

UNIT TITLES ORDINANCE 1975

691

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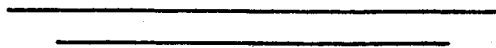
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UNIT TITLES ORDINANCE 1975

695

No. 17 of 1976

An Ordinance relating to the Sub-division of Land into Units, Unit Subsidiaries and Common Property

[Reserved 10 February 1976]
[Assented to 23 March 1976]*

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

PART I—PRELIMINARY

- | | |
|---|--------------|
| 1. This Ordinance may be cited as the <i>Unit Titles Ordinance 1975</i> . | Short title |
| 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice published in the <i>Gazette</i> .† | Commencement |

PART II—INTERPRETATION

- | | |
|---|--|
| 3. (1) In this Ordinance, except in Part III, "unit" means a part of the relevant parcel shown on the units plan as a unit. | Definition of "unit" and "unit subsidiary" |
| (2) In this Ordinance, "unit subsidiary" means a part of the relevant parcel shown on the units plan as a unit subsidiary. | |
| (3) Unless the contrary intention appears, a reference in this Ordinance, except in Part III, to a unit shall, in a case where a unit subsidiary is appurtenant to a unit, be read as a reference to both the unit and the unit subsidiary. | |
| 4. In this Ordinance, unless the contrary intention appears— | Other definitions |
| "administrator" means an administrator appointed under section 90; | |
| "building", in relation to proposals for sub-division, includes a building proposed to be erected; | |
| "Class A unit" means a unit described in section 9 (a) (i) and does not include a unit subsidiary; | |

* Notified in the *Northern Territory Government Gazette* No. 14 of 2 April 1976, page 393.

† The date fixed was 29 October 1976 (see *Northern Territory Government Gazette* No. 44 of 29 October 1976, page 1308).

- “Class B unit” means a unit described in section 9 (a) (ii) and does not include a unit subsidiary;
- “committee” means the committee of a corporation constituted by section 32;
- “committee-man” means a member of a committee;
- “common property” means so much of a parcel as is not within a unit;
- “corporation” means a corporation constituted under section 27;
- “general meeting” means a general meeting of a corporation;
- “improvements” includes fittings and fixtures;
- “member” means a member of a corporation;
- “mortgage” means a registered mortgage, or a registered encumbrance, within the meaning of the *Real Property Act and Ordinance*, and “mortgaged” has a corresponding meaning;
- “mortgagee” means the registered proprietor of a mortgage;
- “parcel” means the whole of the land comprised in a proposal for the sub-division of a parcel of land or in a units plan, as the case may be;
- “proprietor”, in relation to a unit, means the registered proprietor;
- “Registrar-General” means the Registrar-General under the *Registration Ordinance* and includes an acting or Deputy Registrar-General;
- “registered” means registered in the Register Book—
- (a) under the *Real Property Act and Ordinance*; or
 - (b) under the *Real Property (Unit Titles) Ordinance*
- and “register” and “registration” have corresponding meanings;
- “the Court” means the Supreme Court;
- “unit entitlement”, in relation to a unit, means the number specified in the schedule of unit entitlement as the unit entitlement for the unit;
- “units plan” means all the documents referred to in section 20 (1) and endorsed under that section, being documents relating to the sub-division of the relevant parcel.

References
to proprietor
or
mortgagee

5. In this Ordinance, unless the contrary intention appears, a reference to a proprietor or mortgagee shall be read as including—
- (a) in the case of a natural person—a reference to the heirs, executors, administrators or assigns of that person or to a person in whom the property of the first-mentioned person is vested, or by whom that property is controlled, under the *Bankruptcy Act 1966-1973*; or

(b) in the case of a body corporate other than a corporation—a reference to its liquidators or assigns.

6. In this Ordinance, a reference to—

- (a) members, in relation to a corporation with only one member;
- (b) proprietors, in relation to units in a case where the relevant corporation has only one member; or
- (c) committee-men, in relation to a committee with only one committee-man,

Plural references to members, proprietors or committee-men where only one exists

shall be read as a reference to the person who is that member or committee-man.

7. In this Ordinance, a reference to a special resolution shall be read as a reference to a resolution, at a duly convened general meeting, passed by votes representing not less than two-thirds of the total number of units and not less than half of the aggregate unit entitlement of the units.

References in special resolutions

8. (1) In this Ordinance a reference to a unanimous resolution shall be read as a reference to—

References to unanimous resolutions

- (a) where only one person is entitled to vote at a general meeting—a resolution made by that person and recorded by him as a unanimous resolution in the minute book of the corporation kept under this Ordinance; or
- (b) where more than one person is entitled to vote at a general meeting—a resolution, at a duly convened general meeting, unanimously passed by all the members of the corporation and recorded as a unanimous resolution in the minute book of the corporation kept under this Ordinance.

(2) For the purposes of sub-section (1) (b), a mortgagee of a unit by whom notice in accordance with section 65 (1) has been given shall be deemed to be a member of the corporation to the exclusion of the proprietor whose estate or interest is subject to the mortgage.

PART III—PROPOSALS FOR SUB-DIVISION

9. In this Part—

- (a) a reference to a unit shall be read as a reference to either—
 - (i) a part of the parcel, being a part of a building, bounded by reference to floors, walls and ceilings; or
 - (ii) a part of the parcel unlimited in its vertical dimensions except to the extent of any projection above, or encroachment below, ground level by another part of the parcel; and

Units and unit subsidiaries

Unit Titles

- (b) a reference to a unit subsidiary shall be read as a reference to either—
- (i) a part of the parcel, being a building or part of a building consisting only of a utility room, laundry, store-room, balcony, verandah, porch, stairway, shed, garage or car port; or
 - (ii) a part of the parcel suitable for any one or more of the following purposes, namely, a parking area for vehicles, a garden, a lawn or a yard, and unlimited in its vertical dimensions except to the extent of any projection above, or encroachment below, ground level by another part of the parcel.

Proposals for
sub-division

10. (1) The registered proprietor of—

- (a) an estate in fee simple in land;
- (b) a lease granted under the *Darwin Town Area Leases Ordinance*;
- or
- (c) a lease of town lands granted under the *Crown Lands Ordinance*

may, in respect of that parcel of land, apply to the Administrator for approval of proposals for the sub-division of the parcel under this Ordinance.

(2) The proposals shall provide for the sub-division of the parcel into units and common property, and may provide for one or more than one unit subsidiary appurtenant to a unit.

(3) Where the proposals provide for a unit subsidiary it shall be appurtenant to a specified unit, whether or not it is contiguous to that unit.

(4) An uncovered balcony or uncovered stairway that is not shown in the proposals as part of a Class B unit shall, unless it is to be common property, be shown in the proposals, as a unit subsidiary and not as part of a unit.

(5) Any land contiguous to a Class A unit (or to a unit subsidiary consisting of a building or part of a building) shall not be shown in the proposals as part of that unit or unit subsidiary, but nothing in this subsection prevents that land from being a unit subsidiary, part of a Class B unit or common property.

- (6) For the purposes of sub-section (5) "land" does not include—
- (a) a building or part of a building; or
 - (b) land upon which a building or part of a building is situated.

- 11** (1) The proposals shall include—
- (a) diagrams showing the manner in which it is proposed to sub-divide the parcel and—
 - (i) showing, in respect of each unit, whether it is a Class A or a Class B unit;
 - (ii) showing the unit subsidiary or unit subsidiaries (if any) appurtenant to each unit;
 - (iii) allotting to each unit a number; and
 - (iv) allotting to each unit subsidiary the number of the unit to which it is appurtenant and the letter 'S' and, if there are 2 or more unit subsidiaries appurtenant to the same unit, an additional number for each unit subsidiary;
 - (b) a schedule specifying—
 - (i) in respect of each unit—a whole number being the unit entitlement for that unit; and
 - (ii) a whole number, being the aggregate unit entitlement proposed for all the units; and
 - (c) where the proposals provide for the erection or alteration of, or an addition to, a building—a copy of the plans and specification for the erection, alteration or addition.
- (2) Where the proposals provide for a unit subsidiary, the diagrams shall show whether it is a utility room, laundry, store-room, balcony, verandah, porch, stairway, shed, garage, car port, parking area, garden, lawn or yard.

