

CHAPTER 224A

CONDOMINIUM

1971-27

This Act came into operation on 16th August, 1971.

Amended by:

1979-7

1982-54

1988-72

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1989

Notes:

Act 1979-7 came into operation on 8th September, 1988.

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 224A

CONDOMINIUM

1971-27

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SCHEDULE

Bye-laws

**BARBADOS****CONDOMINIUM**

1971-27

An Act to facilitate the division of properties into parts that are to be owned individually and parts that are to be owned in common and to provide for the use and management of such properties.

[Commencement: 16th August, 1971]

Short title

1. This Act may be cited as the *Condominium Act*.

Interpretation

2. For the purposes of this Act, the expression
“body corporate” means a body corporate established by section 13;
“building” means a multi-unit building comprising part of a property and which is, or is to be, included in a Declaration;
“bye-laws” means the relevant bye-laws which regulate the operation of a property and includes the Articles of Association of a company registered under the former Act or incorporated, continued or registered under the

Companies Act, Cap. 308, so far as they relate to the operation of the property;

[1982-54]

“charge” means an interest in land securing the payment of money or money’s worth or the fulfilment of a condition and includes a sub-charge and the instrument creating a charge;

[1979-7]

“common expenses”, in relation to a property, means

- (a) all sums levied in accordance with this Act against unit owners by the body corporate;
- (b) the expenses of the operation of the property;
- (c) any expenses declared to be common expenses by this Act, the Declaration or the bye-laws;
- (d) any other expenses agreed upon as common expenses by the body corporate;

“common property” means so much of a property as, upon the recording of the Declaration relating to the property, is not contained within the boundaries of any unit;

“Declaration” in relation to a property means the instrument by which the property is expressly declared to be subject to this Act and includes any lawful amendments to that instrument;

“Minister” means the Minister responsible for the Registration Office;

“operation”, in relation to a property, means the control, management and administration thereof including the maintenance, repair, replacement and improvement of the common property;

“property” means land registered under the *Land Registration Act*, Cap. 229;

- (a) to which a Declaration relates; and

- (b) upon which or upon part of which there is erected or is in the course of erection a building designed for internal subdivision as a multi-unit building, together with all other structures, installations, fixtures, easements, rights and appurtenances belonging to or enjoyed with such land and building;

[1979-7]

“Register” means the Condominium Land Register kept by the Registrar under section 12 of the *Land Registration Act*;

[1979-7]

“Registrar” means the Registrar of Titles appointed under section 5 of the *Land Registration Act, Cap. 229*;

[1979-7]

“relevant”, in relation to a Declaration or bye-laws, means the Declaration or bye-laws applicable to a property, building, unit or unit owner, as the case may be;

“special resolution” means a resolution of which at least 7 days’ prior notice is given and which is passed at a duly convened general meeting of the body corporate by a majority of not less than three-quarters of the total unit entitlement and not less than three-quarters of all the persons entitled to exercise the powers of voting conferred upon unit owners by or under this Act present personally or by proxy at the time of its passing;

“unanimous resolution” means a resolution of which at least 14 days’ prior notice is given and which is unanimously passed at a duly convened general meeting of the body corporate at which all persons entitled to exercise the powers of voting conferred upon unit owners by or under this Act are present personally or by proxy at the time of its passing;

“unit” means part of a building which

- (a) is described as a unit by the Declaration relating to the property of which the building comprises part; and
- (b) has direct access to a public road or public place or to common property leading to a public road or public place, and includes a balcony, terrace

or patio and any space specified in the Declaration as being contained within the limits and boundaries of the unit, whether or not contiguous therewith;

“unit entitlement” means the unit entitlement of a unit fixed in accordance with subsection (5) of section 4 for the purposes of subsection (1) of section 7;

“unit proprietor” means the person registered as proprietor of a unit under the *Land Registration Act*, Cap. 229, and includes any person entitled by or under this Act to exercise any powers of a unit proprietor.

[1979-7]

Application of Act

3. This Act applies only to property to which a valid Declaration relates.

Contents of Declaration

4.(1) For the purposes of this Act, a Declaration shall comprise an instrument (which may be in several parts and have annexed thereto such drawings, plans and schedules as are deemed necessary or convenient) duly executed under seal by the proprietor of the property to which it relates and shall contain

- (a) a statement of the interests which the person executing it has in the property;
- (b) a statement expressly declaring the property to be subject to this Act;
- (c) a description of the property sufficient to identify it and its location precisely, including a survey plan thereof prepared and certified by a licensed surveyor within the meaning of section 2 of the *Land Surveyors Act*, Cap. 370;
- (d) a description of the building including its location in relation to the property, the number of storeys, basements, cellars and units and the principal materials of which it is or is to be constructed;

