

Building Maintenance and Strata Management (Amendment) Bill

Bill No. 29/2017.

Read the first time on 1 August 2017.

A BILL

intituled

An Act to amend the Building Maintenance and Strata Management Act (Chapter 30C of the 2008 Revised Edition), and to make consequential and related amendments to certain other Acts with regard to building maintenance.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Building Maintenance and Strata Management (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 **Amendment of section 2**

2. Section 2 of the Building Maintenance and Strata Management Act (called in this Act the principal Act) is amended —

10 (a) by deleting the definitions of “authorised proposal”, “future development lot”, “staged development”, “staged development contract” and “warranted development” in subsection (1);

(b) by deleting the word “or” at the end of paragraph (a) of the definition of “common property” in subsection (1);

15 (c) by inserting the word “or” at the end of paragraph (b) of the definition of “common property” in subsection (1), and by inserting immediately thereafter the following paragraph and examples:

20 “(c) in relation to any land and building mentioned in paragraph (a) or (b), any of the following whether or not comprised in a lot, proposed lot or non-strata lot:

25 (i) the pipes, wires, cables or ducts which are used, or capable of being used or enjoyed, by occupiers of 2 or more lots, proposed lots or non-strata lots (as the case may be) within that land or building, or are used or capable of being used for the servicing or enjoyment of the common property;

30 (ii) the cubic space enclosed by a structure enclosing pipes, wires, cables or ducts mentioned in sub-paragraph (i);

- (iii) any structural element of the building;
- (iv) the waterproof membrane attached to an external wall or a roof;

Examples

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| (a) A foundation, load-bearing wall, column or beam, a shear core, strut, ground anchor, slab (not including any layer that is the underlayment or the flooring finishing), truss and common staircase. | 10 |
| (b) An external wall, or a roof or façade of a building which is used or enjoyed, or capable of being used or enjoyed, by occupiers of 2 or more lots, proposed lots or non-strata lots. | 15 |
| (c) A garden, sporting or recreational facility, car park or parking area for other vehicles, none of which are comprised in a lot, proposed lot or non-strata lot. | 20 |
| (d) A central air-conditioning system and its appurtenances, and a fire sprinkler protection system and its appurtenances. | 25 |
| (e) Any chute, pipe, wire, cable, duct or facility for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating or cooling systems, or any other similar services.”; | 30 |

(d) by inserting, immediately after the definition of “development” in subsection (1), the following definition:

““escalator” means a power-driven stairway with continuously moving steps and handrails, designed for carrying people between different floors of a building, and includes a passenger conveyor but excludes any escalator prescribed;”;

(e) by inserting, immediately after the definition of “initial period” in subsection (1), the following definition:

““inspect” includes examine and test, with or without the aid of equipment;”;

(f) by inserting, immediately after the definition of “land” in subsection (1), the following definition:

““lift” means a power-driven installation that —

(a) is, or is intended to be, permanently installed in or attached to a building or part of a building;

(b) is used or designed for use for raising or lowering, or both raising and lowering, people or goods, or people and goods; and

(c) has a car, cage or platform, the direction or movement of which is substantially vertical and restricted by a guide or guides,

and includes any supporting structure, machinery, equipment, gear and enclosure used or designed for use for operating a lift, but excludes any lift prescribed;”;

- (g) by deleting the word “; and” at the end of paragraph (i) of the definition of “limited common property” in subsection (1) and substituting the words “, whether or not they are comprised in any lot or proposed lot;”;
- (h) by inserting the word “and” at the end of paragraph (ii) of the definition of “limited common property” in subsection (1), and by inserting immediately thereafter the following paragraph:
 - “(iii) all other windows of a lot or proposed lot that are located on any exterior wall of the lot or proposed lot;”;
- (i) by inserting, immediately after the definition of “stratum” in subsection (1), the following definitions:
 - “ “structural defect” means a defect in a structural element of a building that —
 - (a) results in, or is likely to result in, the building or any part of the building being required by or under any law to be closed or prohibited from being used;
 - (b) prevents, or is likely to prevent, the continued practical use of the building or any part of the building; or
 - (c) results in, or is likely to result in, a threat of imminent collapse that may reasonably be considered to cause destruction of the building or physical damage to the building or any part of the building;

“structural element”, for a building, means an internal or external load-bearing component of the building that is essential to the stability of the building or part of the building, but does not include any door or window;

Examples

(a) A foundation, load-bearing wall, column or beam, a shear core, strut, ground anchor, slab or truss.

(b) A common staircase.”;

(j) by inserting, immediately after the definition of “subsidiary proprietor” in subsection (1), the following definition:

“ “temporary building” has the same meaning as in the Building Control Act;”;

(k) by deleting the full-stop at the end of the definition of “window” in subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

“ “working day” means any day other than a Saturday, Sunday or public holiday.”;

(l) by deleting the words “of which at least 14 days’ notice” in subsection (2)(a) and substituting the words “held on the 15th day (or later) after the notice”; and

(m) by deleting the words “of which at least 21 days’ notice” in subsections (3)(a), (4)(a), (5)(a), (6)(a) and (7)(a) and substituting in each case the words “held on the 22nd day (or later) after the notice”.

New section 4A

3. Part III of the principal Act is amended by inserting, immediately before section 5, the following section:

“Interpretation of this Part

4A. In this Part, unless the context otherwise requires, “building” includes a temporary building or structure.”.

Amendment of section 6

4. Section 6(2) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph: 5

“(a) the repairs, work or alteration to be carried out;”.

New section 6A

5. The principal Act is amended by inserting, immediately after section 6, the following section: 10

“Recovery of expenses

6A.—(1) All expenses incurred by the Commissioner in or about the execution of any repairs, work or alteration under section 6(4)(a), together with interest accruing in accordance with subsection (5), is recoverable from the person in default on the date on which the repairs, work or alteration are completed. 15

(2) As from the date of the completion of the repairs, work or alteration, the expenses of and interest accrued due from the completion of the repairs, work or alteration is, until recovered, a first charge on the premises and on all estates and interests in the premises, exercisable against the premises and the estates and interests in the premises and all movable property or crops for the time being found on the premises, despite any change in the ownership or occupation of the premises subsequent to that date. 20

(3) The Commissioner may certify under his hand the expenses due and the names of the persons liable for the expenses and may by such certificate apportion the expenses among those persons. 25

(4) A copy of the certificate must be served upon each of those persons mentioned in subsection (3), but where no such persons may be found, the certificate is deemed to have been duly served if a copy of the certificate is posted at the office of the Commissioner and another copy is affixed to some conspicuous 30

part of the premises in respect of which the expenses have been incurred.

(5) Interest at the rate of 9% per annum from the expiry of one month after the date of service of a certificate under subsection (4) is recoverable as part of the expenses incurred by the Commissioner.

(6) A certificate purporting to be under the hand of the Commissioner and to be made under subsection (3) and stating the amount claimed as due to the Commissioner and the persons liable for the payment of the amount is prima facie evidence of the facts certified in the certificate and of the signature of the Commissioner to the certificate.

(7) If any sum or any part of the sum due to the Commissioner under this section remains unpaid at the expiration of one month commencing from the date of service of the certificate under subsection (4), or such further period as the Commissioner may allow, it is deemed to be arrears.”.

Amendment of section 8

6. Section 8(1) of the principal Act is amended by deleting the words “within 21 days” and substituting the words “not later than the 21st day”.

Amendment of section 9

7. Section 9(4) of the principal Act is amended by deleting the words “within 7 days” in paragraph (a) and substituting the words “not later than the 7th day”.

Amendment of section 10

8. Section 10 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) This Part applies only to any development for which planning permission is granted on or after 15 April 1976 for strata division after completion of any building comprised in the development.”.

Amendment of section 11

9. Section 11 of the principal Act is amended —

- (a) by deleting the words “(including any staged development)” in subsection (1);
- (b) by deleting subsections (2), (4) and (6); and 5
- (c) by deleting the words “or, in the case of a lot or proposed lot in a staged development, within a range of share values, determined in accordance with the proposed share values or proposed range of share values, as the case may be,” in subsection (8) and substituting the words “determined in accordance with the proposed share values”. 10

Amendment of section 12

10. Section 12 of the principal Act is amended —

- (a) by deleting subsection (2);
- (b) by deleting the words “Subsections (1) and (2) shall apply” in subsection (3) and substituting the words “Subsection (1) applies”; and 15
- (c) by deleting subsection (4) and substituting the following subsections:
 - “(4) Without prejudice to subsections (1) and (3), where a schedule of strata units for a development has been filed and accepted by the Commissioner under section 11, the share value assigned to any lot or proposed lot in the development in that schedule of strata units may be altered after the lot or proposed lot is sold only — 20
 - (a) with the consent of the purchaser of the lot or proposed lot, unless the alteration to the share value is a minor adjustment necessitated by an increase or a shortfall in the area of the lot or proposed lot after it has been surveyed on its completion; 25
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(b) after the passing of any of the following resolutions:

(i) a 90% resolution under section 34(1) to execute on behalf of its subsidiary proprietors a transfer of any part of common property as provided in section 23 of the Land Titles (Strata) Act (Cap. 158);

(ii) a special resolution under section 34(3) to create additional common property;

(iii) the respective special resolutions under section 34(5) to amalgamate the common properties of 2 or more management corporations; or

(c) in connection with the registration of a strata title application for redevelopment under section 12 of the Land Titles (Strata) Act.

(5) The Commissioner may accept an amended schedule of strata units that is filed to alter a schedule of strata units for a development in the circumstances mentioned in subsection (4), if and only if the Commissioner is satisfied that the proposed share values allotted to the lot or lots affected are allocated in a just and equitable manner.”.

Amendment of section 13

11. Section 13 of the principal Act is amended —

(a) by deleting the words “and (2)” in subsection (1); and

(b) by deleting the words “or 84FA” in subsection (2)(a) and substituting the words “, 84FA or 84FB”.

Amendment of section 14

12. Section 14 of the principal Act is amended by deleting the words “or (2)” wherever they appear.

Amendment of section 16

13. Section 16(1) of the principal Act is amended —

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(a) by deleting the words “or, in the case of a staged development, the date the first temporary occupation permit is issued in respect of any lot or proposed lot comprised in the initial stage of the staged development on completion thereof” in paragraph (a); and

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(b) by deleting the words “, but in every case before the collection of maintenance charges from any purchaser of any lot or proposed lot in the development starts”.

Amendment of section 17

14. Section 17 of the principal Act is amended —

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(a) by deleting sub-paragraph (ii) of subsection (1)(a) and substituting the following sub-paragraph:

“(ii) collect all maintenance charges from the date the maintenance charges are due and payable from the purchaser of every lot or proposed lot in that development and pay all such maintenance charges into the relevant maintenance fund established under section 16;”;

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(b) by inserting, immediately after the words “proposed lot if sold” in subsection (1)(b), the following words “from the date the relevant maintenance fund is so established under section 16”;

(c) by inserting, immediately after the words “for that development” in subsection (1)(c), the words “from the date the relevant maintenance fund is so established under section 16”;

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(d) by deleting subsection (2) and substituting the following subsection:

5 “(2) Despite subsection (1), the owner developer is authorised to pay all maintenance charges in respect of a lot or proposed lot in a development mentioned in subsection (1)(a)(i) into the relevant maintenance fund with effect from the later of the following dates:

10 (a) the date that is 4 weeks after the date the first temporary occupation permit is issued in respect of any lot or proposed lot in the development;

(b) the date the relevant maintenance fund is established under section 16 for the development.”;

15 (e) by deleting the words “within 28 days” in subsections (5)(d) and (6)(a) and substituting in each case the words “not later than the 28th day”; and

20 (f) by deleting the words “within 14 days of a request being” in subsection (8) and substituting the words “not later than the 14th day after a request is”.