Documents
to be
included in
proposals

12. (1) The diagrams referred to in section 11(1)(a) shall include—

- (a) a diagram showing—
 - (i) the boundaries of the parcel;
 - (ii) the boundaries at ground level, or in an appropriate case, the boundaries projected to ground level, of the extremities of each building on the parcel; and
 - (iii) if the proposals include provisions for the subdivision of the parcel into Class B units—the boundaries of each of those units,

Nature of
diagrams to
be included
in proposals

- so drawn that the relationship of those boundaries to one another is shown;
- (b) where the proposals provide for a building to be so sub-divided that one Class A unit is wholly or partly above another Class A unit—a separate diagram for each floor of the building showing sufficient particulars, at floor level, from which the vertical boundaries of each unit on that floor are ascertainable, without necessarily specifying any bearings or dimensions;

- (c) where the proposals provide for a building to be sub-divided into 2 or more Class A units otherwise than in the manner referred to in paragraph (b) a diagram showing sufficient particulars, at floor level, from which the vertical boundaries of each unit are ascertainable without necessarily specifying any bearings or dimensions; and
 - (d) where the proposals provide for a Class B unit that is limited in its vertical dimensions by a projection above, or encroachment below, ground level by another part of the parcel—a statement on the diagram on which the unit is shown to the effect that the unit is so limited and stating the nature of the limitation.
- (2) A diagram referred to in paragraph (b) or (c) of sub-section (1) shall show the approximate floor area of each unit.
- (3) This section applies to and in relation to—
- (a) a unit subsidiary consisting of a building or part of a building as if that unit subsidiary were a Class A unit; and
 - (b) any other unit subsidiary as if that unit subsidiary were a Class B unit.
- (4) Subject to sub-section (1) (b) one or more diagrams referred to in that sub-section may be combined.

**Boundaries
of units and
unit
subsidiaries**

- 13. (1) Where—**
- (a) the proposals show a unit as a Class A unit; or
 - (b) a unit subsidiary consists of a building or part of a building,
- the boundaries of the unit or the unit subsidiary, as the case may be, shall be ascertained by reference to its floors, walls and ceilings.

- (2) Where—
- (a) the proposals show a unit as a Class B unit; or
 - (b) a unit subsidiary does not consist of a building or part of a building,
- the boundaries of the unit or the unit subsidiary, as the case may be, shall be ascertained from the diagram in the proposals, and the unit or the unit subsidiary, as the case may be, is unlimited in its vertical dimensions except to the extent of any projection above, or encroachment below, ground level by another part of the parcel.

**Common
boundaries**

- 14. (1) Subject to sub-section (3) where, in accordance with the proposals, a Class A unit or a unit subsidiary consisting of a building, or**

part of a Class A unit or a unit subsidiary consisting of a building or part of a building, is separated from—

- (a) common property;
- (b) a unit; or
- (c) from a unit subsidiary,

by a floor, wall or ceiling, the common boundary between them lies along the centre of that floor, wall or ceiling, and, in the case of a wall, that wall shall be not less than 11 centimetres in thickness.

(2) Where a Class A unit or a unit subsidiary consisting of a building or part of a building is bounded by reference to an external wall of the building—

- (a) the boundary of that unit or unit subsidiary lies along the centre of that wall; and
- (b) so much of that wall as is outside that boundary is common property.

(3) If the proposals specify that a boundary referred to in sub-section (1) lies elsewhere than in the position there described, the boundary is as so specified.

15. (1) Subject to section 16, the Administrator shall—

- (a) in respect of an application for approval to subdivide a parcel of land held in fee simple—approve the proposals; or
- (b) in respect of an application for approval to subdivide a parcel of leasehold land—approve the proposals if the registered proprietor is not in breach of a covenant contained in the lease or a provision of the Ordinance under which that lease was granted in respect of that lease.

Approval of
sub-division.

(2) Where the registered proprietor of a parcel of land is in breach of a covenant or provision referred to in sub-section (1) (b), the Administrator may, in his discretion, approve the proposals.

16. (1) The Administrator shall not approve the proposals unless—

- (a) each unit is suitable for separate occupation;
- (b) the schedule of unit entitlement is reasonable, having regard to the respective values of the units;
- (c) the proposals conform to the preceding provisions of this Part, and
- (d) a building of the type and for the use specified in the proposal is not prohibited under the *Town Planning Ordinance* or, where the parcel is a leasehold parcel of land, under the covenants contained in the lease.

Condition of
approval

(2) In determining the value of a unit for the purpose of sub-section (1) (b), the value of a unit subsidiary or unit subsidiaries appurtenant to the unit shall be taken into consideration.

Conditional approval of sub-division

17. An approval under section 15 shall, in the case of proposals referred to in section 11 (1) (c), be expressed to be subject to the condition that the erection or alteration of, or addition to, the building will be completed in accordance with those proposals within such time as is specified in the approval or within such extended time as the Administrator from time to time allows.

Documents to be forwarded to proprietor by Administrator

18. Where the Administrator has approved the proposals, he shall cause to be forwarded to the proprietor of the parcel notice in writing that he has approved the proposals or, if the approval is subject to the condition referred to in section 17 that he has approved the proposals subject to that condition being complied with.

Final approval where conditions complied with

19. Where a conditional approval has been granted, the Administrator shall, on an application made for the purpose by the proprietor of the parcel, give his final approval to the proposal if—

- (a) the condition has been complied with; and
- (b) the applicant is not in breach of a covenant contained in the lease of the parcel,

but, in any other case, the Administrator may, in his discretion, grant or refuse to grant final approval of the proposals.

Endorsement of units plan for registration

20. (1) Where approval, not being a conditional approval, of the proposals has been granted or, a conditional approval having been granted, final approval of the proposals has been granted under section 19, the proprietor of the parcel may submit to the Administrator for endorsement under this section—

- (a) diagrams showing the sub-division in accordance with the proposals as so approved; and
 - (b) the schedule of unit entitlement as so approved,
- prepared in accordance with the requirements of the *Real Property (Unit Titles) Ordinance*.

(2) Each sheet of the document referred to in sub-section (1) shall be signed by the proprietor of the parcel.

(3) There shall be endorsed on the diagram showing the boundaries referred to in section 12 (1) (a) a certificate on the appropriate form prescribed by the *Real Property (Unit Titles) Ordinance* by a surveyor registered under the *Licensed Surveyors Ordinance*.

(4) The Administrator shall make on the appropriate form prescribed by the *Real Property (Unit Titles) Ordinance* and endorsement that the documents are approved for registration under that Ordinance and affix his signature to, and note the date of, that endorsement and affix his signature to each other sheet of the documents, unless—

- (a) any alteration of, or addition to, a building on the parcel has occurred since the proposals were approved by him;
- (b) the lessee of the parcel is in breach of a covenant contained in the lease of the parcel; or
- (c) the documents submitted to him are not in accordance with the proposals as approved by him.

21. (1) An endorsement made under section 20 ceases to have effect—

Endorsement lapses after 3 months

- (a) on the expiry of the period of 3 months after the date on which it was made, unless the units plan is lodged with the Registrar-General under the *Real Property (Unit Titles) Ordinance* within that period; or
- (b) if the units plan is so lodged within that period and is subsequently withdrawn under section 20 of that Ordinance—when the endorsement is made by the Registrar-General under that section.

(2) If an endorsement so ceases to have effect, the proprietor of the parcel may again submit the documents to the Administrator for endorsement under section 20, whereupon that section and this section apply as if the previous endorsement had not been made.

PART IV—EFFECT OF REGISTRATION OF UNIT PLANS

22. On and after the registration of the units plan, the parcel is subdivided in the manner specified in the diagrams in the units plan and the boundaries of the units, of the unit subsidiaries (if any) and of the common property shall be ascertained in accordance with those diagrams and with sections 13 and 14 as if a reference in those sections to proposals were a reference to the units plan.