- (e) a description of every unit by reference to its number or other symbol, location, approximate floor area, limits and boundaries defined in accordance with subsection (4) and any other data necessary for its proper identification;
- (f) copies of the drawings and plans of the building which comply with the requirements of subsection (6);
- (g) a statement of the covenants, conditions and restrictions affecting the use, occupancy and transfer of each unit;
- (h) a schedule prescribing the unit entitlement of each unit on a basis prescribed by subsection (5);
- (i) a description by reference to location, area, limits and boundaries of the common property;
- (j) the name of the body corporate, the appropriate number of the plan being inserted by the Registrar upon the lodging of the Declaration referred to in section 13, and in the case of a company incorporated or continued under the *Companies Act*, Cap. 308, or registered under that Act or the former Act,* a copy of its articles or its memorandum of association and its articles of association, as the circumstances require;
*[Being the *Companies Act*, 1910 repealed by the *Companies Act*, 1982-54.]
 [1982-54]
- (k) the bye-laws applicable to the property;
- (l) any other matters (not inconsistent with this Act) relating to the property which the person executing the instrument thinks desirable and which the Registrar approves;
[1979-7]
- (m) the manner, consistent with this Act, in which, and the conditions subject to which, the instrument may be amended by the unit owners.

[1979-7]

(2) A Declaration or any amendment thereto shall not be valid nor shall it in any way affect the property to which it relates unless and until it is registered.

[1979-7]

(3) There shall be payable to the Registrar for the recording of a Declaration or of any amendment thereto such fee as the Minister may prescribe by order.

(4) The limits and boundaries of each unit shall, so far as is practicable, be defined by reference to floors, walls and ceilings and, unless the Declaration otherwise provides, the common boundary of a unit with another unit or with the common property shall be the centre of the floor, wall or ceiling.

(5) The unit entitlement of a unit shall be expressed in the Declaration as a fraction or percentage and shall be fixed either

(a) as the approximate proportion which the estimated value of the unit at the date of the Declaration bears to the then aggregate estimated value of all the units taken together; or

(b) as the approximate proportion which the floor area of the unit at the date of the Declaration bears to the then aggregate floor area of all the units taken together

but such proportion shall reflect any substantially exclusive advantages which may be enjoyed by one or more but not all unit proprietors in any part of the common property.

[1979-7]

(6) The drawings and plans mentioned in paragraph (f) of subsection (1) shall

(a) be a complete set of drawings and plans of each floor, basement and cellar of the building;

(b) describe each unit by reference to its layout, location, designation and approximate dimensions;

(c) be prepared and certified by a person registered under section 4 of the *Professions (Registration Fees) Act, Cap. 372A*; and

- (d) bear the approval of the Chief Town Planner who shall also certify thereon that they are true and accurate copies of the drawings and plans of the building approved by him for the purposes of this Act.

Effect of registration of Declaration

- 5.(1) Where a Declaration is registered under subsection (2) of section 4
- (a) the property to which it relates shall be deemed to be divided into the same number of separate parcels of land as there are units described therein;
 - (b) each such parcel of land shall have the same limits and boundaries as its corresponding unit described in the Declaration; and
 - (c) the parts of the property not contained within the limits and boundaries of the units shall be deemed to be common property for the purposes of this Act and shall be held in undivided shares by all the unit proprietors in accordance with subsection (1) of section 7.
- (2) Subject to this Act, each unit together with the undivided share in the common property held therewith shall for all purposes constitute an interest in land and may be disposed of or dealt with in the same manner and form as land.
- [1979-7]
- (3) When a Declaration is registered it shall be binding on all proprietors of units in the building to which it relates and shall constitute constructive notice of its provisions to subsequent purchasers and all other persons.
- [1979-7]

Condominium Land Register

6. The Registrar shall cause to be kept a register to be known as the Condominium Land Register in which he shall cause to be compiled in accordance with section 12 of the *Land Registration Act*, Cap. 229.

[1979-7]

Incidents of proprietorship of unit

7.(1) The undivided share of each unit proprietor in the common property shall be in the same proportion as his unit entitlement and shall be held as a tenant in common with all other persons who are for the time being unit proprietors in the building to which the Declaration relates.

(2) No share in the common property shall be disposed of except as appurtenant to the unit to which it relates and any disposition of a unit shall operate to dispose of the share of the disposing party in the common property without express reference thereto.

[1979-7]

(3) Save as is otherwise provided by section 31, no unit proprietor or other person shall be entitled to bring any action for partition or the division of any part of or interest in the common property.

