number allotted by the proprietor of the divided parcel. And that the total number of share units of all the new parcels shall be equal to the number of share units of the divided parcel;

(c) On an amalgamation, that the number of share units of the new parcel shall be a number equal to the total number of share units of the amalgamated parcels;

(d) that the division or amalgamation would not contravene any restriction in interest to which any of the affected parcels is subject;

(e) that the division or amalgamation would not be contrary to the provisions of any written law for the time being in force, and that any requirement imposed with respect to the division or amalgamation by or under any such law has been complied with;

(f) where an amalgamation is proposed, the new parcel will have adequate internal means of communication not passing through the common property;

(g) where a division is proposed, each new parcel will have adequate means of access not passing through another parcel;

(h) that no item of land revenue is outstanding in respect of any affected parcel;

(i) where the division of a parcel or the amalgamation of two or more parcels results in the creation of any additional or new common property, the subsidiary proprietor shall obtain the approval from the management corporation pursuant to a comprehensive resolution conducted in accordance with Strata Management Ordinance, 2019 [*Cap. 76/2019*]; or

(j) that every person who, at the time when the approval was applied for, was entitled to the benefit of—

(i) a charge of an affected parcel; or

(ii) a sublease of an affected parcel or any part thereof, other than (in the case of a division) a part corresponding precisely with or included within one of the new parcels; or

(iii) a charge of such a sublease,

has consented in writing to the making of the application.

Application for approval

4.—(1) Any application for the approval of the Director to a division or amalgamation shall be made in writing and accompanied by—

(a) such fee as may be prescribed;

(b) a strata subdivision plan comprising an index plan, storey plan or delineation plan, as the case may be, in triplicate duly certified by a land

surveyor as required under section 6(1)(b) and containing such details as are specified in section 6, sufficient to indicate to the Superintendent all the details of the division or amalgamation, together with such number of copies of the plan as may be prescribed or, in the absence of any such prescription, as the Superintendent may require;

(c) a statement of the number of share units of the new parcel or parcels;

(d) all such written consents to the making of the application as are required under paragraph 3(j);

(e) approved building plan and any approved amendments thereto under the Buildings Ordinance, 1994 [*Cap. 8*] in triplicate; and

(d) contain such other details as the Superintendent may require.

(2) Upon receiving an application, the Superintendent, if satisfied that it is in order, shall transmit the same to the Director and simultaneously forward a copy thereof to the Registrar who shall cause a note of the making of the application to be endorsed on the register document of subsidiary title to each affected parcel.

Action by Superintendent after approval

5.—(1) On an application submitted under paragraph 4, the Director—

(a) if it appears to him that the conditions specified in paragraph 3 are satisfied shall approve the division or amalgamation to which the application relates; or

(b) in any other case, shall reject the application:

Provided that, where the application includes a proposal for an amalgamation which involves the creation of a new parcel extending beyond the limits of a storey, the Director shall, notwithstanding anything in this subparagraph, reject the application unless in his opinion the proposal is warranted by the special circumstances of the case.

(2) Where the Director approves an application, he shall notify the Superintendent who shall—

(a) inform the applicant and the Registrar;

(b) carry out or cause to be carried out by a land surveyor such survey of the affected parcel or parcels as he considers desirable; and

(c) prepare or cause to be prepared by a land surveyor and file in his office, in place of the certified strata plan prepared for the building under section 10, a new certified strata plan which shall incorporate the changes

made by the division or amalgamation and shall otherwise be prepared in the same way as the plan prepared under that section.

(3) Upon approval of new certified strata plan, the plans shall be filed pursuant to section 11.

(4) Where the Director rejects an application, he shall notify the applicant and the Registrar who shall cause to be cancelled the note of the application endorsed on the register document of subsidiary title under paragraph 4(2).

Modification of subsidiary register and issue of new documents of subsidiary title

6.—(1) Upon filing of the new certified strata plan under Section 11, and being satisfied that the fees chargeable in connection with the preparation and registration of documents of subsidiary title have been paid, the Superintendent shall require the Registrar to take action as specified in subsection (2).

(2) The Registrar shall—

(a) replace the copy of the certified strata plan in the relevant book of the subsidiary register with the copy of the new certified strata plan prepared under paragraph 5(2) for his retention;

(b) make such other alterations in the relevant book of the subsidiary register as are necessary to take account of the changes made by the division or amalgamation; and

(c) issue new documents of subsidiary title to the new parcel or parcels.