Sub-division of parcel by registration

23. (1) On the registration of the units plan and, in the case of a leasehold parcel, notwithstanding anything contained in the *Freehold Titles Ordinance*—

Title to units and common property

- (a) if the parcel was a leasehold parcel—the lease of the parcel is determined and the person who was, immediately before the registration of the units plan, the lessee of the parcel becomes possessed of an estate in fee simple in each unit;

- (b) if the parcel was held in fee simple—the person who was the proprietor of the parcel becomes possessed of an estate in fee simple in each unit; and
- (c) the corporation becomes possessed of an estate in fee simple in the common property.

(2) The estate of which a person or the corporation, as the case may be, becomes possessed under this section—

- (a) is subject to any mortgage referred to in section 8 of the *Real Property (Unit Titles) Ordinance*; and
- (b) is subject to, and has appurtenant to it, the easements created by section 25 of this Ordinance, and any easement referred to in section 8 of that Ordinance.

Common
property to
be held in
trust

24. (1) The corporation shall hold the common property in trust for the persons who are for the time being the members of the corporation as tenants in common in undivided shares proportional to the unit entitlements of their respective units, and shall afford those persons opportunity for the reasonable use and enjoyment of the common property.

(2) The estate in the common property held by the corporation is not capable, either at law or in equity, of being transferred, assigned, sub-let or mortgaged.

Easements
created by
this
Ordinance

25. (1) In this section—

“proprietor”, in relation to the common property, means the corporation;

“tenement” means a unit or the common property, as the case may be.

(2) On and after the registration of the units plan, the proprietor of each tenement (in this section called “the dominant tenement”) shall be deemed to have over each other tenement (in this section called “the servient tenement”) such of the rights specified in sub-section (3) as are necessary for the reasonable use and enjoyment of the dominant tenement.

(3) The rights referred to in sub-section (2) are—

- (a) rights of support, shelter and protection afforded by the servient tenement at the time of the registration of the units plan;
- (b) rights for the collection, passage and provision of water, sewerage, drainage, garbage, gas, electricity and air, and other services of whatsoever nature (including telephone, radio and television services), through or by means of pipes, wires, cables, ducts, or other reasonable means; and

(c) such ancillary rights as are necessary to make the rights referred to in paragraphs (a) and (b) effective, including rights of entry by the proprietor of the dominant tenement and his agents, servants and workmen at all reasonable times on the servient tenement for the purpose of—

- (i) inspecting, maintaining or repairing the servient tenement; or
- (ii) inspecting, maintaining, repairing, replacing, renewing or restoring any pipes, wire, cable, duct or other material.

(4) A right created by this section shall be deemed to be an easement appurtenant to the dominant tenement in relation to which it is enjoyed.

(5) An easement created by this section subsists notwithstanding that the same person is the proprietor of both the dominant and servient tenements.

(6) A person exercising a right under an easement created by subsection (3) (b) or (c) is liable to make good any damage done in the course of exercising that right.

26. On and after the registration of the units plan, an alteration of the schedule of unit entitlement is not capable of being registered unless it is made in pursuance of an order of the Court under Part VIII.

No alteration of schedule of unit entitlement

PART V—MANAGEMENT CORPORATIONS

Division 1—Constitution of Corporations

27. On and after the registration of a units plan, there is constituted a body corporate under the name “The Proprietors—Units Plan No ”, the number to be included in the name being the number allotted to the units plan by the Registrar-General on its registration.

Incorporation of proprietors of units

28. The members of the corporation so constituted are the persons who are proprietors, for the time being, of the units.

Membership of corporation

29. A body corporate which is the proprietor of a unit may from time to time appoint a person to represent it for the purposes of the provisions of Divisions 3, 4 and 5 of this Part (other than sections 61, 71, 72 and 73) and, in that event, those provisions apply as if that person were the proprietor of that unit.

Body corporate which is member may appoint representatives

Legal status
of
corporation

- 30.** A corporation—
- (a) has perpetual succession;
 - (b) shall have a common seal; and
 - (c) may sue and be sued in its corporate name.

Companies Ordinance
not to apply

- 31.** The *Companies Ordinance* does not apply to or in relation to a corporation.

Corporation
to act
through
committee

- 32.** (1) On and after the constitution of a corporation, there shall be a committee of the corporation which, subject to this Ordinance, shall perform all the duties and functions, and may exercise all the powers, imposed or conferred on the corporation.

(2) Those duties and functions shall be performed and those powers shall be exercised by the committee in such manner as the corporation by resolution passed at a general meeting directs or, in the absence of such a resolution, in such manner as the committee thinks fit.

Division 2—Duties, Functions and Powers of Corporations

General
provisions

- 33.** (1) A corporation shall perform the duties, may exercise the powers, and may perform the functions, imposed or conferred on it by this Ordinance.

(2) A corporation may do such things as are incidental or ancillary to the performance of its duties or functions or to the exercise of its powers.

General
duties

- 34.** A corporation shall—
- (a) be responsible for the enforcement of its articles and the control, management and administration of the common property;
 - (b) keep in a state of good repair and properly maintain the common property and all chattels in its possession, custody or control; and
 - (c) maintain in good repair and proper order and, if renewal is reasonably necessary, renew, all pipes, wires, cables, ducts, and apparatus and equipment of any kind used, or intended, adapted or designed for use, in the provision of services in respect of which easements are created by section 25.

Banking and
investment
of moneys of
corporation

- 35.** (1) A corporation shall open and maintain a bank account into which it shall pay all moneys received by it and out of which shall be paid all expenditure incurred by it.

(2) Subject to sub-section (3), moneys of a corporation may be invested--

- (a) in such manner as trust funds may be invested under the *Trustee Act and Ordinance*; or
- (b) in such other manner as is authorised by a special resolution.

(3) Moneys of a corporation shall not be invested in mortgages of land.

36. (1) A corporation shall, from time to time, determine the amount that it will require by way of contributions from its members to discharge expenditure that it may reasonably be expected to incur, or has incurred, by reason of the performance of the duties and functions and the exercise of the powers imposed or conferred on it by this Ordinance.

Contributions
by members
of the
corporation

(2) A corporation shall, in a determination made under sub-section (1), specify the time within which, and the manner in which, contributions so determined are to be paid by its members.

(3) Subject to sub-section (4), the contribution payable in respect of each unit is such amount as bears to the total amount referred to in the determination the same proportion as the unit entitlement of the unit, as at the date of the determination, bears to the aggregate unit entitlement of all the units as at that date.

(4) Where--

- (a) a determination made under sub-section (1) relates to expenditure to be incurred by the corporation in discharge of a specified liability; and
- (b) before the making of that determination, the corporation has, by a unanimous resolution, resolved that contributions for that expenditure are payable in a proportion other than that specified in sub-section (3),

the contribution payable in respect of each unit for that expenditure is such amount as is ascertained in accordance with that resolution.

(5) The corporation shall cause notice of each determination made under sub-section (1) to be given to its members and shall, in the notice given to a member, specify the amount payable by him in respect of his unit and the time within which, and the manner in which, that amount is payable.

(6) If an amount payable in respect of a unit is not paid within the period specified in the notice, that amount is recoverable as a debt due to the corporation from the person who was the proprietor of the unit on the date on which the notice was so given and from the person who is the proprietor of that unit on the date on which the action is instituted.

(7) The liability under sub-section (6) is joint and several.

Statement of
members'
liability to
the
corporation
and
inspection of
books, &c.

37. (1) This section applies to the following persons:

- (a) the proprietor or mortgagee of a unit; and
- (b) a person who produces the consent in writing of the proprietor of a unit to the making of a request under this section; and

(2) A person to whom this section applies may request the relevant corporation—

- (a) to issue to him within 14 days after the request is received by the corporation, a certificate under the seal of the corporation certifying whether or not any amount that is payable under section 36 by way of contribution in respect of that unit is unpaid on the date of the certificate and, if so, the amount unpaid and the date on or before which the amount is, or will become, due; or
- (b) to make, as soon as is reasonably practicable after the request is received by the corporation, the books and records of the corporation available for his inspection and to give him reasonable opportunity to inspect those books and records.