[1979-7]

(4) The unit entitlement of any unit shall determine the quantum of the undivided share in the common property appertaining to each unit and unless the Declaration or the bye-laws otherwise provide

(a) the voting rights of the unit proprietor; and

[1979-7]

(b) the proportion of the common expenses payable from time to time as contributions by each unit proprietor; and

(c) the interest of a unit proprietor in the property upon termination of the application of this Act to the property.

[1979-7]

(5) The unit entitlement shall have a permanent character and shall not be varied unless all the unit proprietors affected consent thereto, such consent being given in the manner prescribed by the relevant Declaration.

[1979-7]

(6) Unless other provision to the contrary is contained in the relevant Declaration, no unit proprietor shall be entitled to subdivide his unit.

[1979-7]

[1979-7]

Contents of instruments of unit

8. Every instrument relating to a unit executed after the date of the recording of the relevant Declaration shall include the following particulars

- (a) a description of the property including a reference to the folios where in the Declaration is registered;
[1979-7]
- (b) the unit number or symbol of the unit and any other data necessary for its proper identification;
- (c) a statement as to the user of the unit and any covenants, conditions and restrictions relating thereto;
- (d) the unit entitlement.

Support

9. In respect of each unit there shall be implied

- (a) in favour of the proprietor of such unit and as appurtenant thereto, an easement for the subjacent and lateral support thereof by the common property and by every other unit capable of affording support;
[1979-7]
- (b) as against the proprietor of such unit and to which the same shall be subject, an easement for the subjacent, suprajacent and lateral support of the common property and of every other unit capable of enjoying support.
[1979-7]

Shelter

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

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

(3) Subject to subsection (4), the easement for shelter created by this section shall entitle the proprietor of the dominant tenement to enter on the servient tenement to replace, renew or restore any shelter.

[1979-7]

(4) Save in the case of emergency, a person shall not exercise the right conferred by subsection (3) except after due notice to the proprietor of the servient tenement and at reasonable times during the hours of daylight.

[1979-7]

[1979-7]

Services

11. In respect of each unit there shall be implied

(a) in favour of the proprietor of such unit and as appurtenant thereto, easements for the passage or provision of water, sewage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables and ducts for the time being existing in the property to the extent to which those pipes, wires, cables and ducts are capable of being used in connection with the enjoyment of such unit;

[1979-7]

(b) as against the proprietor of such unit and to which the same shall be subject, easements for the passage or provision of the services mentioned in paragraph (a) through or by means of any pipes, wires,

cables or ducts for the time being existing within such unit as appurtenant to the common property and also to every other unit capable of enjoying such easements.

[1979-7]

Ancillary rights

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

Incorporation

13.(1) The proprietors of all the units described in a Declaration, shall upon lodgement of the Declaration for recording under subsection (2) of section 4, be established as a body corporate under the name “the Proprietors, Unit Plan No.” (the appropriate number of the Unit Plan being inserted in the blank space by the Registrar).

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

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

Functions of body corporate

14.(1) The body corporate shall

- (a) operate the property for the benefit of all unit proprietors and be responsible for the enforcement of the bye-laws;
- (b) keep the common property in a state of good and serviceable repair;
- (c) insure and keep insured the building (in respect of which the body corporate shall be deemed to have an insurable interest) to the

replacement value thereof against fire, hurricane and seawave unless the unit proprietors by unanimous resolution otherwise decide;

[1979-7]

(d) insure against such other risks as the unit proprietors may by special resolution determine, for which purpose the body corporate shall be deemed to have an insurable interest;

[1979-7]

(e) comply with notices or orders issued by any competent public authority requiring repairs to or work to be done in respect of the property or the building;

(f) carry out the directions of the unit proprietors expressed by resolution or otherwise as may be prescribed by the Declaration or the bye-laws; and

[1979-7]

(g) carry out any other duties prescribed by the Declaration or the bye-laws.

(2) The body corporate may

(a) establish funds for administrative expenses sufficient in the opinion of the body corporate for the operation of the property, for the payment of any premiums of insurance, for the establishment of reserves for capital improvements or renewals of common property and the discharge of any other obligations of the body corporate;

(b) determine from time to time amounts of money to be raised for the purposes aforesaid;

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

[1979-7]

(d) recover from any unit proprietors any sum of money expended by the body corporate for repairs or work done by it or at its discretion in

complying with any notice or order issued by a competent public authority in respect of any part of the property comprising the unit of any unit proprietor;

[1979-7]

- (e) employ such staff as may be deemed necessary to carry out its duties;
- (f) receive the proceeds of any insurance taken out by the body corporate against the loss or damage of the building in trust for the unit proprietors in proportion to their respective interest and, subject to section 31, apply the same for the repair or reconstruction of the building; and
- [1979-7]
- (g) exercise any other powers conferred on the body corporate by the Declaration or the bye-laws.