Amendment of section 18

15 **15.** Section 18 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

25 “(1) An owner developer of a development must not collect from any purchaser of a lot or proposed lot comprised in the development any charges for the management and maintenance of the common property or limited common property (if any) comprised in the development that is more than the amount calculated using the maximum rate approved by the
30 Commissioner for such charges relating to that development.”.

Amendment of section 19

16. Section 19 of the principal Act is amended —

- (a) by deleting the words “within 14 days of” in subsection (3) and substituting the words “not later than the 14th day after”; and
- (b) by deleting the words “within 21 days” in subsection (4) and substituting the words “not later than the 21st day”.

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Amendment of section 23

17. Section 23 of the principal Act is amended by deleting the words “all balances of moneys” in subsections (1)(a) and (2)(a) and substituting in each case the words “all moneys standing to the credit”.

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Amendment of section 26

18. Section 26 of the principal Act is amended —

- (a) by deleting the words “6 weeks” in subsection (1)(b) and substituting the words “8 weeks”;
- (b) by deleting the words “or through an agent” in subsection (2) and substituting the words “or a responsible officer of an owner developer”;
- (c) by deleting the word “document” in subsection (4)(a)(ii) and substituting the words “as-built drawings”;
- (d) by deleting the word “and” at the end of subsection (4)(a)(vii);
- (e) by deleting sub-paragraph (viii) of subsection (4)(a) and substituting the following sub-paragraphs:

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“(viii) a manufacturer’s manual which relates to prefabricated bathroom units that are incorporated in the development, if any are incorporated in the development; and

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(ix) any other records as may be prescribed; and”;

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(f) by inserting, immediately after subsection (9), the following subsections:

5 “(10) Where a subsidiary management corporation is constituted for any development by the owner developer of that development, this section also applies to the owner developer in relation to that limited common property —

10 (a) as if the reference in this section to a management corporation includes a reference to the subsidiary management corporation;

15 (b) as if the reference in this section to the subsidiary proprietors of lots comprised in the strata title plan includes a reference to the subsidiary proprietors of lots for whose exclusive benefit the limited common property is designated on that strata title plan; and

20 (c) as if the reference in this section to the council of a management corporation includes a reference to the executive committee of a subsidiary management corporation,

25 with such prescribed exceptions, modifications and adaptations as the differences between management corporations and subsidiary management corporations require.

(11) In this section —

30 “accredited”, in relation to a fabrication facility or a fabrication method, means that the fabrication facility or the fabrication method is accredited by a body specified in the Code of Practice on Buildability issued by the Building and Construction Authority;

“building works” has the same meaning as in section 2(1) of the Building Control Act;

“prefabricated bathroom unit” means a bathroom unit (complete with finishes for walls and floors) which is — 5

(a) constructed and assembled; or

(b) manufactured and assembled,

in an accredited fabrication facility, in accordance with any accredited fabrication method, and then installed in a building under building works; 10

“responsible officer” —

(a) for an owner developer that is a corporation or limited liability partnership, means — 15

(i) any director, partner, chief executive or employee of the corporation; or

(ii) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation, or any employee of the corporation; 20

(b) for an owner developer that is a partnership, means any partner in the partnership, or any employee of the partnership; or 25

(c) for an owner developer that is an unincorporated association (other than a partnership), means — 30

(i) the president, the secretary, or any member of the committee

of the unincorporated association;

(ii) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; or

(iii) any employee of the unincorporated association.”.

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10 **Amendment of section 28**

19. Section 28(3) of the principal Act is amended by deleting the words “within 7 days” in paragraphs (a) and (c) and substituting in each case the words “not later than the 7th day”.

Amendment of section 29

15 **20.** Section 29(1) of the principal Act is amended —

(a) by deleting sub-paragraphs (ii) and (iii) of paragraph (b);
and

(b) by deleting paragraph (d) and substituting the following paragraph:

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“(d) when so directed by a special resolution, to do all or any of the following for the purpose of improving or enhancing the common property:

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(i) install, remove, replace or add any facility on the common property;

(ii) change the use of the common property;

(iii) erect, remove, replace or add to a structure on the common property;”.

Amendment of section 30

21. Section 30 of the principal Act is amended —

- (a) by inserting, immediately after the words “in section 33” in subsection (2)(a), the words “or under a notice under section 37(4A)”;
- (b) by inserting, immediately after the words “section 37(1)” in subsection (2)(d), the words “or (3)”;
- (c) by inserting, immediately after the words “the by-law referred to in subsection (2)(a) was made” in subsection (3)(b)(ii), the words “or the notice under section 37(4A) was given”.

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Amendment of section 32

22. Section 32 of the principal Act is amended —

- (a) by deleting the words “within 30 days of” in subsection (5) and substituting the words “, in the form and manner acceptable to the Commissioner, and not later than the 45th day after”;
- (b) by deleting paragraph (b) of subsection (8) and substituting the following paragraph:
 - “(b) make available for viewing, free of charge, the prescribed by-laws and any by-laws made by the management corporation under this section or section 33 which are in force, as follows:
 - (i) display them on a notice board maintained by the management corporation on the common property;
 - (ii) make them available for viewing at the office of the management corporation, on the application of a person who has an interest in so applying; and”;

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(c) by deleting the words “at a reasonable cost a copy of the by-laws; and” in subsection (8)(c) and substituting the words “, on payment of a fee that is not more than a prescribed amount, a copy of the by-laws.”; and

5 (d) by deleting paragraph (d) of subsection (8).

Amendment of section 33

23. Section 33 of the principal Act is amended by deleting subsections (8) and (9).

Amendment of section 34

10 24. Section 34 of the principal Act is amended —

(a) by inserting, immediately before the word “execute” in subsection (2)(b), the words “pursuant to an ordinary resolution,”; and

15 (b) by inserting, immediately after the words “management corporation may” in subsection (4), the words “, by an ordinary resolution,”.

Amendment of section 37

25. Section 37 of the principal Act is amended —

20 (a) by inserting, immediately after subsection (2), the following subsection:

“(2A) To avoid doubt, subsections (1) and (2) do not affect the operation of the Planning Act (Cap. 232), or any requirement under that Act for written permission for any improvement in or upon a lot which increases or is likely to increase the floor area of the land and building comprised in the strata title plan.”;

25 (b) by inserting, immediately after the words “granted under subsection (4)” in subsection (3), the words “by the management corporation or permitted under section 37A”; and

30 (c) by inserting, immediately after subsection (4), the following subsection:

“(4A) Where the management corporation for a strata title plan is satisfied that an improvement in or upon a lot comprised in the strata title plan is effected in contravention of subsection (1) or (3), the management corporation may, by notice in writing given to the subsidiary proprietor of the lot (whether or not the subsidiary proprietor is responsible for the contravention) require the subsidiary proprietor to carry out and complete, at his own costs, such works or alteration to the lot to remedy the breach within a reasonable time specified in the notice.”

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New section 37A

26. The principal Act is amended by inserting, immediately after section 37, the following section:

“Installation of safety equipment permitted

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37A.—(1) A subsidiary proprietor of a lot in a building on a parcel comprised in a strata title plan may install safety equipment on the lot, or as part of any window, door or opening on the lot which is facing outdoors, despite any other provision of this Act or the regulations or any by-law of the parcel which otherwise prohibits the installation of such safety equipment.

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(2) A subsidiary proprietor of a lot in a building who installs safety equipment under this section must —

- (a) repair any damage caused to any part of the common property or limited common property (as the case may be) by the installation of the safety equipment; and
- (b) ensure that the safety equipment is installed in a competent and proper manner and has an appearance, after it has been installed, in keeping with the appearance of the building.

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(3) In this section, “safety equipment” means —

- (a) any of the following features to prevent people from falling over the edge of an outdoor-facing balcony or

terrace or a window or door or an opening which is outdoor-facing:

(i) a window grille or screen;

(ii) a balustrade, railing or fence;

5 (b) any device capable of restricting the opening of a window or door or an opening which is outdoor-facing;

(c) any screen or other device to prevent entry of animals or insects on the lot;

10 (d) an intruder alarm or monitoring system; and

(e) any lock or other security mechanism that is designed to protect occupiers of the lot against intruders to the lot.”.

Amendment of section 38

15 **27.** Section 38 of the principal Act is amended —

(a) by deleting the words “of the management corporation” in subsection (2)(b) and substituting the words “that is part of the common property and belongs to the management corporation”;

20 (b) by deleting the word “and” at the end of subsection (2)(d);

(c) by deleting the full-stop at the end of paragraph (e) of subsection (2) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

25 “(f) any income received by the management corporation from the rental of the common property.”;

(d) by deleting the word “or” at the end of subsection (3)(b);

30 (e) by deleting the full-stop at the end of paragraph (c) of subsection (3) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

“(d) organising any social, cultural, educational or sports activity or any other similar

activity, that is for the benefit of all the subsidiary proprietors and occupiers;

(e) engaging any legal services for the management corporation; or

(f) remuneration payable under section 126B(5) to an official manager.”; 5

(f) by inserting, immediately after subsection (3), the following subsections:

“(3A) The estimated expenses for matters under subsection (3)(d) and (e) must be included in an annual budget placed before an annual general meeting to be approved by an ordinary resolution. 10

(3B) The management corporation may convene an extraordinary general meeting to approve, by ordinary resolution, a supplementary budget for unforeseen or urgent expenditure for matters under subsection (3)(d) or (e).”; and 15

(g) by inserting, immediately after paragraph (b) of subsection (5), the following paragraph:

“(ba) the proceeds of the sale or other disposal of any immovable property that is part of the common property.”. 20

Amendment of section 39

28. Section 39 of the principal Act is amended —

(a) by deleting the words “at a general meeting” in subsections (1) and (2) and substituting in each case the words “by ordinary resolution”; 25

(b) by deleting the words “in a general meeting” in subsection (2)(e) and substituting the words “by ordinary resolution”; and 30

(c) by deleting the words “shall determine” in subsection (3) and substituting the words “must determine, by ordinary resolution.”.

Amendment of section 40

29. Section 40 of the principal Act is amended —

(a) by deleting the words “within 30 days when” in subsections (6)(b) and (9) and substituting in each case the words “on or before the 30th day after”; and

(b) by deleting the words “within 14 days from” in subsection (10) and substituting the words “before the 14th day after”.

Amendment of section 41

30. Section 41(7) of the principal Act is amended by deleting the words “within 7 days” and substituting the words “not later than the 7th day”.

Amendment of section 42

31. Section 42(1) of the principal Act is amended by deleting the words “the date of” and substituting the words “the date”.

Amendment of section 45

32. Section 45(3) of the principal Act is amended by deleting the words “within 90 days” in paragraph (b) and substituting the words “not later than the 90th day”.

Amendment of section 46

33. Section 46 of the principal Act is amended —

(a) by deleting subsection (2) and substituting the following subsection:

“(2) The strata roll may be kept in the form determined by the management corporation.”;

(b) by deleting paragraph (b) of subsection (3) and substituting the following paragraphs:

“(b) the name of the subsidiary proprietor as shown on the folio of the subsidiary strata land-register comprising the lot, and an

address within Singapore for the service of notices on the subsidiary proprietor of that lot;

(*ba*) the name of every transferee under the transfer of the lot, and the address within Singapore for service of notices on the transferee, as shown in notices given to the management corporation under section 65(2) or (3);” and

(*c*) by inserting, immediately after subsection (3), the following subsection:

“(3A) In this section, a reference to an address within Singapore for the service of notices includes a reference to an email address (if provided).”.

Amendment of section 47

34. Section 47 of the principal Act is amended —

- (*a*) by deleting the words “within 7 days” in subsection (2) and substituting the words “on or before the 7th day”;
- (*b*) by deleting the words “21 days” in subsection (2) and substituting the words “the 21st day”; and
- (*c*) by inserting, immediately after the words “make a copy of, the document” in subsection (4), the words “upon payment of a fee (if prescribed)”.