(3) A request under this section shall be in writing.

(4) The corporation is entitled to charge a fee for supplying the certificate or making available the books and records under this section not exceeding the cost to the corporation of providing that service.

(5) If default has been made by a corporation in complying with a request made under this section, each person who was, at the time when the default occurred, a committee-man of the corporation is, unless he proves that he took reasonable steps to ensure that the default did not occur or proves that the default occurred without his knowledge, guilty of an offence and is punishable, on conviction, by a fine not exceeding 400 dollars.

(6) Where a person has acted in good faith on a matter stated in a certificate issued by the corporation under this section, then, in an action by or against the corporation, the corporation is estopped, as against that person, from denying the truth of that or any other matter stated in the certificate.

Names and
addresses of
committee-
men

38. A corporation shall comply with any reasonable request for the names and addresses of its committee-men.

No business
for profit

39. (1) Except in the course of, and for the purpose of, exercising its powers and performing its functions and duties, a corporation shall not carry on business.

(2) If default has been made by a corporation in complying with sub-section (1), each person who was, at the time when the default occurred, a committee-man of the corporation is, unless he proves that he took reasonable steps to ensure that the default did not occur or proves that the default occurred without his knowledge, guilty of an offence and is punishable, on conviction, by a fine not exceeding 400 dollars.

- 40.** A corporation may, if authorized by a unanimous resolution— Borrowing powers
- (a) borrow moneys required by it for the purpose of performing its duties or functions or exercising its powers; and
 - (b) secure the repayment of moneys borrowed by it and the payment of interest on those moneys.

41. (1) If a person who is bound by a provision of the articles of a corporation commits a breach of that provision by act or omission, the corporation may serve upon that person a notice in writing giving particulars of the breach and requiring him to remedy the breach within a reasonable time specified in the notice. Breaches of articles may be remedied

(2) If the person upon whom the notice has been served fails to remedy the breach within the time specified in the notice, the corporation may itself remedy the breach.

- 42.** (1) A corporation may, if authorized by special resolution— Acquisition and alienation of property
- (a) purchase, hire or otherwise acquire, or accept, personal property (not being a leasehold interest) for its own use or for any use in connexion with the use and enjoyment of the common property; and
 - (b) dispose of any property so purchased, acquired or accepted.

- (2) A corporation may, if authorized by unanimous resolution—
- (a) grant an easement over any portion of the common property;
 - (b) acquire or accept an easement granted for the benefit of the common property; or
 - (c) release an easement so granted, acquired or accepted,

but an easement shall not be so granted, acquired, accepted or released except upon such terms and conditions and for such purposes as are specified in the resolution.

(3) A corporation is not capable, either at law or in equity, of acquiring or possessing any interest in land (not being an easement granted for the benefit of the common property).

Agreements
with
members

43 A corporation may, if authorized by a special resolution, enter into and carry out an agreement with a proprietor or occupier of a unit providing for the repair or maintenance of the unit or for the provision of amenities or services by it to that unit or to that proprietor or occupier.

Special
privileges
relating to
common
property

44. (1) A corporation may, if authorized by a unanimous resolution, grant to a member, or any person who has derived an interest in a unit through a member, any special privilege (not being a lease) in respect of the enjoyment of part or parts of the common property.

(2) A grant under sub-section (1) may be terminated by notice in writing given by the corporation to the grantee in accordance with a special resolution.

Recovery of
certain
repairs, &c.

45. (1) Where a corporation has performed any act which it was required or authorized by its articles or by or under this Ordinance or any other law in force in the Territory to perform, and which related to one unit only or some of the units only, any money expended by the corporation in performing that act is recoverable by the corporation as a debt from the proprietor or proprietors, for the time being, of that unit or those units, as the case may be.

(2) Where the act referred to in sub-section (1) related to some of the units only the amount recoverable from a proprietor in respect of a unit bears to the whole amount of the debt the same proportion as the unit entitlement of the unit bears to the aggregate unit entitlement of all those units.

(3) For the purposes of this section—

- (a) 'act' includes repairs and work; and
- (b) an act shall be deemed to relate to a unit if, but only if, the act is wholly or substantially for the benefit of the unit or wholly or substantially the liability or the responsibility of the proprietor of the unit.

Recovery of
expenditure
resulting
from fault

46. Where a corporation has incurred any expenditure or performed any repairs, work or act that it was required or authorized by its articles or by or under this Ordinance or any other law in force in the Territory to perform, the expenditure, repairs, work or act having been rendered necessary by reason of any wilful or negligent act or omission on the part of, or breach of any provision of its articles by, a member of the corporation, the amount of that expenditure or any money expended by it in performing the repairs, work or act is recoverable by it from that member as a debt.

47 Where 2 or more persons are proprietors of a unit and an amount is recoverable under section 35 or section 45 from the proprietor of that unit, the liability of those persons in respect of the payment of that amount is joint and several.

Liability of
co-
proprietors

Division 3—Committees of Corporations

48. (1) Until the first annual general meeting, the committee consists of all the members of the corporation.

Constitu-
tion of
committee
before first
annual
general
meeting

(2) Until the first annual general meeting, the committee shall not perform a duty or function imposed, or exercise a power conferred, on the corporation unless it is authorized by a unanimous resolution to do so.

49. (1) After the first annual general meeting, the committee shall, subject to this section, consist of such number of members of the corporation as is determined at that meeting, being a number not less than 2 and not more than 7.

Constitu-
tion of
committee
after first
annual
general
meeting

(2) Subject to this section, the number of committee-men may be varied by ordinary resolution passed at a general meeting.

(3) The corporation may, by special resolution, fix a number of committee-men exceeding 7.

(4) Where—

(a) there are not more than 3 members of the corporation; or

(b) the number of members of the corporation is equal to or less than the number determined, for the time being, to be the number of committee-men,

the committee consists of all the members of the corporation.

(5) Except where sub-section (4) is applicable, the committee-men shall be elected at each annual general meeting and shall hold office until the next succeeding annual general meeting.

(6) Except where the committee consists of all the members of the corporation, the corporation may, by special resolution, remove any committee-man before the expiry of his term of office and appoint another member of the corporation in his place to hold office for the unexpired part of the term of office of the committee-man so removed.

(7) Subject to sub-section (6), when a casual vacancy occurs on the committee, the remaining committee-men may appoint another member of the corporation in place of, and for the unexpired part of the term of office of, the committee-man whose office is vacant.

Meetings of
committee

50. (1) Subject to sub-section (2), the committee may meet for the conduct of business as and when it determines and may adjourn and otherwise regulate its meetings as it thinks fit.

(2) A committee-man may convene a meeting of the committee by giving to each other committee-man not less than 7 days' written notice specifying the business that he proposes to bring before the meeting and the time and place of the meeting.

Quorum of
committee

51. (1) No business shall be transacted at a meeting of the committee unless a quorum is present at the relevant time.

(2) For the purposes of sub-section (1) a quorum is—

(a) where the total number of committee-men is an odd number—a number ascertained in accordance with the formula—

$$\frac{X + 1}{2} \quad ; \text{ or}$$

(b) where the total number of committee-men is an even number—a number ascertained in accordance with the formula—

$$\frac{X}{2} + 1$$

where X is the total number of committee-men.

Chairman of
committee

52. (1) At the commencement of each meeting of the committee, the committee-men present shall elect a chairman for the meeting.

(2) If any chairman so elected vacates the chair or is unwilling or unable to act as chairman during the course of a meeting, the committee-men present shall elect another chairman in his place.

(3) The chairman elected under either sub-sections (1) or (2) is not prevented from exercising his deliberative vote as a committee-man and, in the case of an equality of votes, is entitled to a second or casting vote.

Voting of
committee

53. At meetings of the committee, all matters shall be decided by a majority of the votes of the committee-men present and voting.

Committee
may
delegate
duties,
functions
and powers

54. (1) Subject to any restriction or direction that may be imposed or given by ordinary resolution passed at a general meeting, the committee may delegate to one or more of the committee-men either generally or otherwise as provided by the instrument of delegation, all or any of its duties, functions and powers, except this power of delegation.