(3) All agreements, decisions and determinations lawfully made by the body corporate in accordance with this Act, the relevant Declaration and bye-laws shall be binding on all unit proprietors.

[1979-7]

[1979-7]

Contents of bye-laws

15.(1) Subject to this Act, the bye-laws shall provide for

- (a) the nomination and election of a board of management;
- (b) the method of removal from office of members of such board;
- (c) the powers and duties of such board;
- (d) the method of calling meetings of unit proprietors;
- [1979-7]
- (e) the fixing of a quorum;
- (f) the percentage of votes consistent with the provisions of this Act which shall be necessary to adopt decisions binding on all unit proprietors;
- [1979-7]

- (g) the operation of the property; and
- (h) the determination and collection of common expenses.

(2) The bye-laws may provide for the formulation and enforcement of such restrictions on and requirements respecting the use and maintenance of units and the use of all common property, not set forth in the Declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common property by the several unit proprietors and may restrict the user of certain parts of the common property exclusively to certain units.

[1979-7]

(3) Bye-laws shall not be added to, amended or repealed except by special resolution and any such addition, amendment or repeal shall not come into operation unless and until registered as an amendment of the relevant Declaration.

[1979-7]

(4) Save as may otherwise be specifically provided by the bye-laws contained in a Declaration, the bye-laws set out in the Schedule shall have effect in relation to the property to which that Declaration relates.

Voting rights

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

- (a) in the case of a unit proprietor who is an infant, by his guardian; and
[1979-7]
- (b) in the case of a unit proprietor who is for any reason unable to control his property, by the person for the time being authorised by law to control that property.
[1979-7]

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

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

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

appoint the Registrar or some other fit and proper person for the purposes of exercising such powers of voting under this Act as the Court determines.

[1979-7]

(3) Subject to subsections (4) to (6), where a unit is subject to a charge which is registered and notice in writing thereof is given to the body corporate, the power of voting conferred upon the unit proprietor of that unit by or under this Act may be exercised by the chargee first in priority and shall not be exercised by the unit proprietor unless he first obtains the consent in writing of such chargee.

[1979-7]

(4) Where a unit proprietor applies to a chargee for the consent required by subsection (3), the chargee shall not unreasonably refuse such consent.

[1979-7]

(5) A chargee may at any time by notice in writing to the unit proprietor concerned and the body corporate revoke a consent given by him under subsection (3).

[1979-7]

(6) The right conferred upon a chargee by subsection (5) shall not be unreasonably exercised.

[1979-7]

Accounts

17.(1) The body corporate shall keep detailed and accurate records in chronological order of the receipts and expenditures arising from the operation of the property.

(2) All records under subsection (1) and any vouchers authorising any payments shall be available for inspection by any unit proprietor at all reasonable times.

[1979-7]

(3) Annual accounts duly audited by an auditor not being a unit proprietor, who is approved by the Registrar shall be rendered by the body corporate to all unit proprietors at least once in every year.

[1979-7]

Recovery of contributions

18.(1) A contribution levied by the body corporate on any unit proprietor shall be due and payable by the unit proprietor 7 clear days after the service of a notice in writing of the levying of such contribution.

(2) Any contribution which has not been paid by a unit proprietor upon its becoming due may be recovered as a debt by the body corporate in civil proceedings before a court and any such proceedings shall be maintainable without prejudice to the rights conferred upon the body corporate by section 21.

[1979-7]

(3) A unit proprietor may not exempt himself from his liability to make contributions to the body corporate by waiver of the use or enjoyment of any of the common property or by the abandonment of his unit.

[1979-7]

[1979-7]

Liability of unit proprietors

19. A unit proprietor shall have no personal liability for the acts or omissions of the body corporate and his liability for the common expenses shall be limited to the amounts of the contributions from time to time levied upon him.

[1979-7]

Joint and several liability of grantor or grantee for unpaid contributions

20.(1) Upon the execution of any instrument disposing of a unit the grantee shall be jointly and severally liable with the grantor for all unpaid contributions due by the latter to the body corporate up to the date of the instrument without prejudice to the grantee's right to recover from the grantor any amounts paid by the grantee therefor.

(2) For the purposes of this section the body corporate shall on the application of any unit proprietor or any person authorised in writing by him certify

- (a) the amount of any contribution which on the date of such certificate is due and payable by such unit proprietor;
[1979-7]
- (b) the time within which such contribution is payable;
- (c) the extent (if any) to which any such contribution has been paid by the unit proprietor
[1979-7]

and any such certificate shall be conclusive in favour of such person.
[1979-7]

[1979-7]

Charge on the unit

21.(1) Subject to subsection (2), an unpaid contribution due from the proprietor of a unit together with interest thereon at such rate as may be prescribed by the bye-laws shall constitute a lien upon such unit with effect from the date on which such contribution becomes payable.