Amendment of section 47A

35. Section 47A(1) of the principal Act is amended by deleting the words “within 7 days” in paragraph (*a*) and substituting the words “on or before the 7th day”.

Amendment of section 48

36. Section 48 of the principal Act is amended —

- (*a*) by deleting the words “within 7 days” in subsection (1) and substituting the words “not later than the 7th day”; and

(b) by inserting, immediately after subsection (1), the following subsection:

“(1A) Any person who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.”.

Amendment of section 53

37. Section 53 of the principal Act is amended —

(a) by inserting, immediately after the words “Subject to this section” in subsection (1), the words “and section 53A”; and

(b) by inserting, immediately after subsection (9), the following subsections:

“(9A) Despite subsection (6) and without prejudice to subsections (7), (8) and (9), a person is ineligible for election or re-election to office under subsection (1) —

(a) as a chairperson if the person is already elected as the treasurer or secretary;

(b) as a treasurer if the person is already elected as the chairperson or secretary; and

(c) as a secretary if the person is already elected as the chairperson or treasurer.

(9B) Despite subsection (6) and without prejudice to subsections (7), (8), (9) and (9A), a person is ineligible for election or re-election to office as a treasurer under subsection (1) if the re-election would result in the person holding office as a treasurer for 3 consecutive terms.”.

New sections 53A and 53B

38. The principal Act is amended by inserting, immediately after section 53, the following sections:

“Councils for mixed-use developments

53A.—(1) This section applies only in relation to a management corporation with more than 3 subsidiary proprietors constituted for a parcel in a strata title plan, whether or not comprising limited common property but consisting of buildings authorised under the Planning Act (Cap. 232) for 2 or more of the following classes of use: 5

(a) residence;

(b) office;

(c) commercial (other than as an office), such as a shop, food establishment or theatre; 10

(d) boarding premises, such as a hotel, serviced apartment or nursing home;

(e) a prescribed purpose.

(2) Subject to this section, in the case of a management corporation of a mixed-use development mentioned in subsection (1), there must be reserved for each class of use mentioned in that subsection and authorised for that development under the Planning Act, at least one office as member of the council of that management corporation (called in this Act a reserved council office). 15 20

(3) Despite section 53(6) and without prejudice to section 53(7), (8), (9), (9A) and (9B), a person is ineligible for election or re-election under section 53 to a reserved council office for a particular class of use if the person — 25

(a) is not a subsidiary proprietor of a lot in that development authorised for that class of use; and

(b) is not a nominee of a subsidiary proprietor in paragraph (a).

(4) Where at the close of nominations at a general meeting for a reserved council office, only one person eligible for election to that office is nominated for that office, that person is deemed elected to that reserved council office without voting. 30

(5) However, where at the close of nominations at a general meeting for a reserved council office, no person eligible for election to that office is nominated, then that office ceases to be a reserved council office; and an election to that office is not subject to this section.

(6) Where at the close of nominations at a general meeting for a reserved council office, more than one person eligible for election to that reserved council office is nominated (called in this section a candidate), the matter must be put to a vote, and the candidate to whom the greatest number of votes is given at the election must be declared elected to that reserved council office.

(7) The remaining offices in the council that are not reserved must be filled —

(a) firstly from among the candidates not declared elected to any reserved council seat after a vote is taken at the election (called in this section an unsuccessful candidate); and

(b) on the basis of the number of votes they received at the same election in the following order of priority — by the unsuccessful candidate receiving the highest votes being placed first and other unsuccessful candidates being placed in descending order according to votes received by them.

(8) When, after the counting of votes cast for the candidates is completed, an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of the candidates to be declared elected to an office of a council, the determination of the candidate to whom the one additional vote is to be treated as being given must, unless one of the candidates withdraws from the election, be made by drawing lots in such manner as the person presiding at the general meeting determines.

Nomination of candidates for election as member

53B.—(1) A nomination of a person for election to be a member of the council of a management corporation or the executive committee of a subsidiary management corporation, is of no effect if subsections (2), (3) and (4) are not complied with for that nomination. 5

(2) Only a subsidiary proprietor, or a person entitled to vote at a general meeting of a management corporation or subsidiary management corporation, may nominate a person for election as a member of the council of the management corporation or the executive committee of the subsidiary management corporation, as the case may be. 10

(3) A nomination for election to be a member of the council of a management corporation or the executive committee of a subsidiary management corporation — 15

(a) may be oral or in writing;

(b) must —

(i) if oral, be made at the general meeting of the management corporation or subsidiary management corporation for the purposes of the election; or 20

(ii) if in writing, be given at least 48 hours before the start of the meeting at which the election is to be held to the secretary of the management corporation or subsidiary management corporation, or to the convenor of the meeting in the case of the first annual general meeting; and 25

(c) must state —

(i) the name of the person nominated (called in this Act the candidate); and 30

(ii) the name of the person making the nomination (who may or may not be the candidate).

(4) A nomination, whether oral or made in writing, made for the purposes of an election at a general meeting of a management corporation or subsidiary management corporation, is effective only if it is accompanied by the consent of the candidate —

5 (a) given in writing at least 48 hours before the start of the meeting at which the election is to be held to the secretary of the management corporation or subsidiary management corporation, or to the convenor of the meeting in the case of the first annual general meeting;
10 or

 (b) given orally at the meeting.

(5) Any consent by a candidate for election to be a member of the council of a management corporation or the executive committee of a subsidiary management corporation may be effectively withdrawn only by the candidate in person at the general meeting and before the election at the general meeting starts.”.

Amendment of section 54

39. Section 54 of the principal Act is amended —

20 (a) by deleting the words “at which a new council is elected by” in subsection (1)(e) and substituting the word “of”; and

 (b) by inserting, immediately after subsection (3), the following subsection:

25 “(3A) However, an appointment under subsection (3) of a person to fill a vacancy is of no effect if the person does not consent orally in person or in writing to that appointment.”.

Amendment of section 55

40. Section 55 of the principal Act is amended by deleting subsection (7) and substituting the following subsection:

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“(7) Despite any other provisions of this Act, an individual must not be appointed under this section to hold office —

- (a) as a chairperson if the person is already the treasurer or secretary;
- (b) as a treasurer if —
 - (i) the person is already the chairperson or secretary; and
 - (ii) the re-appointment would result in the person holding office as a treasurer for 3 consecutive terms; or
- (c) as a secretary if the person is already the chairperson or treasurer.”.

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Amendment of section 59

41. Section 59 of the principal Act is amended by inserting, immediately after the word “decide”, the words “, by ordinary resolution,”.

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Amendment of section 65

42. Section 65 of the principal Act is amended —

- (a) by deleting the words “delivery of a” in subsection (2);
- (b) by deleting the words “within 10 days thereof” in subsection (2) and substituting the words “, not later than the 10th day after the date that the instrument of transfer is registered under the Land Titles Act (Cap. 157),”;
- (c) by deleting the words “the date of delivery of the transfer” in subsection (2)(a) and substituting the words “the date of the registration of the transfer”;
- (d) by deleting the words “was executed” in subsection (3) and substituting the words “was registered under the Land Titles Act”;
- (e) by deleting the words “the delivery to a mortgagee” in subsection (4) and substituting the words “the registration”;

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(f) by deleting the words “so delivered” in subsections (4)(a), (5)(a) and (6)(a) and substituting in each case the words “so registered”;

5 (g) by deleting the words “the delivery to a mortgagor” in subsection (5) and substituting the words “the registration”;

(h) by deleting the words “the delivery by a mortgagee” in subsection (6) and substituting the words “the registration”;

10 (i) by deleting the words “within 14 days” in subsection (8)(a) and substituting the words “, not later than the 14th day after the notice was served on him,”; and

(j) by inserting, immediately after subsection (11), the following subsection:

15 “(12) In this section, a reference to an address within Singapore for the service of notices includes a reference to a facsimile address in Singapore and an email address (if provided).”.

Amendment of section 71

43. Section 71 of the principal Act is amended —

(a) by deleting the word “and” at the end of subsection (1)(b);

20 (b) by deleting the words “pursuant to a special resolution” in subsection (1)(c);

(c) by deleting the full-stop at the end of paragraph (c) of subsection (1) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

25 “(d) in respect of any liability incurred by a person holding the office of chairperson, secretary, treasurer of the management corporation or member of the council of the management corporation because of an act or omission, committed or omitted in good faith, in performing the functions of that office.”; and

30

(d) by inserting, immediately after subsection (3), the following subsection:

“(3A) Every decision required or authorised by this section to be made by a management corporation is by an ordinary resolution.”.

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Amendment of section 78

44. Section 78(4) of the principal Act is amended by inserting, immediately after the words “Chief Surveyor” in paragraph (b), the words “and the instrument required by the Registrar under section 10A of the Land Titles (Strata) Act for the limited common property is registered under that Act”.

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Amendment of section 80

45. Section 80 of the principal Act is amended —

(a) by inserting, immediately after subsection (4), the following subsection:

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“(4A) However, subsection (4) does not apply where —

(a) the subsidiary management corporation is constituted for part of a parcel which is comprised in a mixed-use development within the meaning of section 53A; and

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(b) by the operation of section 53A, a reserved council office in the council of the management corporation for that mixed-use development is held by either —

25

(i) a subsidiary proprietor of a lot constituting the subsidiary management corporation; or

(ii) a nominee of a subsidiary proprietor in sub-paragraph (i).”; and

30

(b) by inserting, immediately after the words “Division 3” in subsection (5), the words “(except section 53A)”.

Amendment of section 85

46. Section 85 of the principal Act is amended by deleting subsection (1) and substituting the following subsections:

“(1) Subject to subsections (1A) and (1B), if —

5 (a) all or some of the subsidiary proprietors of the lots in a parcel comprised in a strata title plan —

 (i) are jointly entitled to take proceedings against any person for or with respect to the common property in that parcel; or

10 (ii) are liable to have proceedings taken against them jointly for or with respect to the common property in that parcel; or

 (b) all or some of the subsidiary proprietors of the lots in a parcel comprised in a strata title plan that has limited common property, being subsidiary proprietors who are entitled to the exclusive benefit of the limited common property —

15 (i) are jointly entitled to take proceedings against any person for or with respect to the limited common property in that parcel; or

20 (ii) are liable to have proceedings taken against them jointly for or with respect to the limited common property in that parcel,

25 the proceedings may be taken by or against the management corporation in the case of proceedings mentioned in paragraph (a), or by or against the subsidiary management corporation in the case of proceedings mentioned in paragraph (b).

30 (1A) Unless authorised by an ordinary resolution, a management corporation —

 (a) must not institute any proceedings mentioned in subsection (1)(a) against any person; and

(b) must not represent any subsidiary proprietor in any proceedings mentioned in subsection (1)(a).

(1B) Unless authorised by an ordinary resolution, a subsidiary management corporation —

(a) must not institute any proceedings mentioned in subsection (1)(b) against any person; and

(b) must not represent any subsidiary proprietor in any proceedings mentioned in subsection (1)(b).”.

Amendment of section 86

47. Section 86 of the principal Act is amended by inserting, immediately after the words “in case of” in the section heading, the word “certain”.

Amendment of section 103

48. Section 103(1) of the principal Act is amended by inserting, immediately after the words “or subsidiary management corporation”, the words “, or a council or executive committee”.

Amendment of section 120

49. Section 120(2) of the principal Act is amended by deleting the words “to do or refrain from doing a specified act”.

Repeal of Part VII

50. Part VII of the principal Act is repealed.

Amendment of section 125

51. Section 125(5) of the principal Act is amended —

(a) by inserting, immediately before the definition of “officer”, the following definition:

““body corporate” includes a limited liability partnership;”;

(b) by inserting, immediately after the words “member of a committee” in paragraph (b) of the definition of “officer”,

the words “and includes any person purporting to act in any such capacity”.