(2) A duty so delegated shall be performed and a function or power so delegated may be performed or exercised, by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the performance of a duty or function, or the exercise of a power, by the committee

55. Subject to any restriction or direction that may be imposed or given by special resolution, the committee may, for and on behalf of the corporation, employ, on such terms and conditions as it thinks fit, agents and servants in connexion with the performance of the duties and functions and the exercise of the powers of the corporation.

Committee
may employ
agents and
servants

56. (1) The committee shall—

- (a) keep minutes of its proceedings;
- (b) cause minutes of proceedings at all general meetings of the corporation to be kept in a minute book of the corporation kept for the purpose;
- (c) include in that book a record of every resolution of the corporation indicating whether that resolution was unanimous, special or ordinary;
- (d) cause proper records and books of account to be kept in respect of the assets and liabilities of the corporation and all sums of money received and expended by and owing to and by the corporation; and
- (e) cause those minutes, records and books of account to be retained for a period of 3 years after the completion of the transactions, acts or operations to which they relate.

Minutes,
records and
accounts

(2) At each annual general meeting, the committee shall present to the corporation statements showing all moneys received and paid by, and assets and liabilities of, the corporation covering the period since the last preceding accounts so presented or, in the case of the first annual general meeting, since the registration of the units plan, and made up to a date that is not more than 3 months before the date of that meeting.

(3) If default has been made by the committee in complying with either sub-section (1) or (2), each person who was, at the time when the default occurred, a committee-man is, unless he proves that he took reasonable steps to ensure that the default did not occur or proves that the default occurred without his knowledge, guilty of an offence and is punishable, on conviction, by a fine not exceeding 400 dollars.

57. No act done in good faith by the committee is invalidated merely by reason of the fact that at the relevant time there was some defect in the appointment or continuance in office of a committee-man.

Validity of
acts of
committee

Division 4—General Meetings of Corporations

Annual
general
meetings

58. (1) A corporation shall hold a general meeting (which shall be called the annual general meeting and may be held in addition to any other general meeting held in the same year) at least once in every year and, except in the case of the first annual general meeting, not more than 15 months after the date of the last preceding annual general meeting.

(2) Subject to this Division, a corporation may hold, adjourn and otherwise regulate general meetings as it thinks fit.

Convening
of first
annual
general
meeting

59. (1) The first annual general meeting shall be held within 6 months after the registration of the units plan.

(2) The first annual general meeting may be convened by the committee or by any member of the corporation.

Convening
of general
meeting
other than
the first
annual
general
meeting

60. (1) The committee—

(a) may, whenever it thinks fit; and

(b) shall, upon a requisition in writing specifying the matters to be considered at a general meeting and made by members having not less than 25 per centum of the aggregate unit entitlement,

upon notice given in accordance with section 61, convene a general meeting.

(2) Where a mortgagee has, in a notice given under section 65 or in a subsequent written notice, notified the corporation that he is to be regarded as a member of the corporation in respect of that unit for the purposes of sub-section (1) the mortgagee shall be deemed for those purposes to be a member of the corporation in respect of that unit.

Notice of
general
meetings

61. (1) Subject to sub-section (2), the time to be fixed for the holding of a general meeting shall be a time which will permit not less than 14 days' notice of the time fixed for the meeting to be given.

(2) Where it appears to the committee that a matter to be considered at a general meeting requires a unanimous resolution, the time to be fixed for the holding of the general meeting shall be a time that will permit not less than 21 days' notice of the time fixed for the meeting to be given.

(3) A notice for a general meeting—

(a) shall specify the time, date and place fixed for the holding of the meeting;

(b) if it appears to the committee that any matter to be considered at the meeting is a matter that requires a unanimous resolution,

shall specify that matter and state the fact that it requires a unanimous resolution; and

- (c) shall be given to all the members of the corporation and to all mortgagees who have given notice to the corporation under section 65.

(4) Notice under sub-section (3) shall be deemed to have been sufficiently given to a person if sent by prepaid post as a letter properly addressed to the last address of that person notified to the corporation, or, if no such address has been so notified, to the person's last known place of abode or, if that person is a body corporate, to its registered office, its place of business or any other known address.

(5) The proceedings at a general meeting are not invalidated by reason of the fact only—

- (a) that a person did not receive notice under this section; or
 (b) that such a notice was received by a person less than 14 days or 21 days as the case may be, before the time fixed for the meeting.

(6) Where notice of a general meeting has been received by a person less than 14 days or 21 days, as the case may be, before the time fixed for the meeting, the meeting shall, if that person so requests, be adjourned to a date to be determined by the persons present and voting at the meeting.

62. (1) At the commencement of a general meeting, the members present shall elect a chairman for the meeting.

Chairman of
general
meeting

(2) If the chairman so elected vacates the chair or is unwilling or unable to act as chairman during the course of a meeting, the members present shall elect another chairman in his place.

63. (1) Subject to sub-section (2), no business shall be transacted at a general meeting unless a quorum, consisting of persons entitled to exercise voting rights in respect of not less than half the total number of units, is present at the relevant time.

Quorum at
general
meeting

(2) If, within half an hour after the time appointed for a general meeting, a quorum referred to in sub-section (1) is not present, the meeting shall be adjourned to the same day in the next week at the same place and time and, if a quorum is not then present within half an hour after the time appointed for the adjourned meeting, the persons who are then present and entitled to vote constitute a quorum for the purposes of that sub-section.

Division 5—Voting at General Meetings

64. Subject to section 65, at a general meeting—

- (a) where a unanimous resolution is required, each member is entitled to exercise one vote; and

Voting by
members

- (b) where a unanimous resolution is not required, one vote is exercisable in respect of each unit and that vote is exercisable by the member who is the proprietor of that unit or, where there are 2 or more proprietors of that unit, jointly by the members who are those proprietors.

Voting by mortgagees

65. (1) Where the estate or interest of the proprietor of a unit is subject to a mortgage or mortgages, the mortgagee or, if there are 2 or more such mortgages, the mortgagee under whichever of those mortgages is entitled to priority over the other mortgage or other mortgages may give the corporation written notice that the unit is subject to the mortgage and that he proposes to exercise the rights conferred by this section.

(2) Where a mortgagee of a unit has given notice under sub-section (1) and the mortgage has not been discharged, the right to vote in respect of that unit, on a matter requiring a unanimous resolution, that would, but for this sub-section, be exercisable by the proprietor, of that unit—

- (a) shall not be exercised by the proprietor; and
- (b) may be exercised by the mortgagee.

(3) Where—

- (a) a mortgagee of a unit has given notice under sub-section (1);
- (b) he or his proxy is present at a general meeting of the corporation at the time of voting; and

(c) the mortgage has not been discharged,

the right to vote in respect of that unit, on a matter not requiring a unanimous resolution that would, but for this sub-section, be exercisable by the proprietor of that unit—

- (d) shall not be exercised by the proprietor; and
- (e) may be exercised by the mortgagee.

(4) Where 2 or more persons are mortgagees of a unit as joint tenants or as tenants in common—

- (a) the right to give notice under this section is exercisable only by them jointly;
- (b) the right to vote conferred upon them by this section is exercisable by them jointly; and
- (c) for the purposes of sub-section (3), those mortgagees shall be deemed not to be present at a meeting unless their proxy is present at that meeting.

(5) Where—

- (a) a unit is held by 2 or more persons as tenants in common; and
- (b) one of those tenants has mortgaged his estate or interest as registered proprietor,

the mortgagee may give notice to the corporation in accordance with sub-section (1) and thereupon the preceding provisions of this section apply in relation to the right to vote that the mortgagor would, but for this sub-section, be entitled to exercise.

66. Where a unanimous resolution is not required, then, unless a poll is demanded under section 67, a declaration by the chairman of the meeting that a resolution has been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded against or in favour of that resolution. Declaration by chairman of result of voting

67. (1) Where a unanimous poll or special resolution is required, a poll may be demanded by any person present and entitled to vote. Polls.

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

(3) A poll, if demanded, shall be taken in such manner as the chairman of the meeting thinks fit and the result of the poll, which shall be declared by the chairman as soon as it is ascertained, shall determine whether or not the resolution in respect of which the poll was demanded has been carried.