(2) The lien on a unit under subsection (1) shall not become effective until a notice in writing under the common seal of the body corporate is registered stating

- (a) the name of the body corporate and the address of the property;
- (b) the reference to the folio in which the relevant Declaration is registered;
[1979-7]
- (c) the name of the proprietor of the unit and the unit designation; and
[1979-7]
- (d) the amount due and the date on which it was payable.
[1979-7]

(3) A lien under subsection (1) shall continue in force until

- (a) all sums secured thereby with interest thereon shall have been fully paid; or
- (b) the expiration of 6 years from the date on which the contribution was levied or the last payment (if any) on account of such contribution was made,

whichever first occurs.

[1979-7]

(4) Upon payment of all sums secured by a lien under subsection (1) together with interest thereon the unit proprietor shall be entitled on demand to the body corporate to a certificate under its common seal that the amount due has been paid and on lodging such certificate for filing in the Register and the payment of such fee as the Minister may prescribe by order such lien shall thereupon be satisfied.

[1979-7]

(5) The body corporate shall have the same remedies for the purpose of enforcing the lien created by subsection (1) as a judgment creditor under the common law or any enactment.

[1979-7]

[1979-7]

Termination by sale

22.(1) Sale of the property or any part of the common property may be authorised

- (a) by a vote of proprietors who own 80 per cent or such greater percentage as is specified in the Declaration of the common property; and
- (b) by the consent of the persons having claims against the property or the part of the common property, as the case may be, created after the registration of the Declaration and of which the body corporate has notice.

(2) A deed of transfer shall be executed by all the proprietors and a release or discharge shall be given by all the persons having claims against the property or the part of the common property, as the case may be, created after the registration of the Declaration and of which the body corporate has notice.

[1979-7]

(3) Upon the registration of the instruments mentioned in subsection (2)

- (a) the application of this Act to the property or the part of the common property is terminated;
- (b) claims against the land and interests appurtenant to the land created before the registration of the Declaration are as effective as if the Declaration had not been registered; and
- (c) claims against the property or the part of the common property created after the registration of the Declaration are extinguished.

(4) Subject to subsection (5), the unit proprietors share the proceeds of the sale in the same proportion as their unit entitlement.

[1979-7]

(5) Where a sale is made under this section, any unit proprietor who dissented may elect to have the fair market value of the property at the time of the sale determined by arbitration under the *Arbitration Act*, Cap. 110 by serving notice to that effect on the body corporate within 10 days after the vote, and the

proprietor who served the notice is entitled to receive from the proceeds of the sale the amount he would have received if the sale price had been the fair market value as determined by the arbitration.

[1979-7]

(6) Where the proceeds of the sale are inadequate to pay the amount determined under subsection (5), each unit proprietor who voted for the sale is liable for a proportion of the deficiency determined by the proportion of his unit entitlement.

[1979-7]

[1979-7]

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

23.(1) Every unit proprietor, his tenants, the employees of such proprietors and tenants and any other person who in any manner uses the property shall be subject to and shall comply with the bye-laws in force relating to the orderly conduct and proper use of the property.

(2) Every unit proprietor and any person deriving any interest in the unit or the common property appertaining thereto from such unit proprietor shall comply strictly with the covenants, conditions and restrictions set forth in the relevant Declarations or bye-laws or in any certificate or other instrument relating to the unit, and all such covenants, conditions and restrictions shall run with and bind the land.

[1979-7]

(3) An action to enforce the provisions of this section shall be maintainable by the body corporate acting on behalf of the unit proprietors or by an aggrieved unit proprietor.

[1979-7]

(4) In any action arising from the breach by any person of the bye-laws or any such covenants, conditions or restrictions the court may, in addition to giving equitable relief by way of an injunction or otherwise, award damages against such person or empower the body corporate to take such steps to remedy the

breach as the court thinks just and to recover any expenses so incurred from such person.

(5) In case of flagrant or repeated failure by any person to comply with the requirements of this section, the court may order such person to give sufficient security with or without surety or sureties for his future compliance with the by-laws or the said covenants, conditions or restrictions, as the case may be.

[1979-7]

Insurance

24.(1) Where the body corporate insures the building in pursuance of paragraph (c) of subsection (1) of section 14, subsections (2) and (3) of this section shall apply notwithstanding any other law relating to insurance for the time being in force.

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

[1979-7]

(3) The policy of insurance taken out by the body corporate in respect of the building as aforesaid shall not be liable to be brought into contribution with any other policy of insurance save another policy authorised under paragraph (c) of subsection (1) of section 14 in respect of the same building.