Amendment of section 126

52. Section 126 of the principal Act is amended —

5 (a) by inserting, immediately after the words “or the executive committee of any subsidiary management corporation” in subsection (1), the words “, a managing agent or an employee of the managing agent or other person”;

10 (b) by deleting the words “maintenance of any development” in subsection (1)(a) and (b) and substituting in each case the words “maintenance of buildings, the maintenance of a development before a strata title plan is registered for the development”;

15 (c) by deleting subsection (3) and substituting the following subsection:

 “(3) The Commissioner, or a person authorised in writing by the Commissioner, may enter at any reasonable time any building, common property or limited common property and having entered any such building, common property or limited common property may do all or any of the following:

 (a) inspect any book, register, document or other records relating to —

25 (i) the management of a management corporation or subsidiary management corporation;

 (ii) the maintenance of a development before a strata title plan is registered for the development; or

30 (iii) the maintenance of any building;

 (b) make copies of, or records of any information contained in, any such books, registers, documents or other records;

- (c) carry out checks to ascertain whether there is, or has been, on or in connection with the building, common property or limited common property (as the case may be), a contravention of any requirement by or under this Act; 5
- (d) carry out checks to ascertain whether circumstances exist that would authorise the Commissioner or any person appointed by the Commissioner for this purpose to take any action or execute any work authorised or required by or under this Act; 10
- (e) take such action or execute such work, authorised or required by or under this Act.”; 15
- (d) by deleting the words “on the premises” in subsection (4)(b) and substituting the words “in the building, on common property or limited common property”;
- (e) by inserting, immediately after the words “or an employee thereof” in subsection (5)(a), the words “, a managing agent or an employee of a managing agent, being”; 20
- (f) by deleting the word “or” at the end of subsection (5)(a);
- (g) by deleting the full-stop at the end of paragraph (b) of subsection (5) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph: 25
- “(c) any other person who, from any information given or otherwise obtained by the Commissioner, appears to be acquainted with the maintenance of a building or the circumstances of the case.”; 30
- (h) by inserting, immediately after subsection (5), the following subsection:

“(5A) Any statement made by any person required under subsection (5) to attend before the Commissioner or authorised person must —

(a) be reduced to writing;

(b) be read over to the person;

(c) if the person does not understand English, be interpreted for the person in a language that the person understands; and

(d) after correction, if necessary, be signed by that person.”; and

(i) by deleting subsection (7) and substituting the following subsections:

“(7) A person is not excused from giving any information required under this section on the ground that the giving of the information might tend to incriminate the person or expose the person to a punishment.

(8) Where a person claims, before giving any information that the person is required under this section to give, that the giving of the information might tend to incriminate the person —

(a) that information;

(b) the giving of the information; and

(c) any information, document or thing obtained as a direct or indirect consequence of the giving of the information,

is not admissible in evidence against the person in any criminal proceedings other than proceedings for an offence under section 127.

(9) The powers conferred under subsection (1), (2), (3) or (5) may only be exercised by the Commissioner

(or, as the case may be, by a person authorised by the Commissioner) —

- (a) for ensuring that the provisions of this Act and the regulations with respect to any of the following are being complied with: 5
 - (i) the maintenance of buildings;
 - (ii) the maintenance of a development before a strata title plan is registered for the development;
 - (iii) the management of management corporations or subsidiary management corporations; 10
 - (iv) any approval, permit or authorisation required by or under this Act with respect to any matter in sub-paragraph (i), (ii) or (iii); or 15
- (b) for investigating any offence under this Act or any regulations made under section 136.”.

New sections 126A and 126B 20

53. The principal Act is amended by inserting, immediately after section 126, the following sections:

“Official management of management corporations, etc.

126A.—(1) This section applies where —

- (a) the Commissioner receives a written request for an official manager to be appointed under this section — 25
 - (i) from one or more persons entitled to vote in respect of one or more lots comprised in a strata title plan, the share value or total share value of which is at least 20% of the aggregate share value of all the lots whose subsidiary proprietors comprise the management corporation constituted for that strata title plan; or 30

(ii) from not less than 25% of the total number of subsidiary proprietors of the lots whose subsidiary proprietors comprise the management corporation constituted for that strata title plan; and

(b) the Commissioner is satisfied that the management corporation or the council of the management corporation refuses or is unable to carry out a duty under this Act that must be urgently carried out in order to remove any danger to the health or safety of subsidiary proprietors and occupants of lots in that strata title plan.

(2) In a case where this section applies, and the Commissioner is of the opinion that it is inappropriate for the management corporation concerned to continue without official management, the Commissioner may, by order in the *Gazette*, place the management corporation under official management.

(3) Before placing a management corporation under official management, the Commissioner must give at least 7 days' notice in writing to the chairperson of the management corporation concerned —

(a) stating that the Commissioner intends to place the management corporation under official management; and

(b) specifying the time (not more than 7 days after the date of service of the notice on the management corporation) within which written representations may be made to the Commissioner by or on behalf of the management corporation with respect to the proposed official management.

(4) When the Commissioner places a management corporation under official management, all members of the council of the management corporation are suspended from office unless the Commissioner indicates otherwise, and the Commissioner must appoint a suitable person to manage the affairs, business and

property of the management corporation (called in this Act an official manager) —

(a) for a period of 15 months; or

(b) until the date of the holding of the next general meeting of the management corporation for the election of the council of the management corporation,

whichever period is shorter.

(5) Any decision of the Commissioner under subsection (2) is final.

(6) An official manager ceases to manage the affairs, business and property of the management corporation when the Commissioner is satisfied that the reasons for the official manager's appointment have ceased to exist or the appointment is earlier revoked by the Commissioner.

(7) Where by reason of subsection (6), an official manager ceases to manage the affairs, business and property of a management corporation, the Commissioner must without delay cause to be published a notice to that effect —

(a) in the *Gazette*; and

(b) in such other manner as will secure adequate publicity for that ceasing.

(8) This section and section 126B extend to apply in relation to a subsidiary management corporation which is constituted for any limited common property subject to a strata title plan —

(a) as if the reference in this section to the management corporation for a strata title plan includes a reference to the subsidiary management corporation;

(b) as if the reference in this section to the subsidiary proprietors of lots comprised in the strata title plan includes a reference to the subsidiary proprietors of lots for whose exclusive benefit the limited common property is designated on that strata title plan; and

- (c) as if the reference in this section to the council of a management corporation includes a reference to the executive committee of a subsidiary management corporation.

5 **Official manager**

126B.—(1) An official manager appointed under section 126A for a management corporation has full powers to transact any business of the management corporation and its council and to do anything else the management corporation and its council could have done but for the suspension of its members, including —

- 10 (a) appointing a managing agent; and
 (b) disbursing moneys from the management fund and sinking fund in accordance with this Act.

(2) However, an official manager —

- 15 (a) must not direct a managing agent to carry out any improvement works to the common property; and
 (b) must have the Commissioner’s approval before the official manager enters into new contracts, or renews contracts, on behalf of the management corporation,

20 and may apply to the Commissioner for directions on any matter arising in connection with the performance of the official manager’s functions.

25 (3) An official manager appointed under section 126A for a management corporation may act in the official manager’s own name, or in the name of the management corporation, and despite section 25, may execute a document under the common seal of the management corporation.

30 (4) The Commissioner may at any time fix the terms and conditions of the appointment of an official manager, including (whether or not the appointment of the person has terminated) the remuneration to be paid to the official manager.

(5) The remuneration of an official manager appointed under section 126A for a management corporation is payable from the management fund of the management corporation.

(6) Any decision of the Commissioner under subsection (4) is final. 5

(7) No liability shall be incurred by an official manager as a result of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(a) the exercise or purported exercise of any power under section 126A or this section; or 10

(b) the performance or purported performance of any function or duty under section 126A or this section.”.

Amendment of section 128

54. Section 128 of the principal Act is amended by deleting “\$3,000” and substituting “\$10,000”. 15

Amendment of section 129

55. Section 129 of the principal Act is amended —

(a) by deleting the words “by this Act” in subsection (1) and substituting the words “by or under this Act or any by-laws”; 20

(b) by deleting paragraph (c) of subsection (1) and substituting the following paragraph:

“(c) by electronic communication, by sending an electronic communication of the notice to the last email address given to the sender by the person as the email address for the service of notices under this Act on the person.”; 25

(c) by inserting, immediately after subsection (1), the following subsections: 30

“(1A) Unless otherwise expressly provided in this Act, a notice that is required or authorised by or under this Act or any by-laws to be given or served on a subsidiary proprietor may, in addition to any method described in subsection (1), be given to or served on the subsidiary proprietor by affixing the notice on the front door of the subsidiary proprietor’s lot.

(1B) Despite subsection (1), where a notice which is required or authorised by or under this Act or any by-laws to be given or served on a subsidiary proprietor is given or served by a management corporation or subsidiary management corporation, by electronic communication as described in subsection (1)(c), that notice is not treated as given to or served on the subsidiary proprietor —

(a) unless the notice is also posted to the subsidiary proprietor’s address for service (within the meaning of this section) or to the subsidiary proprietor’s last known place of residence or business; and

(b) until subsection (5)(b) or (d) first applies.”;

(d) by deleting the word “or” at the end of subsection (3)(a);

(e) by deleting the full-stop at the end of paragraph (b) of subsection (3) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(c) by electronic communication, by sending an electronic communication of the notice to the last email address given to the sender by the management corporation or subsidiary management corporation as the email address for the service of documents under this Act on the management corporation or subsidiary management corporation, as the case may be.”;

- (f) by inserting, immediately after the words “an address” in subsection (4)(b), the words “or an email address”;
- (g) by inserting, immediately after the words “duly served on” in subsection (5)(a) and (c), the words “or given to”;
- (h) by deleting paragraph (b) of subsection (5) and substituting the following paragraph: 5
- “(b) sent by post, it is deemed to have been duly served on or given to the person to whom it is addressed as follows, even if the notice or document is returned undelivered: 10
- (i) on the 3rd working day after the day the notice or document was posted, if sent by prepaid registered post;
- (ii) on the 4th working day after the day the notice or document was posted, if sent by ordinary post;” and 15
- (i) by deleting the full-stop at the end of paragraph (c) of subsection (5) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:
- “(d) sent by electronic communication in accordance with subsection (1)(c), it is deemed to be duly served on or given to the person to whom the electronic communication is addressed when it becomes capable of being retrieved by the addressee at an electronic address designated by the addressee.”. 20 25

New section 129A

56. The principal Act is amended by inserting, immediately after section 129, the following section: 30

“Inaccuracies in notices, etc.

5 **129A.**—(1) Any misnomer or inaccurate description of any person, premises or building or any other thing named or described in any notice or order given or served under or for the purposes of this Act does not render invalid the notice or order or affect the operation of this Act if the person, premises or building or other thing named or described in the notice or order is so designated or described as to be identifiable.

10 (2) No proceedings taken under or by virtue of this Act is rendered invalid merely by reason of want of form, which otherwise would be valid.”.

Amendment of section 131

57. Section 131 of the principal Act is amended —

15 (a) by deleting subsection (1) and substituting the following subsection:

“(1) The Commissioner may, in his discretion, compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following amounts:

(a) one half of the amount of the maximum fine that is prescribed for the offence;

(b) \$5,000.”;

25 (b) by deleting the words “to the Building and Construction Authority” in subsection (3) and substituting the words “into the Consolidated Fund”; and

(c) by inserting, immediately after subsection (3), the following subsection:

30 “(4) The Commissioner, and any other officer appointed under section 3(3) to exercise the powers conferred on the Commissioner under this section, are, in relation to the administration, collection and

enforcement of payment of composition sums under this section, each taken to be a public officer for the purposes of the Financial Procedure Act (Cap. 109); and section 20 of that Act applies to the Commissioner and other officer even though he is not or was not in the employment of the Government.”.