68. (1) Subject to sections 72 and 73, votes at a general meeting may be cast either personally or by proxy, whether on a poll or not. Votes may be cast personally or by proxy

(2) An instrument appointing a proxy for the purposes of this Division shall be in accordance with a form determined by the committee.

69. Except where a unanimous or special resolution is required every vote is of equal value unless a poll is demanded and held, and in that event the value of each vote corresponds to the unit entitlement of the unit in respect of which it is exercised. Value of votes

70. The chairman of a general meeting is not prevented from exercising his deliberative vote as a member and, in the case of an equality of votes or an ordinary resolution, whether on a poll or not, is entitled to a second or casting vote. Voting by chairman

71. Except where a unanimous resolution is required, the right to vote in respect of a unit is not exercisable unless all amounts due and payable in respect of that unit to the corporation by the member or members liable to pay those amounts have been paid. No vote unless dues paid

72. (1) Where notice has been given that it is proposed to move at a general meeting a matter requiring a unanimous resolution and more than one person is entitled to attend the meeting and vote on the resolution— Absentee votes on unanimous resolutions

(a) the committee shall, with the notice of the meeting given to the person, give a voting paper; and

(b) a person entitled to vote on the proposed resolution may, in lieu of voting in any other manner, cast an absentee vote by recording his vote on the voting paper and causing it to be delivered to the corporation before the commencement of the meeting.

(2) A vote recorded and delivered in accordance with sub-section (1) shall be accepted by the chairman of the meeting concerned as a valid vote by the person exercising it and that person shall, except for the purposes of section 63, be deemed to be present at the meeting and to have exercised his powers of voting on that resolution.

Joint voters

73. (1) Where 2 or more persons are entitled to exercise one vote jointly, that vote shall be exercised only by a person (who may or may not be one of them) jointly appointed by them as their proxy.

(2) Notwithstanding sub-section (1), where 2 or more persons are entitled to exercise one vote jointly, any one of them may, except where a unanimous resolution is required, demand a poll.

Capacity to vote

74. The right of a person to vote at a general meeting—

- (a) may, subject to paragraph (b), be exercised by him, if he has attained the age of 18 years;
- (b) shall not be exercised by him if he is under a legal disability (not being infancy) that prevents him from lawfully dealing with his property, but may in that event be exercised by the person who is, for the time being, authorized by law to control that property; and
- (c) shall not be exercised by him if he has not attained the age of 18 years, but may in that event be exercised by his guardian.

Court's powers in respect of voting

75. (1) Where, for any reason, it is impossible or impracticable to obtain the exercise by a person of his right to vote on a matter requiring a unanimous resolution, or it is not known by what person a right to vote on such a matter is exercisable, the Court, on the application of the corporation or of any other person entitled to vote on the matter, may by order—

- (a) appoint a person to exercise, on behalf of the first-mentioned person, the right to vote; or
- (b) declare that any person's right to vote shall be dispensed with either on a particular occasion or generally.

(2) Where the Court has made an order under sub-section (1)(a), the person appointed by the Court may exercise the right to vote of the person named in the order.

(3) Where the Court has made an order under sub-section (1)(b), the provisions of this Division have effect as if no right to vote were exercisable by the person in question on the particular occasion or generally, as the case may be.

(4) In making an order under sub-section (1), the Court may make such provision as it thinks necessary or expedient to give effect to the order.

(5) In this section, a reference to a right to vote shall be read as including a reference to a right to appoint a proxy to vote.

Division 6—Articles of Corporations

76. On and after the constitution of a corporation by section 27, the articles set out in the Schedule shall, subject to any amendment or rescission of, or addition to, those articles made under section 78, be the articles of the corporation. Articles of corporation

77. (1) The corporation and each of the members of the corporation are bound by, and have the rights conferred by, the articles of the corporation to the same extent as if— Effect of articles

- (a) the corporation and each member had agreed under seal with each other and each other member to be bound by the articles; and
- (b) the articles contained covenants on the part of the corporation and each member to observe all the provisions of the articles.

(2) Unless the articles of the corporation otherwise provide, an occupier of a unit, not being the proprietor of the unit, is bound by the articles of the corporation as if he were the proprietor of the unit.

78. (1) A corporation may, by special resolution, alter its articles by amending, rescinding or adding to its articles or by making articles in the place of articles rescinded. Alteration of articles

(2) Subject to sub-section (3) an alteration of the articles of a corporation under sub-section (1)—

- (a) has no force or effect unless a copy of the special resolution making the alteration, certified under the seal of the corporation as a true copy, is lodged with and registered by the Registrar-General; and
- (b) has force and effect on and from the date of its registration or such later date as is fixed by the special resolution.

(3) To the extent that an alteration of the articles of a corporation made under sub-section (1) or (2) results in a provision of the articles—

- (a) being inconsistent with a provision of this Ordinance other than a provision in the Schedule;
- (b) imposing a duty or conferring a power on the corporation which is not incidental or ancillary to the performance of the duties or functions, or the exercise of the powers, imposed or conferred on it by this Ordinance; or
- (c) prohibiting or restricting the devolution, transfer, lease or mortgage of, or any other dealing with—
 - (i) an interest in a unit; or
 - (ii) the equitable estate of the proprietor of a unit in the common property,

the alteration has no force or effect.

Application
of
*Interpretation
Ordinance*

79. (1) The *Interpretation Ordinance* applies to and in relation to the articles of a corporation as if the articles were an Ordinance and as if each article were a section of an Ordinance.

(2) Expressions used in the articles of a corporation have, unless the contrary intention appears, the same meaning as in this Ordinance.

PART VI—INSURANCE

Insurance by
corporation

80. (1) Subject to sub-section (3), a corporation shall insure and keep insured all buildings and other improvements on the parcel for their replacement value from time to time against all the following risks—

- (a) fire, lightning, tempest, earthquake and explosion;
- (b) riot, civil commotion, strikes and labour disturbances;
- (c) malicious damage;
- (b) bursting, leaking and overflowing of boilers, water tanks, water pipes and associated apparatus; and
- (e) impact of aircraft (including parts of, and objects falling from aircraft) and of road vehicles, horses and cattle.

(2) Subject to sub-section (3), a corporation shall insure itself and keep itself insured against liability in respect of—

- (a) death, bodily injury or illness; or
- (b) loss of, or damage to, property,

occurring in connexion with the common property as a result of an accident, for such aggregate amount of liability, being not less than 250,000 dollars at any one time, as is determined by the corporation.

(3) A corporation may, by unanimous resolution resolve that it will not insure against such of the risks referred to in sub-sections (1) and (2) as are specified in the resolution, and, in that event, the corporation is not required by this section to insure against a risk so specified.

(4) Where a corporation has, under sub-section (2), resolved that it will not insure against a particular risk, a proprietor or mortgagee of a unit may at any time serve on the corporation a written notice requiring it to insure against that risk.

(5) 28 days after the receipt by the corporation of the notice, the unanimous resolution ceases to have effect in relation to the risk specified in the notice and the corporation shall, in accordance with sub-section (1) or (2), as the case may be, insure against that risk.

(6) As soon as is practicable after the receipt by the corporation of the notice, the corporation shall notify every member and every mortgagee of a unit—

- (a) of the particulars of the notice and the date of its receipt; and
- (b) of the date on and from which the risk specified in the notice is, or is to be, covered by insurance effected by the corporation.

(7) Nothing in this section shall be construed as limiting the right of a corporation to effect such additional insurance as it determines.

(8) In this section 'risk' includes any liability referred to in sub-section (2).

81. For all purposes connected with any insurance effected by it under section (1), a corporation shall be deemed to have an insurable interest in the buildings and improvements on the parcel to the extent of their replacement value.

Insurable interests of corporation

82. The moneys received by a corporation under a policy of insurance effected by it under section 80 (1) in respect of any buildings or other improvements on the parcel shall not be liable to be brought into contribution with moneys received under any other policy of insurance except another policy effected under that sub-section in respect of the same buildings or improvements.