Powers of unit proprietor to insure

25.(1) Where a building is insured to its replacement value, a unit proprietor may effect a policy of insurance in respect of any damage to his unit in a sum

equal to the amount secured, at the date of any loss referred to in such policy, by any charges upon his unit, and where any such policy of insurance is in force

(a) payment shall be made by the insurer under such policy to the chargees whose interests are noticed thereon in order of their respective priorities, subject to the terms and conditions of the policy;
[1979-7]

(b) subject to the terms and conditions of such policy, the insurer shall be liable to pay thereunder

(i) the value stated in such policy; or

(ii) the amount of the loss; or

(iii) the amount sufficient at the date of the loss to discharge any charges upon the unit
[1979-7]

whichever is the least;

(c) where the amount so paid by the insurer equals the amount necessary to discharge a charge upon the unit, the insurer shall be entitled to an assignment of that charge;
[1979-7]

(d) where the amount so paid by the insurer is less than the amount necessary to discharge a charge upon the unit, the insurer shall be entitled to a sub-charge of such charge to secure the amount so paid on terms and conditions agreed upon as provided in subsection (3), failing agreement on the same terms and conditions as those contained in the charge made by the unit proprietor.
[1979-7]

(2) (a) Where a building is uninsured or has been insured to less than its replacement value, a unit proprietor may

(i) effect a policy of insurance in respect of any damage to his unit in a sum equal to the replacement value of his unit less a sum

representing the amount to which his unit is insured under any policy of insurance effected on the building;

- (ii) notwithstanding any existing policies, effect a policy of insurance in respect of any damage to his unit in a sum equal to the amount secured, at the date of any loss referred to in such last-mentioned policy, by any charges upon his unit

[1979-7]

and the provisions of paragraphs (a), (b), (c) and (d) of subsection (1) shall apply in respect of any payment pursuant to such last-mentioned policy.

- (b) For the purposes of this subsection, the amount to which a unit is insured under a policy of insurance effected in respect of the building shall be determined by multiplying the value stated in such policy by the unit entitlement of the unit and dividing the product so obtained by the sum of the unit entitlement of all units.

[1979-7]

- (3) For the purposes of paragraph (d) of subsection (1) and sub-paragraph (ii) of paragraph (a) of subsection (2), any insurer and any chargee or chargees may at any time, whether before or after a policy of insurance has been effected by a unit proprietor, agree upon the terms and conditions of the sub-charge.

[1979-7]

- (4) Nothing in this section shall limit the right of a unit proprietor to insure against risks other than damage to his unit.

[1979-7]

- (5) Any policy of insurance authorised by this section and taken out by a unit proprietor in respect of damage to his unit shall not be liable to be brought into contribution with any other policy of insurance save another policy authorised by this section and taken out in respect of damage to the same unit.

[1979-7]

- (6) This section shall apply notwithstanding the provisions of any other law relating to insurance.

[1979-7]

Repair or reconstruction of building

26.(1) The body corporate shall promptly repair or reconstruct the building where it has sustained damage which

- (a) renders less than 75 per cent of the accommodation in the building unfit for occupation; or
- (b) is in excess of that prescribed by paragraph (a) and 90 per cent or more in number of the unit proprietors have, within 60 days of the event causing the damage, resolved that the building be reconstructed.

[1979-7]

(2) The proceeds of insurance (if any) shall be used for the purpose of the repair or reconstruction of the building under this section and any deficiency is hereby declared to be common expenses.

(3) Where in pursuance of subsection (1) it becomes the duty of a body corporate to repair or reconstruct the building, the body corporate shall without undue delay draw up a scheme for the purpose, and if such scheme (either in its original or amended form) is approved by special resolution, it shall be binding on the body corporate and all unit proprietors.

[1979-7]

(4) Where a scheme drawn up pursuant to subsection (3) is not approved as required by that subsection, the body corporate shall file a scheme in the High Court which may, after hearing any objections on behalf of individual unit proprietors, settle a scheme which, having regard to the rights and interests of unit proprietors generally, appears just and equitable for the repair or reconstruction of a damaged building under this section.

[1979-7]

(5) A scheme settled by the High Court under subsection (4) may include provision for

- (a) permitting any unit proprietor whose unit has been damaged and who does not agree to participate in the scheme to convey his unit and his

interest in the common property to the other unit proprietors on the payment of such compensation as the court thinks just;
[1979-7]

- (b) the reinstatement of part only of the building; and
- (c) the conveyance of the interests of some unit proprietors to other unit proprietors in proportion to their unit entitlement.