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Amendment of section 136

58. Section 136 of the principal Act is amended —

(a) by inserting, immediately after paragraph (a) of subsection (2), the following paragraphs:

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“(aa) regulating the use and maintenance of lifts and escalators, including prescribing —

(i) requirements for periodic inspections of lifts and escalators;

(ii) the duties of an owner of a lift or escalator and of any person who is in charge of or engaged in the maintenance of a lift or escalator, such as the keeping of records and the obtaining of a permit to operate a lift or escalator;

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(iii) circumstances where the operation of a lift or escalator must be stopped, permanently or temporarily; and

(iv) the procedures and duties of an owner of a lift or escalator, and of any other person, in the event of any incident or accident occurring in connection with any lift or escalator, and if the incident or accident causes loss of life or serious personal injury or involves any breakage, distortion or damage to any load-bearing or

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safety-critical component or part of
the lift or escalator;

(ab) applying for approval from the
Commissioner under section 18(1) of the
maximum rate of maintenance charges for a
development;”;

(b) by deleting the word “or” at the end of paragraph (h) of
subsection (2), and by inserting immediately thereafter the
following paragraph:

“(ha) providing for or with respect to the means
of voting (other than in person) at a general
meeting that may be adopted by a
management corporation or subsidiary
management corporation, and the
procedures for voting by those means;”;
and

(c) by deleting subsection (4) and substituting the following
subsections:

“(4) The Minister may, in making any regulations
under subsection (1), provide that —

(a) any contravention of any provision of the
regulations relating to the maintenance of
lifts and escalators, or incidents or accidents
involving lifts or escalators, shall be an
offence punishable with a fine not
exceeding \$20,000 or with imprisonment
for a term not exceeding 12 months or with
both; or

(b) any contravention of any provision of any
other regulations made under that
subsection shall be an offence punishable
with a fine not exceeding \$5,000.

(5) Any regulations made under subsection (1)
relating to the maintenance of lifts and escalators
may apply, adopt or incorporate by reference —

- (a) either wholly or partially;
- (b) with or without modification; or
- (c) either specifically or by reference,

any matter contained in any code, standard, rule, requirement, specification or other document, as in force or published at a particular time or as in force or published from time to time, which relates to any matter that those regulations deal with.

(6) Unless otherwise provided in the regulations made under subsection (1), every material so applied, adopted or incorporated under subsection (5), and every amendment to any material so incorporated by reference under subsection (5) that is made by the person or organisation originating the material is, subject to subsections (7) and (8), to be treated as being a part of those regulations.

(7) Where any material mentioned in subsection (5) is applied, adopted or incorporated by reference in any regulations made under subsection (1) relating to the maintenance of lifts and escalators, the Minister must give notice in the *Gazette* stating —

- (a) that the material is incorporated in those regulations, and the date on which the relevant provision in those regulations was made;
- (b) that the material is available for inspection without charge during working hours;
- (c) the place where the material can be inspected;
- (d) that copies of the material can be purchased, and the place where the material can be purchased; and

(e) if copies of the material are available in other ways, the details of where or how the material can be accessed or obtained.

(8) In addition, the Minister must cause a copy of every material applied, adopted or incorporated in regulations made under subsection (1) relating to the maintenance of lifts and escalators by reference under subsection (5), to be made available for inspection by members of the public without charge at any of the offices of the Building and Construction Authority during normal office hours.

(9) In this section, “modification” includes omissions, additions and substitutions.”.

Amendment of First Schedule

59. The First Schedule to the principal Act is amended —

(a) by deleting sub-paragraph (b) of paragraph 1(3) and substituting the following sub-paragraphs:

“(b) include a motion for each of the following:

- (i) for the adoption of the accounts mentioned in sub-paragraph (a);
- (ii) to confirm the minutes of the last annual general meeting;
- (iii) to decide the number of members of the council to be elected;
- (iv) for the election of members of the council;
- (v) to determine the amount to be raised for the management fund and the sinking fund;
- (vi) to approve the proposed annual budget of the management corporation for the new financial year;
- (vii) to decide if any matter or type of matter is to be determined only by the management corporation in a general meeting;
- (viii) for the appointment of an auditor;

(ba) report on the insurance coverage and review the adequacy of the insurance of the management corporation; and”;

(b) by inserting, immediately after the word “given” in paragraph 1(4)(b), the words “, provided the amendment does not change the subject matter of the motion”;

(c) by inserting, immediately after sub-paragraph (4) of paragraph 1, the following sub-paragraph:

“(4A) A person is not entitled to move a motion unless the person is entitled to vote on the motion.”;

(d) by inserting, immediately after paragraph 1, the following paragraph:

“Nomination of candidates for election

1A.—(1) Without prejudice to paragraph 1(2) and (3), every notice for an annual general meeting of a management corporation or subsidiary management corporation must include a call for nominations for members of the council of the management corporation or the executive committee of the subsidiary management corporation, as the case may be.

(2) The secretary of the management corporation or subsidiary management corporation or, in the case of the first annual general meeting, the convenor of the meeting, must give notice at the meeting of every nomination received.”;

(e) by inserting, immediately after paragraph 3, the following paragraph:

“Adjournment of general meetings

3A.—(1) A general meeting of a management corporation or a subsidiary management corporation may be adjourned for any reason if a motion to adjourn the meeting is passed at the meeting.

(2) The person presiding at a general meeting adjourned under sub-paragraph (1) must fix the time and place the general meeting adjourned is to be resumed.

(3) The secretary of the management corporation or subsidiary management corporation (as the case may be) must give notice of the time and place fixed under sub-paragraph (2) at least 14 days before the time fixed for the resumed meeting, as follows:

(a) by displaying the notice on the notice board of the management corporation or subsidiary management corporation;

(b) by serving the notice on every subsidiary proprietor.”;

5 (f) by deleting paragraph 5 and substituting the following paragraph:

“Manner of voting

10 5.—(1) A vote at a general meeting of a management corporation or subsidiary management corporation by a person entitled to vote or by a proxy must be cast in person.

(2) Where a vote at a general meeting of a management corporation or subsidiary management corporation is required to be cast in person, the vote must be made using voting slips.

(3) Every voting slip must —

15 (a) state each motion submitted at the meeting;

(b) for each motion, state whether an ordinary resolution, special resolution, 90% resolution, unanimous resolution, comprehensive resolution or resolution by consensus is required for the motion to be passed;

20 (c) enable a voter to indicate the capacity in which the voter is exercising a right to vote and the lot in respect of which the vote is cast —

(i) whether as owner or first mortgagee;

(ii) as a company nominee; or

25 (iii) as a proxy; and

(d) enable a voter to cast a written vote for or against each motion or to abstain from voting.”;

(g) by deleting paragraphs 7 and 8 and substituting the following paragraphs:

30 **“List of persons entitled to vote**

35 7.—(1) At least 48 hours before the start of a general meeting of a management corporation or subsidiary management corporation, the secretary of the management corporation or subsidiary management corporation (as the case may be) must display or cause to be displayed, in accordance with sub-paragraph (2), a list containing —

- (a) the names of every person entitled to vote at the general meeting; and
 - (b) the lot or lots in respect of which each of those persons is entitled to vote.
- (2) The list mentioned in sub-paragraph (1) must be displayed on the notice board maintained on — 5
- (a) the common property, in the case of a general meeting of a management corporation; or
 - (b) the limited common property, in the case of a general meeting of a subsidiary management corporation. 10

Election of council or executive committee

- 8.—(1) At a general meeting of a management corporation or subsidiary management corporation at which the council or executive committee (as the case may be) is to be elected, the chairperson of the general meeting must — 15
- (a) announce the names of the candidates already nominated in writing for election to the council or executive committee in accordance with section 53B; and
 - (b) call for any oral nominations of persons eligible for election to the council or executive committee (as the case may be). 20
- (2) After the chairperson of the general meeting declares that nominations have closed, the management corporation or subsidiary management corporation must decide, in accordance with this Act, the number of members of the council or executive committee (as the case may be). 25
- (3) Subject to section 53A, if the number of candidates is the same as, or fewer than, the number of members of the council or executive committee (as the case may be) decided on under sub-paragraph (2), those candidates must be declared by the chairperson to be, and are taken to have been, elected as the members of the council or executive committee (as the case may be). 30
- (4) Each person entitled to vote on an election of members of the council or executive committee has one vote in respect of each lot which he is entitled to vote. 35

(5) To avoid doubt, no poll is required for an election to office as a member of a council or an executive committee.”;

(h) by inserting, immediately after paragraph 10, the following paragraph:

5 **“Minutes of general meetings**

10A. The minutes of every general meeting must contain the following information:

- (a) the date, time and place of the meeting;
- (b) the names of the subsidiary proprietors present at the meeting;
- (c) the names of the subsidiary proprietors who have appointed proxies;
- (d) the names of the proxies present at the meeting;
- (e) the result of the votes on every motion submitted at the meeting;
- (f) the text of every resolution passed at the meeting.”;

(i) by deleting “1(2)” in paragraph 15(2) and substituting “1(3)”;

(j) by deleting the words “or a form as near thereto as circumstances admit” in paragraph 17(2);

(k) by deleting the form in paragraph 17(2) and substituting the following form:

“*I/We, of being *a member/members of the abovenamed management corporation, appoint

 of, as *my/our proxy to attend at the [annual or extraordinary, as the case may be] general meeting of the management corporation or subsidiary management corporation, to be held on 20, and at any adjournment of the meeting and to vote for *me/us on *my/our behalf in the following manner:

5

10

15

20

25

30

Resolution	For	Against	Abstain

Notes:

1. A subsidiary proprietor may direct his or her proxy to vote on the resolution by ticking the desired box (in favour of/against the resolution or abstain from voting) in the above table. An abstain vote will not be counted in the calculation of votes.

5

2. If the subsidiary proprietor does not indicate his or her voting preference in the above table, the proxy may vote or abstain from voting at the proxy’s discretion, in relation to any matter which is put before the meeting (including any resolution to adjourn the meeting or to amend any resolution proposed at the meeting).

10

3. This instrument appointing a proxy is void if *I am/we are present at the meeting.

Signed on 20

15

.....

Signature(s) of subsidiary proprietor(s)

.....

Signature(s) of proxy

*delete whichever is inapplicable”; and

(l) by inserting, immediately after sub-paragraph (3) of paragraph 17, the following sub-paragraphs:

20

“(4) The instrument appointing a proxy is void if the person appointing the proxy is present at the meeting.

(5) An appointed proxy can only represent a maximum of —

(a) 2 lots; or

25

(b) 2% of the total number of lots in the development (rounded down to the nearest whole number),

whichever is the higher.

(6) In the event an appointed proxy represents more than the maximum mentioned in sub-paragraph (5), the additional instrument of proxy held is void.”.

30

Amendment of Second Schedule

60. The Second Schedule to the principal Act is amended —

(a) by inserting, immediately after paragraph 1, the following paragraph:

5 **“Method of holding meetings**

1A.—(1) A meeting of a council or an executive committee may be held by a quorum of the members, being assembled together at the time and place appointed for the meeting.