Corporations insurance moneys not to be brought into contribution

83. A corporation shall, on the written request of a member or the mortgagee of a unit, produce for inspection by the member or mortgagee the policy of insurance effected by the corporation and the receipt for premiums paid under that policy.

Inspection of policies and receipts for premiums

84. Where the estate or interest of the proprietor of a unit is subject to a mortgage, the proprietor may effect one or more policies of insurance that indemnify him against liability under the mortgage, being liability arising out of damage to, or destruction of, the unit.

Mortgage insurance of unit

Payment
under policy

85. Where a policy of insurance is in force under section 84, the insurer is liable to pay to the mortgagee whose interest is noted on the policy or, if there are 2 or more such mortgagees, to those mortgagees in their order of registered priority—

- (a) the sum insured as stated in the policy;
- (b) the amount of the loss; or
- (c) the amount sufficient, at the date of the loss, to discharge the mortgage noted on the policy,

whichever is the least amount.

Transfer of
mortgagee's
interest to
insurer

86. Payment by the insurer to a mortgagee under section 85 does not entitle the mortgagor to a discharge of the mortgage, but, upon that payment—

- (a) if the amount paid equals the amount necessary to discharge the mortgage, the insurer is entitled to obtain from the mortgagee a transfer of the mortgage; or
- (b) if the amount paid is less than the amount necessary to discharge the mortgage, the insurer is entitled to obtain from the mortgagee a transfer of an undivided share of the mortgagee's estate and interest in the mortgage that bears to that estate and interest the same proportion as the amount paid bears to the amount that was owing under the mortgage immediately before the payment.

Mortgage
insurance
moneys not
to be
brought into
contribution

87. The moneys received under a policy of insurance effected in relation to a unit by the proprietor of that unit under section 84 shall not be brought into contribution with moneys received under any other policy of insurance except another policy effected under that section which indemnifies that person against liability arising out of damage to, or destruction of, that unit.

Other
insurance by
proprietor

88. Nothing in this Part shall be construed as limiting the right of a proprietor of a unit to insure against damage to, or destruction of, the unit to the extent of its replacement value.

Application
of insurance
moneys

89. Subject to this Ordinance and to any order of the Court, where a corporation receives insurance moneys in respect of damage to, or destruction of, any building or improvement on the parcel, it shall, without delay, apply those moneys to rebuilding and reinstating the building or improvement.

PART VII—ADMINISTRATORS OF CORPORATIONS

Appointment
of
administrator

90. (1) A corporation, a creditor of a corporation or a person having an estate or interest in a unit may apply to the Court for the appointment as administrator of the corporation of a person who has consented to act in that capacity.

(2) On an application made under sub-section (1), the Court may, in its discretion and on cause shown, by order, appoint the person named in the application to be administrator of the corporation on such terms and conditions as to remuneration or otherwise as it thinks fit.

(3) The remuneration of an administrator of a corporation and the expenses incurred by him in the performance of his duties and functions and the exercise of his powers as an administrator shall be deemed to be expenditure incurred by the corporation.

91. On an application made by the administrator of a corporation, the corporation or a person referred to in section 90 (1), the Court may, in its discretion, by order, remove or replace the administrator of the corporation.

Removal or replacement of administrator

92. In an order under either sections 90 or 91 the Court shall give such directions as it thinks fit with respect to the giving of notice of the order to the Registrar-General and to the corporation.

Notice to Registrar-General and corporation of order under section 90 or 91

93. (1) Subject to this section, the administrator of a corporation shall perform the duties, and may exercise the powers and perform the functions, of the corporation to the exclusion of the corporation and its committee.

Duties, functions and powers of administrator

(2) Except with the approval of the Court, the administrator of a corporation shall not do any act that is required by this Ordinance to be authorized by a unanimous resolution.

(3) On application made to the Court by the administrator of a corporation or a person referred to in section 90 (1), the Court may give such directions as it thinks fit with regard to the manner in which the administrator shall perform his duties and functions and exercise his powers.

94. (1) An administrator of a corporation may, by writing under his hand, delegate to any person, either generally or otherwise as provided by the instrument of delegation, all or any of his duties, functions and powers, except this power of delegation.

Administrator may delegate duties, functions and powers

(2) A duty so delegated shall be performed, and a function or power so delegated may be performed or exercised, by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the performance of a duty or function, or the exercise of a power, by the administrator of the corporation.

PART VIII—CANCELLATION AND ALTERATION OF UNITS PLANS

Court may
order
cancellation
of units plan

95. (1) A corporation, the administrator of a corporation or a member of a corporation may apply to the Court for an order for the cancellation of the units plan.

(2) A copy of an application under this section shall be served on the Registrar-General.

(3) On an application made under sub-section (2), the Court may make a provisional order, or a final order, for the cancellation of the units plan or may make an order dismissing the application.

(4) The Court shall not make an order for the cancellation of a units plan unless it is satisfied that, having regard to the rights and interests of all persons having estates or interests (whether registered or not) in the units, it is just and equitable to do so.

(5) If the Court considers, on an application for an order under this section, that it is necessary to impose conditions, and give directions, to be complied with before the making of a final order for the cancellation of the units plan for the purpose of adjusting, as between all persons having registered estates or interests in the units, the respective rights and duties of those persons so far as they may be affected by the cancellation of the units plan, the Court shall make a provisional order for the cancellation of the units plan specifying the conditions and directions to be complied with before the making of a final order.

(6) The Court may, if satisfied, on an application made for the purpose, that the conditions and directions specified in the provisional order have been complied with, make a final order for the cancellation of the units plan.

(7) A final order may include directions to be complied with after the cancellation of the units plan and, in such a case, the order may be enforced as if it were a judgment of the Court obtained by a person for whose benefit the directions were given against the person required to comply with the directions.

Effect of
registration
of order for
cancellation
of units plan

96. (1) On the registration of an order for the cancellation of a units plan—

- (a) the corporation is dissolved;
- (b) the title of the common property is and the title of each of the units are determined;
- (c) the land comprised in those titles forms one parcel of land; and

(d) the persons who were, immediately before the registration of the order, the proprietors of the units become possessed of an estate in fee simple in the parcel of land as tenants in common in undivided shares proportional to the unit entitlement of their respective units, or, if a person was, immediately before the registration of the order, the proprietor of all the units, that person becomes possessed of an estate in fee simple in the parcel of land.

(2) For the purposes of paragraph (d) of sub-section (1), if, immediately before the registration of the order, 2 or more persons were proprietors, as joint tenants or as tenants in common, of a unit, 2 or more units or all the units, then, the share in the estate, or the whole estate, as the case may be, vested by that paragraph in those persons is vested in them jointly if they were joint tenants or, if they were tenants in common is vested in them as tenants in common, in the same shares as they held in the unit or units.

(3) The share in the estate, or the estate, as the case may be, of which a person becomes possessed under sub-section (1)(d) is subject to any mortgage and any easement referred to in section 11 of the *Real Property (Unit Titles) Ordinance*.

97. (1) On the dissolution of a corporation under section 96—

- (a) all rights, whether at law or in equity, vested in the corporation immediately before the dissolution are vested jointly in the persons who were, immediately before the dissolution the members of the corporation;
- (b) subject to sub-section (2), the persons who, immediately before the dissolution, were the members of the corporation are jointly and severally liable for all the liabilities of the corporation subsisting immediately before the dissolution; and
- (c) for the purposes of paragraphs (a) and (b), a reference in an instrument to the corporation shall be read as a reference to those persons.

Rights and liabilities of corporation vested in former members

(2) On an application made to the Court before the order for the cancellation of the units plan is made, the Court may, if it considers, in the circumstances of the case, that it is just and equitable to do so, by order, vary the operation of sub-section (1)(a) or (1)(b) in such manner as it thinks fit.

98. (1) Where—

- (a) After the registration of a units plan, a building or other improvement on the parcel is damaged or destroyed;
- (b) an order for the cancellation of the units plan has not been made under this Part; and

Approval of scheme for alteration of units plan

(c) an application for such an order is not pending, an application may be made to the Court for an order, approving a scheme that makes provision for the reinstatement of the building or other improvement, or, in a case where a unit has been damaged or destroyed, for the elimination of that unit and for any consequential alteration of the units plan.