(6) In the exercise of its powers under subsections (4) and (5), the High Court may make such orders as it thinks necessary or expedient for giving effect to the scheme, including orders

- (a) directing how insurance moneys received in respect of damage to the building shall be applied;
- (b) directing such consequential amendments of the Declaration and by-laws relating to the building as it thinks necessary; and
- (c) imposing such terms and conditions as it thinks fit.

(7) Where an application to the High Court is made under this section, any insurer who has effected insurance on the building or any part thereof (being insurance against damage to the building) may appear in person or by attorney-at-law.

[1979-7]

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

Appointment of an administrator

27.(1) The body corporate or any judgment creditor of the body corporate or any person having an interest in any unit may apply to the High Court for the appointment of an administrator for the operation of the property.

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

- (3) The remuneration and expenses of any administrator appointed under this section are hereby declared to be common expenses.
- (4) An administrator appointed under this section shall, to the exclusion of the body corporate, exercise the functions of the body corporate or such of those functions as the court orders and may delegate any of the functions so vested in him.
- (5) The High Court may in its discretion on the application of an administrator or any person referred to in subsection (1) remove or replace an administrator.
- (6) On any application made under this section the High Court may make such order for the payment of costs as it thinks fit.

Copies of Declaration and bye-laws to be open for inspection

28. A body corporate shall keep true copies of the Declaration and bye-laws and all amendments thereto and shall make such copies available for inspection at convenient hours by any unit proprietor, chargee or other interested party or by any person duly authorised in writing by any of them.

[1979-7]

Service of documents on the body corporate

29.(1) Every body corporate shall nominate a person to receive the service of summonses, notices or other processes and the name and place of residence or business (which shall not be located more than 20 miles from the building for the operation of which the body corporate is responsible) of such person shall from time to time as occasion may require

- (a) be exhibited on a notice board to be placed in a prominent position on or near the front of the building;
- (b) be registered upon the payment of such fee as the Minister may prescribe by order; and

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(c) be published in the *Official Gazette*.

(2) Unless the body corporate maintains an office in the building it shall cause to be provided and fixed at or near the front of the building a receptacle suitable for the purpose of receiving articles by post and on such receptacle the name of the body corporate shall be clearly designated.

(3) Any summons, notice or other process may be served on the body corporate or the board of management thereof by post enclosed in a pre-paid registered wrapper addressed to such body corporate or board as the case may be at the address of the person nominated to receive such process or by placing it in the receptacle referred to in subsection (2).

Service of documents by the body corporate

30.(1) Every unit owner, any mortgagee of a unit or other person having an interest in any unit shall register with the body corporate an address for the service of notices upon him and unless the person concerned resides permanently in the building such address shall be one which is not within the building.

(2) Any notice given under this Act by a body corporate or the board of management shall be sent by post in a pre-paid registered wrapper addressed to the person for whom it is intended at the address registered by him with the body corporate under subsection (1).

(3) When any such notice is sent from Barbados to an address in another country it shall be sent by pre-paid registered airmail.

(4) Any notice sent by post in the manner prescribed by this section shall be deemed to be served on the person to whom it is addressed on the 7th day after the day on which the wrapper containing the same is posted.

Removal of property from the Act and proceedings for partition

31.(1) The application of this Act to a property may be terminated by an order of the High Court where, on the application of any interested party, the court is satisfied that

- (a) unit owners have so resolved by a resolution passed by 95 per cent or more in number of the unit owners and that all mortgagees of the units have by instrument under seal either consented thereto or agreed that their several mortgages be transferred to the percentage of the undivided interest of the several unit owners in the property as hereinafter provided; or
 - (b) the building has been destroyed or damaged and is not to be reconstructed or repaired in pursuance of section 26; or
 - (c) circumstances have arisen that, having regard to the rights and interests of the unit owners as a whole, it is just and equitable to terminate the application of this Act to the property.
- (2) For the purposes of this section, an interested party shall be deemed to be the body corporate, a unit owner or a mortgagee of a unit.
- (3) Upon the making of an order by the High Court under this section, the property to which the order relates shall be deemed to be owned in common by all the unit owners and such undivided share in the property shall accrue to each unit owner in the same proportion as his former unit entitlement.
- (4) Where an order has been made under subsection (1), a majority in number of the unit owners in the property may apply to the High Court either
- (a) to apportion so much of the property as remains among the unit owners in proportion to their former unit entitlement and to direct the body corporate to effect the necessary transfers of title; or
 - (b) to order that so much of the property as remains shall be sold and that the net proceeds of the sale together with the proceeds (if any) of

insurance policies shall constitute one fund to be divided among all the unit owners in proportion to their respective unit entitlements

and the court may, if it considers it is just and equitable to do so, proceed accordingly and make such orders and give such direction in respect thereof as the court thinks fit.