10 (2) Where a council or an executive committee, by resolution, adopts the holding of any of its meetings by means of teleconference, video conferencing or other electronic means of communication, a meeting of the council or executive committee may be held by the means adopted provided that —

15 (a) all of the members of the council or executive committee (as the case may be) who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

20 (b) a quorum of those members can simultaneously communicate with each other throughout the meeting.”;

(b) by inserting, immediately after sub-paragraph (2) of paragraph 2, the following sub-paragraph:

25 “(2A) For the purposes of this paragraph, a member of a council or an executive committee participating in a meeting of the council or executive committee as permitted under paragraph 1A(2) is taken to be present at the meeting.”;

(c) by deleting sub-paragraph (2) of paragraph 3 and substituting the following sub-paragraphs:

30 “(2) The council or executive committee must maintain a notice board and display on the notice board —

(a) a copy of the minutes of a meeting of the council or executive committee not later than the 14th day after the meeting; or

35 (b) a copy of the minutes of a general meeting of the management corporation or subsidiary management corporation not later than the 45th day after the general meeting.

(2A) The notice board mentioned in sub-paragraph (2) may be an online notice board maintained on the website of the management corporation or subsidiary management corporation.”;

(d) by deleting sub-paragraph (4) of paragraph 3 and substituting the following sub-paragraph: 5

“(4) The council or executive committee may also give each subsidiary proprietor a copy of the minutes mentioned in sub-paragraph (2)(a) or (b) within the period specified in that sub-paragraph.”; 10

(e) by deleting sub-paragraph (2) of paragraph 4 and substituting the following sub-paragraph:

“(2) The notice of intention to hold a meeting of a council or an executive committee required by sub-paragraph (1) must specify the following: 15

- (a) a detailed agenda of the meeting;
- (b) the place at and the day on which the meeting is to be held and the time the meeting is to start;
- (c) if the council or executive committee has, by resolution, adopted any means in paragraph 1A(2) by which the meeting of the council or executive committee may be held, the means by which the meeting is to be held and information as to how to participate in or attend that meeting using that means, such as (but not limited to) a password.”; 20 25

(f) by inserting, immediately after paragraph 4, the following paragraph:

“Adjournment of council or executive committee meetings

4A.—(1) A meeting of a council or an executive committee may be adjourned for any reason if a motion to adjourn the meeting is passed at the meeting. 30

(2) The council or executive committee must give notice of the time and place a meeting adjourned under sub-paragraph (1) is to be resumed.

(3) The notice required by sub-paragraph (2) must be given at least 3 days before the time fixed for the resumed meeting, as follows: 35

(a) by displaying a notice on the notice board of the management corporation or subsidiary management corporation;

(b) by serving the notice on each member of the council or executive committee.”;

(g) by inserting, immediately after sub-paragraph (3) of paragraph 5, the following sub-paragraph:

“(4) If the council or executive committee has, by resolution, adopted any means in paragraph 1A(2) by which the meeting of the council or executive committee may be held, a subsidiary proprietor using the means specified in the notice under paragraph 4(2)(c) is taken to be present at the meeting.”;

(h) by inserting, immediately after the words “was not held” in paragraph 7, the words “in accordance with paragraph 1A”; and

(i) by inserting, immediately after paragraph 7, the following paragraph:

“Minutes of council or executive committee meetings

8. The minutes of every meeting of a council or an executive committee must contain the following information:

(a) the date, time and place of the meeting;

(b) the names of the members of the council or executive committee present at the meeting;

(c) the names of the members of the council or executive committee voting;

(d) the result of the votes on every motion submitted at the meeting;

(e) the text of every resolution passed at the meeting.”.

Miscellaneous amendments

61. The principal Act is amended —

(a) by deleting item (5) of the Third Schedule; and

(b) by deleting items (9)(b), (11) and (12)(a) of the Fifth Schedule.

Consequential and related amendments to Land Titles (Strata) Act

62. Section 3(1) of the Land Titles (Strata) Act (Cap. 158, 2009 Ed.) is amended —

- (a) by deleting the word “or” at the end of paragraph (a) of the definition of “common property”; 5
- (b) by inserting the word “or” at the end of paragraph (b) of the definition of “common property”, and by inserting immediately thereafter the following paragraph and examples: 10
 - “(c) in relation to any land and building mentioned in paragraph (a) or (b), any of the following whether or not comprised in a lot, proposed lot or non-strata lot:
 - (i) the pipes, wires, cables or ducts which are used, or capable of being used or enjoyed, by occupiers of 2 or more lots, proposed lots or non-strata lots (as the case may be) within that land or building, or are used or capable of being used for the servicing or enjoyment of the common property; 15 20
 - (ii) the cubic space enclosed by a structure enclosing pipes, wires, cables or ducts mentioned in sub-paragraph (i); 25
 - (iii) any structural element of the building;
 - (iv) the waterproof membrane attached to an external wall or a roof; 30

Examples

- 5 (a) A foundation, load-bearing wall, column or beam, a shear core, strut, ground anchor, slab (not including any layer that is the underlayment or the flooring finishing), truss and common staircase.
- 10 (b) An external wall, or a roof or façade of a building which is used or enjoyed, or capable of being used or enjoyed, by occupiers of 2 or more lots, proposed lots or non-strata lots.
- 15 (c) A garden, sporting or recreational facility, car park or parking area for other vehicles, none of which are comprised in a lot, proposed lot or non-strata lot.
- 20 (d) A central air-conditioning system and its appurtenances, and a fire sprinkler protection system and its appurtenances.
- 25 (e) Any chute, pipe, wire, cable, duct or facility for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating or cooling systems, or any other similar services.”;
- 30 (c) by deleting the definitions of “staged development” and “staged development contract”; and
- (d) by inserting, immediately after the definition of “stratum”, the following definition:
- 35 ““structural element” has the same meaning as in section 2(1) of the Building Maintenance and Strata Management Act;”.

Consequential amendments to other Acts

63.—(1) Section 22(2) of the Housing Developers (Control and Licensing) Act (Cap. 130, 1985 Ed.) is amended by deleting paragraph (*cb*).

(2) Section 10(2) of the Sale of Commercial Properties Act (Cap. 281, 1985 Ed.) is amended by deleting paragraph (*cb*). 5

(3) Section 17 of the Statutes (Miscellaneous Amendments) (No. 2) Act 2005 (Act 42 of 2005) is amended by deleting paragraphs (*e*) to (*j*).

Saving and transitional provisions

64.—(1) Subject to subsection (2), section 2(*c*) applies in relation to any building built before the date of commencement of section 2(*c*) as it applies to any building built on or after that date. 10

(2) Nothing in section 2(*c*) affects proceedings instituted under this Act as in force immediately before the date of commencement of section 2(*c*). 15

(3) Section 13(*b*) applies only to and in relation to a development where the first temporary occupation permit in respect of any lot or proposed lot in the development is issued on or after the date of commencement of section 13(*b*). 20

(4) Section 14(*d*) applies to and in relation to a lot or proposed lot in the development which is sold before, on or after the date of commencement of section 14(*d*).

(5) Section 15 applies only to and in relation to a development in respect of which an application for planning permission is made under the Planning Act (Cap. 232) on or after the date of commencement of that section; and section 18 of the principal Act as in force before that date continues to apply to a development in respect of which such planning permission is granted before that date. 25

(6) Section 18(*a*) does not apply in respect of any written request asking for a first annual general meeting that is received by an owner developer before the date of commencement of section 18(*a*). 30

(7) Section 22(a) does not apply to any by-laws, or any amendment of, addition to or repeal of any by-law, approved by a resolution of a management corporation passed by the management corporation on or before the date of commencement of section 22(a); and section 32(5) of the principal Act continues to apply to those by-laws, or that amendment of, addition to or repeal of any by-laws as if not amended by this Act.

(8) Section 25(c) applies to and in relation to any improvement in or upon a lot comprised in a strata title plan that is effected before, on or after the date of commencement of section 25(c).

(9) Sections 37(b) and 38 do not apply to a person elected to a council of a management corporation or an executive committee of a subsidiary management corporation before the respective date of commencement of the applicable section.

(10) Sections 39 and 40 do not apply to a person appointed to a council of a management corporation or an executive committee of a subsidiary management corporation before the respective date of commencement of the applicable section.

(11) Section 43 does not apply to any decision required or authorised by section 71 of the principal Act to be made by a management corporation which is made before the date of commencement of section 43.

(12) Section 46 does not apply to or in relation to any proceedings in court or tribunal commenced before the date of commencement of that section.

(13) Section 57(a) does not apply to a person who commits an offence under the principal Act before the date of commencement of section 57(a); and section 131(1) of the principal Act continues to apply to that person as if not amended by this Act.

(14) Section 60(c) does not apply to a meeting of a council or an executive committee held before the date of commencement of section 60(c); and paragraph 3(2) of the Second Schedule to the principal Act continues to apply in respect of such a meeting as if not amended by this Act.

(15) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Building Maintenance and Strata Management Act (Cap. 30C) for the following main objectives:

- (a) to clarify what constitutes common property;
- (b) to impose new duties on owner developers;
- (c) to introduce changes which clarify the duties and powers of a management corporation;
- (d) to confer upon the Commissioner of Buildings (called the Commissioner) monitoring powers and powers to appoint an official manager;
- (e) to introduce changes refining the administration of general meetings of management corporations and subsidiary management corporations, and the proceedings of councils and executive committees;
- (f) to abolish Part VII on staged developments, which is not in force;
- (g) to make miscellaneous changes for greater clarity or consistency, or for the better administration of the Act.

The Bill also makes consequential and related amendments to the Land Titles (Strata) Act (Cap. 158) and consequential amendments to certain other Acts.

Clause 1 relates to the short title and commencement.

Clause 2 amends several definitions in section 2.

Definitions relating to staged developments are deleted by clause 2(a) consequential to the abolition of Part VII by clause 50.

Clause 2(c) amends the definition of “common property”. Unlike the present definition of “common property”, which is dependent on what the surveyor indicates on the strata title plan as being comprised within a lot, the amendment to the definition provides that certain elements which are capable of being used or enjoyed by occupiers of 2 or more lots are common property regardless of the

elements being indicated on the strata title plan as comprised within a lot or proposed lot.

This is a result of the decision of *MCST Plan No 367 v Lee Siew Yuen* [2014] SGHC 161, where the court had held that the structural beams above the ceilings of a master bedroom toilet and the kitchen of a unit in question are part of common property although situated within a lot.

The amendment also makes clear that “slab” does not include any layer that is the underlayment (which can be made of cement or foam) or the floor finishing or covering; in other words, such layers are not common property.

The amended definition of “common property” also contains examples to better illustrate (not exhaustively) what is “common property”.

Clause 2(i) introduces the definitions of “structural defect” and “structural element”. The 2 definitions are material for the purposes of sections 30(5) and 86.

The term “structural element” is defined simply to mean an internal or external load-bearing component of the building that is essential to the stability of the building or part of the building. The definition then contains illustrations (non-exhaustive) to help subsidiary proprietors who are laymen.

A “structural defect” is a defect in a structural element of a building that either results in, or is likely to result in, the building or any part of the building being required by or under any law to be closed or prohibited from being used, or prevents, or is likely to prevent, the continued practical use of the building or any part of the building, or results in, or is likely to result in, a threat of imminent collapse that may reasonably be considered to cause destruction of the building or physical damage to the building or any part of the building.

The cause of the defect is irrelevant. The defect may be due to defective design, defective or faulty workmanship or defective materials (or any combination of these), or may arise from wear and tear.

Clause 2(l) and (m) also makes drafting amendments to the different notice periods for ordinary resolutions, special resolutions, 90% resolutions, comprehensive resolutions, resolutions by consensus and unanimous resolutions, to help laymen understand and apply the law correctly. The period now described as X days’ notice is expressed in terms of the Xth day after a specified event. For example, instead of at least 14 days’ notice of the motion, the new expression is “on the 15th day (or later) after the notice specifying the motion has been given”. There is no intention to change the law.

Clause 3 inserts a new section 4A in Part III, containing a new definition of “building” to extend the provisions of Part III to cover temporary buildings, within the meaning of the Building Control Act.