THIRD SCHEDULE

(Section 31)

EFFECT OF ACQUISITION OF SUBDIVIDED BUILDING
OR LAND**Interpretation**

1. In this Schedule, unless the context otherwise requires—

“former proprietor” means a person who, or a body which, immediately before taking of formal possession of the whole or part of the subdivided building or land, is the proprietor of a parcel in the building or land or of a provisional block on the land on which the building is situated.

Acquisition of the whole lot with subdivided building or land

2. In the case where the whole lot with subdivided building or land is acquired under Part IV of the Land Code [*Cap. 81 (1958 Ed.)*]—

(a) the management corporation shall liquidate any assets and distribute any profits to the former proprietors proportionately based on the share units or provisional share units which they held immediately before the taking of formal possession;

(b) the management corporation shall determine the reasonable period for the management corporation to continue in existence to settle its affairs;

(c) the management corporation shall continue in existence for so long as it is reasonably necessary to settle its affairs and shall then cease to exist;

(d) the management corporation shall inform the Registrar the date that the management corporation shall cease to exist; and

(e) the Registrar shall cancel the relevant book of the subsidiary register.

Acquisition of part of the lot with subdivided building or land

3. In the case where part of the lot (including subdivided building or land) is acquired under Part IV of the Land Code [*Cap. 81 (1958 Ed.)*]—

(a) the subsisting documents of subsidiary title which relate to the parcel or provisional block not acquired shall be retained and continued to be in force;

(b) the Registrar shall endorse the title in continuation of the lot and other relevant entries in the relevant subsidiary register;

(c) a new certified strata plan shall be prepared pursuant to section 10(2) for the parcel or provisional block not acquired and shall be inserted in the relevant subsidiary register; and

(d) the Superintendent shall approve the new proposed share units, if any, assigned to the parcel or provisional block not acquired, if equitable, and the Registrar shall endorse the new approved share units in the relevant subsidiary register.

Acquisition of common property

4. In the case where part of the lot involved only common property is acquired under Part IV of the Land Code [*Cap. 81 (1958 Ed.)*]

(a) the subsisting documents of subsidiary title which relate to the parcel or provisional block not acquired, shall be retained and continued to be in force;

(b) the Registrar shall endorse the title in continuation of the lot and other relevant entries in the relevant subsidiary register; and

(c) the Superintendent shall endorse on the existing certified strata plan—

(i) the title in continuation of the lot;

(ii) the new survey plan number of the lot; and

(iii) the new area of the lot.

Acquisition of parcel or provisional block

5.—(1) In the case where a parcel or provisional block is acquired under Part IV of the Land Code [*Cap. 81 (1958 Ed.)*]

(a) the affected documents of subsidiary title shall vest in the statutory authority or client department, whichever is relevant, person or corporation on whose behalf the parcel or provisional block has been acquired; and

(b) the Registrar shall endorse other relevant entries in the relevant subsidiary register;

(2) In the case where part of a parcel is acquired under Part IV of the Land Code [*Cap. 81 (1958 Ed.)*], the provisions of Second Schedule shall be applicable with modifications.

FOURTH SCHEDULE

(Section 12)

SHARE UNIT ENTITLEMENT

Interpretation

1. In this Schedule—

“strata scheme” means building or land or both has been subdivided pursuant to Part II of this Ordinance and management corporation has been established under Part V of this Ordinance.

Criteria for deciding principle of share unit for the parcels

2. A parcel of a strata scheme established after the commencement of this Ordinance, shall be assigned with a share unit.

3. Criteria for deciding share unit entitlements for a strata scheme shall be consistent with either—

(a) the equality principle; or

(b) the relativity principle.

4. The equality principle for deciding share unit for the parcels included in a strata scheme is the principle that the share units must be equal, except to the extent to which it is just and equitable in the circumstances for them not to be equal, regard must be had to—

(a) how the strata scheme is structured; and

(b) the nature, features and characteristics of the parcels included in the scheme; and

(c) the purposes for which the parcels are used.

5. The relativity principle for deciding share unit for the parcels included in a strata scheme is the principle that the share units must clearly demonstrate the relationship between the parcels by reference to 1 or more particular relevant factors.

6. A relevant factor for subsection (4) may, and may only, be any of the following—

(a) how the strata scheme is structured;

(b) the nature, features and characteristics of the parcels;

(c) the purposes for which the parcels are used;

- (d) the impact the parcels may have on the costs of maintaining the common property;
- (e) the market values of the parcels.

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