(2) An application under this section may be made by the corporation, by a majority of the members of the corporation jointly or, if an administrator of the corporation has been appointed, by the administrator.

(3) A copy of an application under this section for the approval of a scheme providing for the elimination of a unit shall be served on the Registrar-General.

(4) A scheme submitted for the approval of the Court shall include provisions showing—

- (a) the proposed reinstatement or elimination;
- (b) the manner in which it is proposed to apply insurance moneys paid or payable in respect of the damage or destruction;
- (c) the compensation or other moneys to be paid to the proprietor of a unit and any other person who may be adversely affected by the scheme; and
- (d) where the scheme provides for the elimination of a unit, the manner in which it is proposed that the units plan be altered, including any necessary alteration of the schedule of unit entitlement, to enable effect to be given to the scheme.

(5) The Court may, on the hearing of an application under this section, make an order approving the scheme if it is satisfied that it is just and equitable to do so and may, in the order, give such directions as it thinks are necessary or expedient to enable effect to be given to the scheme.

Order of
Court for
alteration of
units plan

99. The Court, if satisfied, on an application made for the purpose, that the provisions of a scheme approved by it providing for the elimination of a unit (other than the provisions for the alteration of the units plan) have been carried out and that the directions (if any) given in the order approving the scheme have been complied with, shall make an order directing such alteration of the units plan as was approved by it.

Effect of
registra-
tion of order
for
elimination
of unit

100. On the registration of an order for the alteration of a units plan, the units plan shall be deemed to be altered in the manner directed by the order of the Court and—

- (a) the title of the unit proposed to be eliminated is determined;

- (b) the land comprised in the common property shall be deemed to include the land that, immediately before the registration of the order, comprised that unit; and
- (c) section 25 (3) (a) has effect as if a reference in that section to the registration of the units plan were a reference to the registration of the order for the alteration of the units plan.

101. Each of the following persons has the right to appear and to be heard in support of, or in opposition to, an application made under section 95 or 98—

Interested persons may be heard

- (a) the corporation or, if an administrator has been appointed, the administrator of the corporation;
- (b) a member of the corporation;
- (c) a person claiming to have an estate or interest in a unit;
- (d) an insurer who has effected insurance of a building or other improvement on the parcel; and
- (e) the Administrator.

102. The Court shall in a final order under section 95, or in an order under section 99, give such directions as it thinks fit with respect to the taking out of the order and the lodging of a copy of the order with the Registrar-General.

Directions for lodging orders with Registrar-General

PART IX—MISCELLANEOUS

103. (1) A corporation shall cause to be continuously displayed in a conspicuous place on the parcel a notice showing the name of the corporation and the address shown on the units plan for service of documents.

Facilities for service of documents

(2) A corporation shall cause to be continuously available in a conspicuous and accessible place on the parcel a receptacle suitable for purposes of postal delivery, bearing the name of the corporation in clear and legible characters.

Penalty: 50 dollars.

104. A document may be served on a corporation—

Service of documents

- (a) by sending it by prepaid post as a letter properly addressed to the corporation at the address shown on the units plan for service of documents; or
- (b) if that address for service is the postal address of the building on the parcel—by placing it in the receptacle referred to in section (2).

Evidence of resolutions

105. A document bearing the seal of the corporation and stating—

- (a) at a general meeting held on a specified date a resolution in the terms set out in the document was passed; and
- (b) the resolution was a unanimous, special or ordinary resolution,

is evidence of the facts stated in the document.

Enforcement of Ordinance

106. (1) Where a corporation fails to carry out a requirement or perform a duty imposed on it by this Ordinance, a proprietor or mortgagee of a unit may apply to the Court for an order requiring the corporation or the committee to carry out the requirement or perform the duty, as the case may be.

(2) On an application made under sub-section (1) the Court may, if it is satisfied that the failure has occurred, make such order as it thinks just.

Jurisdiction conferred on Court

107. The Court has jurisdiction in all applications made to it under this Ordinance.

Application of Rates provisions of Local Government Ordinance

108. (1) On and after the registration of a units plan, and unless and until that units plan is cancelled under Part VIII—

- (a) the land comprised in the common property and units shall be deemed, for the purposes of the *Local Government Ordinance*, to form one parcel of land;
- (b) the rates imposed under that Ordinance in respect of the parcel are payable by the members of the corporation, the amount payable by each member being an amount that bears to the total amount of rates the same proportion as the unit entitlement of his unit bears to the aggregate unit entitlement of all the units; and
- (c) no rates in respect of the parcel are payable under the Ordinance by the corporation.

Fees

109. There are payable in respect of applications (other than applications to the Court) and other matters under this Ordinance such fees as are specified in, or ascertained in accordance with, the regulations.

Regulations

110. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters that are required or permitted to be prescribed by this Ordinance or are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

THE SCHEDULE

ARTICLES

Section 76

1. In these articles, unless the contrary intention appears—
 - “authorized agent” means a person authorized by the corporation;
 - “Ordinance” means the *Unit Titles Ordinance 1975* as amended from time to time.
2. (1) Subject to this article, an authorized agent may, at all reasonable times—
 - (a) inspect a unit for the purpose of ascertaining whether or not the Ordinance and these Articles are being observed;
 - (b) carry out in, on or to a unit any maintenance, repairs or work that the corporation is, by the Ordinance or these Articles, required to carry out in, on or to the unit;
 - (c) carry out in, on or to a unit the functions imposed, exercise the powers conferred and perform the duties imposed, by the Ordinance and these Articles on the corporation in so far as they relate to the unit, and may, for any of those purposes, enter and remain in or on the unit for such period as is reasonably necessary for the purposes of doing any act referred to in this article.
- (2) An authorized agent shall not do any act referred to in this article unless—
 - (a) the corporation or the authorized agent has given to the proprietor of the unit or to the occupier or user of the unit reasonable notice of his intention to enter in or on the unit or to do the act; or
 - (b) by reason of an emergency, it is essential that the act be done without notice having been so given.
- (3) Each member of the corporation shall—
 - (a) pay all rates, taxes, charges, outgoings and assessments payable in respect of his unit;
 - (b) repair and maintain his unit and keep his unit in a state of good repair;
 - (c) if he agrees to transfer his unit to another person, forthwith give notice of the fact to the corporation;
 - (d) comply with any requirement made by or under any law in force in the Territory to carry out repairs or to do any work or thing in relation to his unit;
 - (e) if his unit is to be unoccupied for a continuous period exceeding 30 days, give notice of the fact to the corporation;
 - (f) if a change occurs in the occupancy of his unit, notify the corporation of that fact and of the name of the person who will occupy the unit.
- (4) A member of the corporation shall not—
 - (a) use the common property or permit it to be used so as unreasonably to interfere with the use and enjoyment of the common property by another member of the corporation, by the occupier or user of another unit or by an invitee or licensee of such a member or person;
 - (b) use his unit or permit it to be used in such a manner as to cause a nuisance, hazard or substantial annoyance to another member of the corporation or an occupier or user of another unit or to an invitee or licensee of such a member or person;
 - (c) make within his unit or on the common property such a noise as might reasonably, in the circumstances, cause substantial annoyance to another member of the corporation or to the occupier or user of another unit;
 - (d) use his unit, or permit it to be used, in a manner that results in there being a contravention of a law in force in the Territory;
 - (e) except in accordance with the express permission contained in a unanimous resolution of the corporation and in accordance with the provisions of any law in force in the Territory applicable in the circumstances, erect or alter any structure in or on his unit; and
 - (f) except in accordance with the written permission of the corporation (which permission may be withdrawn at any time by written notice given in pursuance of a special

Unit Titles

resolution of the corporation), keep any animals or birds in or on his unit or the common property.

(5) A person who becomes the proprietor of a unit shall, within 7 days after lodging with the Registrar-General for registration the instrument under which he has become the proprietor of the unit, give to the corporation notice that he has become the proprietor of the unit.