(5) Where an order has been made under subsection (1) the court may appoint a liquidator and give directions for the winding-up of the affairs of any body corporate which has been constituted under this Act as if it were a company being wound up by the court under the *Companies Act*, Cap. 308.

[1982-54]

(6) In any such winding-up no unit owner shall be liable to contribute to the assets of the body corporate a sum exceeding \$100.

(7) By a subsequent order the court may declare the body corporate to be dissolved as from a date to be specified in the order.

(8) In any proceedings under this section the court may make such order for the payment of costs as it thinks fit.

SCHEDULE*(s.(15) 4)**Bye-laws***Board of the body corporate**

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

(2) Subject to paragraph (3), the Board shall consist of not less than 3 nor more than 7 unit proprietors and shall be elected at each annual general meeting.

[1979-7]

(3) Where there are not more than 3 unit proprietors, the Board shall consist of all unit proprietors.

[1979-7]

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

[1979-7]

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

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

(a) 2, where the Board consists of 4 or less members;

(b) 3, where the Board consists of 5 or 6 members; and

(c) 4, where the Board consists of 7 members.

[1979-7]

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

[1979-7]

Meetings of the Board

2.(1) At the commencement of each meeting the Board shall elect a chairman for that meeting, who shall have a casting as well as an original vote, and if any chairman so elected vacates the chair during the course of a meeting the Board shall choose in his stead another chairman who shall have the same rights of voting.

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

(3) All acts done in good faith by the Board shall, notwithstanding it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the Board or some technical irregularity in the Board's proceedings, be as valid as if such member had been duly appointed or had duly continued in office or as if the proceedings were regular.

General Meetings

3.(1) A general meeting of unit proprietors shall be held within 3 months after the registration of the Declaration.

(2) Subsequent general meetings shall be held once in each year provided that not more than 15 months shall elapse between the date of one annual general meeting and that of the next.

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

(4) The Board may, whenever it thinks fit, and shall, upon a requisition in writing made by unit proprietors entitled to 25 per cent of the total unit entitlement of the units, convene an extraordinary general meeting.

[1979-7]

(5) 7 days' notice of every general meeting specifying the place, the date and the hour of meeting and in case of special business the general nature of such business shall be given to all unit proprietors and registered first chargees who have notified their interests to the body corporate but accidental omission to give such notice to any unit proprietor or to any registered first chargee or non-receipt of such notice by any unit proprietor or registered first chargee shall not invalidate any proceedings at any such meeting.

[1979-7]

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

[1979-7]

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

[1979-7]

[1979-7]

Proceedings at general meetings

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

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

(3) Where within a half hour from the time appointed for a general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time and where at the adjourned meeting a quorum is not present within a half hour from the time appointed for the meeting, the persons present and entitled to vote in person or by proxy shall form a quorum.

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

Voting at general meeting

5.(1) At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any unit proprietor present in person or by proxy.

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

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

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

[1979-7]

Votes of unit proprietor

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

(2) On a poll the votes of unit proprietors shall correspond with the unit entitlement of their respective units.

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

(4) An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney and may be either general or for a particular meeting.

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

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

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

[1979-7]

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

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

[1979-7]

[1979-7]

Further powers of body corporate

7. The body corporate may

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

[1979-7]

Duties of a unit proprietor

8. A unit proprietor shall
- (a) permit the body corporate and its agents, at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his unit for the purpose of
 - (i) inspecting the same and maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the unit and capable of being used in connection with the enjoyment of any other unit or common property; or
 - (ii) maintaining, repairing or renewing common property; or
 - (iii) ensuring that these bye-laws are being observed;
[1979-7]
 - (b) forthwith carry out all work that may be ordered by any competent public authority in respect of his unit other than such work as may be for the benefit of the building generally and pay all rates, taxes, liens, outgoings and assessments that may be payable in respect of his unit.
[1979-7]
 - (c) repair and maintain his unit and keep the same in a state of good repair, reasonable wear and tear, damage by fire, hurricane, seawave, *force majeure* or act of God excepted;
 - (d) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other unit proprietors or their families, visitors or employees;
[1979-7]
 - (e) not use his unit or permit the same to be used in such manner or for such purpose as shall cause a nuisance or hazard to any occupier of a unit (whether a unit proprietor or not) or the family of such occupier; and

- (f) notify the body corporate forthwith upon any change of proprietorship or of any charge or other dealing in connection with his unit.
[1979-7]

Common seal

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

(2) Where there is only 1 member of the body corporate his signature shall be sufficient for the purposes of this bye-law.

Amendment of bye-laws

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