Clause 4 amends section 6(2)(a) so that the Commissioner need not specify, in a notice under that section, the manner in which any repairs, work or alteration is to be carried out.

Clause 5 inserts a new section 6A which relates to the recovery of expenses incurred by the Commissioner in the execution of work undertaken by the Commissioner in the enforcement of Part III. This section is based on section 37 of the Building Control Act.

Clause 6, like clause 2(l) and (m), amends section 8(1) to help laymen understand and apply the law correctly. The period now described as “within 21 days” after the date of receipt of a notice is reworded as “not later than the 21st day” after the date of receipt of a notice. There is no intention to change the law.

Other similar drafting amendments are in clauses 7, 14(e) and (f), 16, 19, 29, 30, 32, 34(a) and (b), 35, 36(a), 41(b) and 42(i).

Clause 8 amends section 10(1) to be consistent with section 108(1).

Clauses 9, 10(a) and (b), 11(a), 12, 13(a) and 23 amend sections 11, 12, 13, 14, 16 and 33, respectively, consequential to clause 50, which repeals Part VII regarding staged developments.

Clause 10(c) amends section 12 to expand the situations where the share values in an approved schedule of strata units that has been filed and accepted may be altered, in recognition of the instances where this is necessary under section 34 and mentioned in section 12 of the Land Titles (Strata) Act. The amendment will add to the current exceptions, such as with the consent of the purchaser of the lot or proposed lot, or where the alteration to the share value is a minor adjustment necessitated by an increase or a shortfall in the area of the lot or proposed lot after it has been surveyed on its completion.

Under the amendment in clause 10(c), the Commissioner may accept an amended schedule of strata units that is filed to alter a schedule of strata units for a development, if and only if the Commissioner is satisfied that the proposed share values allotted to the lot or lots affected are allocated in a just and equitable manner.

Clause 11(b) amends section 13 to correct a cross-reference error in the definition of “collective sale contract”.

Clause 13(b) makes an amendment to section 16(1) to fix the time for establishing maintenance funds for development more clearly. It removes a confusing reference to a timing in section 17 that refers back to section 16.

Clause 14 amends section 17 to clarify when owner developers of strata developments must start paying maintenance charges collected into the maintenance funds.

For maintenance charges in respect of every lot or proposed lot in a development which is sold before the maintenance fund is established under section 16 for the

development, the maintenance charges must be paid from the date the maintenance fund is so established.

For maintenance charges in respect of every lot or proposed lot in a development which is sold on or after the maintenance fund is established under section 16 for the development (but possession of which is yet to be given to the purchaser), the developer must start paying the maintenance charges at the end of 4 weeks after the date that the first temporary occupation permit is issued in respect of any lot or proposed lot in the development, or from the date the lot or proposed lot is sold, whichever is the later.

Clause 15 amends section 18(1) to make it clear that an owner developer must not collect maintenance charges from purchasers unless the amount of the charges are approved by the Commissioner.

Clause 17 makes an editorial change to section 23(1)(a) and (2)(a) to clarify that an owner developer is required to pay balances of moneys that stand to the credit in the general maintenance fund established by the owner developer for the maintenance of the subdivided building and the common property of that development, and in the special maintenance fund established under section 16(3) for the maintenance of the limited common property of that development, if any. Any deficit in these funds is not transferable to the management corporation or subsidiary management corporation.

Clause 18 amends section 26 to extend the outer time by which the first annual general meeting must be convened by an owner developer from 6 weeks to 8 weeks after the owner developer receives a written request from the required subsidiary proprietors in that strata title plan asking for the first annual general meeting.

Clause 18 also amends section 26(2) to require an owner developer to either personally chair the first annual general meeting or, if this is not possible, to have a responsible officer of the owner developer chair the first annual general meeting, of a management corporation of its constitution. The amendment seeks to avoid an owner developer leaving the first annual general meeting to be chaired by a managing agent, which may not be in the best position to answer questions about the development.

Clause 18 further amends section 26(4) to clarify that the drawings to be handed over by the owner developer to the management corporation at the time of delivery of vacant possession are the 'as-built' drawings.

Finally, clause 18 amends section 26 to make it clear that where a subsidiary management corporation is constituted for any development by the owner developer of that development, the requirements in section 26 on the holding of a first annual general meeting upon the formation of a management corporation also applies to the owner developer in relation to that limited common property, and that the first annual general meeting of the subsidiary management corporation is also required to be held.

Clause 20 amends section 29(1) to clarify that the duty of a management corporation to improve or enhance common property under the authority of a special resolution extends to installing, replacing, removing or providing additional facilities on common property, to change the use of the common property and to erecting, replacing, removing or adding a new structure on the common property.

Section 29(1)(b) is also amended to delete the duty of a management corporation to maintain any fixture or fitting (including any pipe, pole, wire, cable or duct) comprised in the common property or within any wall, floor or ceiling the centre of which forms a boundary of a lot, not being a fixture or fitting (including any pipe, pole, wire, cable or duct) that is used for the servicing or enjoyment of any lot exclusively. This duty is already subsumed in the duty in section 29(1)(b)(i) of maintaining common property.

Clause 21 amends section 30 (on the powers of a management corporation to carry out work) to provide that the management corporation can also rectify any alteration done by a subsidiary proprietor on a lot that is not in keeping with the appearance of the building and in contravention of new section 37(4A).

Clause 22 first amends section 32 so as to require every by-law (and every addition to, amendment or repeal of any such by-law) to be lodged with the Commissioner within 45 days after the passing of the resolution approving the making of such by-law (or any addition to, amendment or repeal of such by-law).

Next, clause 22 amends section 32 to fix the fee by regulations that a management corporation can charge for supplying a copy of any prescribed by-laws and by-laws made by the management corporation under section 32 or 33 to a subsidiary proprietor.

The time prescribed in section 32 for the lodgment of by-laws made by a management corporation is also extended from 30 days to the 45th day after the passing of the resolution for those by-laws.

By clause 64(7), the amendment in clause 22 extending time for lodgment of by-laws will not apply to any by-laws, or any amendment of, addition to or repeal of any by-law, approved by a resolution of a management corporation passed by the management corporation on or before the date of commencement of clause 22(a). The Act as unamended will instead continue to apply to those by-laws, or that amendment of, addition to or repeal of by-laws.

Finally, clause 22 amends section 32 to allow a management corporation to make available, for viewing at the management office, a copy of any prescribed by-laws and by-laws made by the management corporation under section 32 or 33, to any person who requests to view it. This may be in lieu of displaying the by-laws on a notice board on the common property, since the size of these notice boards may prevent adequate display of by-laws.

Clause 24 amends section 34(2)(b) and (4) to make explicit that a decision by a management corporation to execute a lease of or rent part of the common property for a period not exceeding one year, or to approve the subdivision of a lot or the amalgamation of lots, is a decision by ordinary resolution at a general meeting.

Clause 25 introduces a new section 37(2A) to clarify that if a subsidiary proprietor intends to effect any improvement in or upon his or her lot which increases or is likely to increase the floor area, the subsidiary proprietor must also first obtain a planning permission from the competent authority under the Planning Act (Cap. 232).

Clause 25 further confers a new power on a management corporation to deal with an improvement in or upon a lot comprised in the strata title plan that is effected without planning permission or that is not in keeping with the appearance of the building, in contravention of section 37(1) or (3).

The management corporation may, by notice in writing given to the subsidiary proprietor of the lot require the subsidiary proprietor to carry out and complete, at his or her own costs, such works or alteration to the lot to remedy the breach within a reasonable time specified in the notice. As amended, the subsidiary proprietor need not be the subsidiary proprietor responsible for the contravention. This will override the case of *The Management Corporation Strata Title Plan No. 2813 v Chen Yuhai and Tang Shaoling*.

By clause 64(8), the amendment in clause 25 will apply to work done before the operative date of clause 25.

Clause 26 introduces a new section 37A regarding installation of safety equipment as an exception to the prohibition in section 37 against work on a lot.

Under the new section 37A, a subsidiary proprietor of a lot in a building containing lots may install safety equipment on the lot, or as part of any window, door or opening on the lot which is facing outdoors, despite any other provision of the Act or the regulations or any by-law of the development which otherwise prohibits the installation of such safety equipment.

The subsidiary proprietor however remains under a duty to repair any damage caused to any part of the common property or limited common property (as the case may be) by the installation of the safety equipment, and to ensure that the safety equipment is installed in a competent and proper manner and has an appearance, after it has been installed, in keeping with the appearance of the building.

Safety equipment is defined by the new section 37A(3) to mean a window grille or screen, or a balustrade, railing or fence, to prevent people from falling over the edge of an outdoor-facing balcony or terrace or a window or door or an opening which is outdoor-facing. Also defined as safety equipment are —

- (a) any device capable of restricting the opening of a window or door or an opening which is outdoor-facing;

- (b) any screen or other device to prevent entry of animals or insects on the lot;
- (c) an intruder alarm or monitoring system; and
- (d) any lock or other security mechanism that is designed to protect occupiers of the lot against intruders to the lot.

Clause 27 first amends section 38(2) to allow the following to be paid into the management fund of a management corporation:

- (a) the proceeds of the sale or other disposal of any movable property that is part of the common property and belongs to the management corporation;
- (b) any income received from the rental of the common property (such as car park charges).

Section 38(3) is also amended to provide that moneys from a management fund may also be disbursed for the following purposes:

- (a) to organise any social, cultural, educational or sports activity, or any other similar activity, that benefits all subsidiary proprietors and occupiers;
- (b) to engage any legal services for the management corporation;
- (c) to pay an official manager appointed by the Commissioner under the new section 126A.

Section 38(5) is further amended to provide for the proceeds of the sale or other disposal of any immovable property that is part of the common property to be paid into the sinking fund.

The expenses for organising activities and for engaging legal services must be included in an annual budget before an annual general meeting to be approved by an ordinary resolution. An extraordinary general meeting may be convened to approve a supplementary budget for unforeseen or urgent expenditure for such matters.

Clause 28 amends section 39(1), (2) and (3) to make explicit that a decision by a management corporation to determine contributions is a decision by ordinary resolution at a general meeting.

Clause 31 amends section 42(1) to correct a typographical error.

Clause 33 amends section 46 to allow for the keeping of strata rolls in electronic form, and for email addresses to be entered in the strata roll so that notices may be served by email.

Clause 34(c) amends section 47 as a consequence of the amendment in clause 22.

Clause 36(b) amends section 48 to make any contravention of section 48(1) an offence punishable by a fine not exceeding \$5,000.

Clause 37 amends section 53 to provide that a person is ineligible for election or re-election to office as a chairperson if the person is already elected as the treasurer or secretary, or as a secretary if the person is already elected as the chairperson or treasurer.

Clause 37 also amends section 53 to provide that a person is ineligible for election or re-election to office as a treasurer if the person is already elected as the chairperson or secretary, or the re-election would result in the person holding office as a treasurer for 3 consecutive terms.

Clause 38 introduces 2 new sections; the new section 53A which provides that the council of a management corporation of a mixed-use development must consist of at least one subsidiary proprietor from each class of use of that development, and the new section 53B about the nomination of candidates for election to a council or an executive committee.

The new section 53A applies only in relation to a management corporation with more than 3 subsidiary proprietors and constituted for a development consisting of buildings authorised under the Planning Act for 2 or more of certain classes of use. The classes of use are residence, office, commercial (other than as an office), such as a shop, food establishment or theatre, or boarding premises, such as a hotel, serviced apartment or nursing home, respectively. The Minister may make regulations under section 136 to add more classes of use.

In the case of a management corporation of a mixed-use development, there is reserved for each class of use mentioned in the new section 53A(1) and authorised for that development under the Planning Act, at least one office as member of the council (called a reserved council office).

The new section 53A provides that a person is ineligible for election or re-election under section 53 to a reserved council office for a particular class of use if the person is not a subsidiary proprietor of a lot in that development authorised for that class of use, and is not a nominee of such a subsidiary proprietor. The disqualification applies to an individual despite being of age and satisfying the eligibility criteria in section 53(6), but is in addition to disqualifications (where applicable) in section 53(7), (8), (9), (9A) and (9B).

Where at the close of nominations at a general meeting for a reserved council office, only one person eligible for election to that office is nominated for that office, that person is deemed elected to that reserved council office without voting.

However, where at the close of nominations at a general meeting for a reserved council office, no person eligible for election to that office is nominated for that office, then that office ceases to be a reserved council office. Election to that office is then no longer subject to the new section 53A.

Where at the close of nominations at a general meeting for a reserved council office, more than one person eligible for election to that office is nominated (called a candidate), a ballot must be held and the candidate to whom the greatest number of votes is given at the ballot is elected to that reserved council office.

The offices in the council which are not reserved council offices are then to be filled first from among all candidates who were unsuccessful at the election for any reserved council office. These unsuccessful candidates fill the offices not reserved according to votes they received, the candidate with the highest votes filling the office first, and the others being placed in descending order in accordance with the votes received by them.

There is no change to the present law in the First Schedule to the Act, which provides that each person entitled to vote on an election of members of the council or executive committee has one vote in respect of each lot which he or she is entitled to vote.

When, after the counting of votes is completed, an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of the candidates to be declared elected to an office of a council, the determination of the candidate to whom the one additional vote is to be treated as being given must, unless one of the candidates withdraws from the election, be made by drawing lots in such manner as the person presiding at the general meeting determines.

Under the new section 53B, only a subsidiary proprietor, or a person entitled to vote at a general meeting of a management corporation or subsidiary management corporation, may nominate a person for election as a member of the council of a management corporation or the executive committee of a subsidiary management corporation, as the case may be.

As to when a nomination may be made, this can be done in advance or at the annual general meeting. However, a nomination of a person for election as a member of the council of a management corporation or the executive committee of a subsidiary management corporation, is of no effect unless certain requirements are complied with.

First, a nomination must state the name of the person nominated (called the candidate) and the name of the person making the nomination (who may or may not also be the candidate).

Secondly, if the nomination is oral, it must be made at the general meeting of a management corporation or subsidiary management corporation for the purposes of the election. If the nomination is in writing, it must be given at least 48 hours before the start of the meeting at which the election is to be held to the secretary of the management corporation or subsidiary management corporation, or to the convenor of the meeting in the case of the first annual general meeting.

Thirdly, a nomination, whether oral or made in writing, made for the purposes of an election at a general meeting of a management corporation or subsidiary management corporation, is effective only if it is accompanied by the consent of the candidate. That consent may be given orally in person by the candidate or in writing at least 48 hours before the start of the meeting at which the election is to be held.

A consent by a candidate may be effectively withdrawn only by the candidate in person at the general meeting and before the election at the general meeting starts.

Clause 39 amends section 54 as a consequence of the new section 53B introduced by clause 38. An appointment under section 54(3) to fill a premature vacancy in a council or an executive committee will be of no effect if the person filling the vacancy does not consent to that appointment.

Clause 40 amends section 55 by deleting and substituting subsection (7) with an additional prohibition against appointing any individual as a chairperson if the person is already elected as the treasurer or secretary, or as a secretary if the person is already elected as the chairperson or treasurer. The amendment also provides that a person is ineligible for appointment as a treasurer if the person is already elected as the chairperson or secretary, or the re-appointment would result in the person holding office as a treasurer for 3 consecutive terms.

Clause 41 amends section 59 to provide that the decision as to the matters or class of matters that can only be determined by a management corporation in a general meeting, is by way of an ordinary resolution at a general meeting of the management corporation.

Clause 42 amends section 65 regarding notices to be given by subsidiary proprietors and mortgagees. The amendments seek to clarify the computation of time for giving the notices, and to facilitate service of notices to a facsimile address in Singapore and an email address.

Clause 43 amends section 71(1) by providing that a management corporation must also effect insurance against the liability and expenses for errors and omissions made by any council member in the exercise of his or her powers, or in the performance of his or her duties pursuant to an ordinary resolution.

Clause 43 also inserts a new subsection (3A) to section 71 to clarify that the power of the management corporation under that section to insure any property can only be exercised pursuant to an ordinary resolution.

Clause 44 amends section 78(4) to clarify the date a subsidiary management corporation is constituted and ensure consistency with section 10A of the Land Titles (Strata) Act.

Clause 45 amends section 80 to provide that there are no reserved offices on any executive committee of a subsidiary management corporation. The amendment

states that new section 53A (on elections to reserved council offices of management corporations) does not apply to executive committees.

The other amendment relates to section 80(4) which requires one member of an executive committee of a subsidiary management corporation for a parcel to be a member of the council of the management corporation for that same parcel. Clause 45 provides that section 80(4) will not apply where the subsidiary management corporation is constituted for part of a parcel which is comprised in a mixed-use development within the meaning of new section 53A, and by the operation of that section, a reserved council office in the council of the management corporation for that mixed-use development is held by either a subsidiary proprietor of a lot constituting the subsidiary management corporation or a nominee of such a subsidiary proprietor.

There may be instances where certain classes of use cannot form a subsidiary management corporation, commonly because subdivision into lots is not practicable, such as a hotel, serviced apartments or car parks. In such a case, a reserved council office on the council of the management corporation to represent that class of use is available under the new section 53A.

Clause 46 amends section 85 to make it clear that an ordinary resolution is required for a management corporation to represent subsidiary proprietors in legal proceedings.

Clause 47 makes a technical amendment to the section heading of section 86.

Clause 48 amends section 103(1) to expand the jurisdiction of the Strata Titles Boards to hear disputes regarding the holding of meetings and to make orders invalidating resolutions or elections at general meetings held by management corporations and subsidiary management corporations. The amendments will extend the jurisdiction to cover meetings of the council of a management corporation or an executive committee of a subsidiary management corporation.

Clause 49 amends section 120(2) by deleting the words “to do or refrain from doing a specified act”, to clarify that an offence under that section is made out if a person contravenes any order (including an interim order) made under Part VI (or the Land Titles (Strata) Act). It is not necessary that the order must be one compelling the person to do or refrain the person from doing a specified act.

Clause 50 repeals Part VII (on staged developments).

Clause 51 amends section 125 to, *inter alia*, provide that the Minister may make regulations providing for the application of any provision of that section to any foreign body corporate or unincorporated association.

Clause 52 amends section 126 to enhance the monitoring powers of the Commissioner.

Clause 53 introduces new sections 126A and 126B which confer new powers on the Commissioner so as to deal with instances where the Commissioner is satisfied that the management corporation or the council of the management corporation refuses or is unable to carry out a duty under this Act that must be urgently carried out in order to remove any danger to the health or safety of subsidiary proprietors and occupants of lots in that strata title plan, and the Commissioner receives a written request for an official manager by a prescribed number of subsidiary proprietors.

Under the new section 126A, the Commissioner may, by order in the *Gazette*, place the management corporation under official management, if the Commissioner is of the opinion that it is inappropriate for the management corporation concerned to continue without official management.

Before placing a management corporation under official management, the Commissioner must give at least 7 days' notice in writing to the chairperson of the management corporation concerned stating that the Commissioner intends to place the management corporation under official management, and specifying the time (not more than 7 days after the date of service of the notice on the management corporation) within which written representations may be made to the Commissioner by or on behalf of the management corporation with respect to the proposed official management.

When the Commissioner places a management corporation under official management, all members of the council of the management corporation are suspended from office unless the Commissioner indicates otherwise, and the Commissioner must appoint a suitable person to manage the affairs, business and property of the management corporation (called an official manager). An official manager may be appointed for a period of 15 months, or until the date of the holding of the next general meeting of the management corporation for the election of the council of the management corporation, whichever period is shorter.

The new section 126B deals with the powers of an official manager. The Commissioner is also authorised to fix the terms and conditions of the appointment of an official manager, including (whether or not the appointment of the person has terminated) the remuneration to be paid to the official manager. The remuneration of an official manager appointed under section 126A for a management corporation is payable from the management fund of the management corporation.

Clause 54 raises the general penalty in section 128 from \$3,000 to \$10,000.

Clause 55 amends section 129 to allow service or giving of notices by electronic communication by email. A notice sent by electronic communication to an email will be deemed to have been duly served on or given to the person to whom it is addressed when it becomes capable of being retrieved by the addressee at an electronic address designated by the addressee.

Clause 55 also amends section 129 to provide that a notice sent by post other than prepaid registered post is deemed to have been duly served on the person to whom it is addressed on the 4th working day after the day the notice or document was posted, even if it is returned undelivered.

Clause 56 inserts a new section 129A which allows any notice or order containing a misnomer or inaccuracy to remain valid if the person, premises or building to which the notice or order relates is identifiable. The new section also allows proceedings to remain valid despite any want of form. It is based on section 42A of the Building Control Act.

Clause 57 amends section 131 concerning powers of composition. The amendment raises the maximum for composition sums to one half of the amount of the maximum fine that is prescribed for the offence or \$5,000, whichever is the lower. The amendments provide that all composition sums collected must be paid into the Consolidated Fund, and not to the Building and Construction Authority (BCA).

Finally, an amendment is made to section 131 to place members, officers and employees of the BCA in the same position as civil servants in relation to their administration, assessment, collection and enforcement of payment of composition sums under the Act, which have to be paid into the Consolidated Fund. By this amendment, BCA members, officers and employees are open to being proceeded against under section 20 of the Financial Procedure Act (Cap. 109).

Clause 58 expands the regulation making powers of the Minister in section 136, to allow the Minister to make regulations providing for the following:

- (a) regulating the proper use and maintenance of lifts and escalators, including prescribing requirements for periodic inspections of lifts and escalators, the duties of owners of lifts or escalators and of persons who are in charge of or engaged in the maintenance of lifts or escalators, and the procedures and duties in the event of any incident or accident occurring in connection with any lift or escalator, and the incident or accident causes loss of life or serious personal injury or involves any breakage, distortion or damage to any load-bearing or safety-critical component or part of the lift or escalator;
- (b) offences for contravening lift and escalator regulations in paragraph (a) to be punishable by a higher fine not exceeding \$20,000 or imprisonment for a term not exceeding 12 months or both;
- (c) the means of voting (other than in person) at a general meeting that may be adopted by a management corporation or subsidiary management corporation, and the procedures for voting by those means;
- (d) the incorporation by reference, for purposes in lift and escalator regulations mentioned in paragraph (a).

Clause 59 amends the First Schedule to introduce changes refining the administration of general meetings of management corporations and subsidiary management corporations.

Clause 60 amends the Second Schedule to introduce changes refining the proceedings of councils and executive committees.

Among the amendments is one to allow a council or an executive committee, by resolution, to hold any of its meetings by means of teleconference, video conferencing or other electronic means of communication, provided the means adopted are such that all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting, and a quorum of members can simultaneously communicate with each other throughout the meeting. This will be in addition to making decisions by circulation of resolutions.

Clause 61 contains amendments to the Third and Fifth Schedules to repeal provisions relating to staged developments, which have never come into force.

Clause 62 makes consequential and related amendments to the Land Titles (Strata) Act to, *inter alia*, remove all references to staged developments and align the definition of “common property” with that in the Bill.

Clause 63 makes amendments to various other Acts as a consequence of clause 50 which repeals Part VII on staged developments. The amendments are to section 22(2) of the Housing Developers (Control and Licensing) Act (Cap. 130), to section 10(2) of the Sale of Commercial Properties Act (Cap. 281), and to section 17(e) to (j) of the Statutes (Miscellaneous Amendments) (No. 2) Act 2005 (Act 42 of 2005).

Clause 64 provides for saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
