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REPUBLIC OF KENYA

MINISTRY OF LANDS AND PHYSICAL PLANNING

THE SECTIONAL PROPERTIES REGULATIONS, 2021

UNDER THE SECTIONAL PROPERTIES ACT, 2020

REGULATIONS & EXPLANATORY MEMORANDUM

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EXPLANATORY MEMORANDUM TO:

THE SECTIONAL PROPERTIES REGULATIONS, 2021

PART I

Name of Statutory Instrument:	The Sectional Properties Regulations, 2021.
Name of Parent Act:	The Sectional Properties Act, 2020
Enacted pursuant to:	Section 59 of the Sectional Properties Act, 2020
Name of the Ministry:	Ministry of Lands and Physical Planning
Gazetted on:	November 26, 2021
Tabled on”

PART II

1. Purpose of the Statutory Instruments

The purpose of this Statutory Instrument (Sectional Properties Regulations, 2021) is to give full effect to the provisions of the Sectional Properties Act, 2020 by prescribing the procedure of carrying out various transactions and other actions by different persons, to design forms or instruments required for such transactions or actions and any other thing to give purpose and intent to the Act.

2. Legislative Context

The Sectional Properties Act, 2020 was enacted by Parliament and assented into law on the 15th December, 2020. The Act provides for division of buildings into units to be owned separately by individual proprietors and common property to be owned by the proprietors of the units as tenants in common. The Act also provides for the use and management of the units and common property. Section 59 of the Act gives the Cabinet Secretary, Ministry of Lands and

Physical Planning, the power to make regulations in respect of forms to be used for the purposes of giving full implementation of the Act.

There is no other statutory instrument that is related and published alongside this instrument.

3. Policy Background

Chapter Five of the Constitution of Kenya, provides for Land and Environment. Article 60 of the Constitution sets out the principles of land policy in Kenya including equitable access to land, security of land rights, sustainable and productive management of land resources, transparent and cost effective administration of land, elimination of gender discrimination, and encouragement of communities to settle land disputes through recognised local community initiatives consistent with the Constitution. The Constitution further directs that the above principles shall be implemented through a national land policy developed and reviewed regularly by the national government and through legislation.

The Sectional Properties Act, 2020 repealed and replaced the Sectional Properties Act, 1987 that had difficulties in implementation. The Sectional Properties Act makes it possible to register multiple units in a single building and each unit to have separate title and ownership thereby giving access to land as contemplated in our Constitution.

The proposed Statutory Instrument is intended to actualize the sectional property ownership policy laid out under the Act. The Regulations seek to make it easy for purchasers to attain ownership through providing a seamless registration procedure as well as providing a management mechanism of the property as long as the sectional status lasts.

Further, the enactment of the proposed statutory instrument gives impetus to the government's policy to provide affordable housing to Kenyans. The Key component of housing in the government's BIG 4 agenda will, to a large extent be achieved by the full implementation of the Sectional Properties Act, 2020. Public private partnerships in housing development will also be boosted through the framework laid out under the proposed statutory Instrument.

4. Consultative Outcome

The formulation of the statutory instrument is being spearheaded by the Ministry through the Taskforce on Formulation of the Sectional Properties Regulations under the Sectional Properties Act, 2020. On coming up with the zero draft of the Regulations, the same was subjected to review by various stakeholders who have, through online meetings, engaged with the Taskforce. Since the Taskforce has been appointed amidst the COVID19 pandemic, the taskforce had no option but comply with the set COVID19 health protocols by only engaging various stakeholders through online meetings. The statutory instrument has therefore been formulated through an online consultative process. Looking at this consultative method through the lens of the traditional model where physical engagement is given prominence may easily speak inefficiency. However, the flipside of it is that the online consultative process brought on board many people who effectively engaged and thus enriching the statutory instrument beyond the expectation of the taskforce. In addition to the online representations made, most stakeholders supplemented their views through written memoranda detailing their areas of interest. In total, thirty-five (35) written memoranda were received by the taskforce.

The external stakeholders did comprise of various public agencies spanning the national government and the county governments as well as various professional bodies and civil society organizations. The Council of Governors (COG) and the County Assemblies Forum (CAF) also registered their presence.

The process of stakeholder participation lasted for two weeks between the 27th April to the 8th May 2021.

5. Guidance

There is need at the initial period to constantly engage with the users of the statutory instrument. The Act being applicable for the first time to most of the parcels of land in Nairobi and other major towns means that there may be teething problems that require constant engagement between the implementing agency and the users. This may include carrying out public awareness exercises geared to bring the potential partakers of this statutory instrument on board.

6. Impact

6.1. The Impact on Fundamental Rights and Freedoms

The statutory instruments have been formulated in conformity with the Constitution of Kenya, 2010 and within powers conferred to the Cabinet Secretary under the Sectional Properties Act. The fundamental rights and freedoms as are spelled out in the Constitution have therefore not been interfered with in any way. On the contrary, right to ownership of property and access to land has been enhanced by allowing many to own sections of a building standing on a single parcel that would ordinarily accommodate a single dwelling house.

6.2. The impact on the private sector

Going by the response and support received from the private sector during the formulation process of the statutory instruments, it is expected that the application thereof will create a positive impact on the private sector. The import of the statutory instruments is to eliminate or minimize the paper-based mode of carrying out land transactions processes. The statutory instruments therefore facilitate the implementation of a system, which seeks reduction of cost, turn-around time, efficient storage and access of data, real time-based transactions, etc. All these no doubt add up to improve on the administration and management of land in Kenya. The private sector therefore stands to gain greatly from this process.

6.3. The impact on the public sector

Land being a critical sector, the public agencies vested with the responsibility of managing and enforcing the statutory instruments have an enormous task of ensuring the envisaged positive impact percolates to the general public. It is expected that the far reaching reforms introduced by the statutory instruments will go a long way to enable public agencies vested with land management to deliver land processes and transactions to the expectation of the general public.

6.4. Regulatory Impact Assessment.

A Regulatory Impact Assessment (RIA) on the proposed Statutory Instrument has been conducted and is hereby attached to this memorandum.

7. Monitoring and Review

It is expected that upon application of the statutory instruments to implement the NLIMS, it will be easy to monitor and review the land information on account of having data and information accessed from one central place at the touch of the button. The NLIMS will in itself be an effective monitoring and review tool to inform the Cabinet Secretary and the National Land Commission on future trends and the necessary interventions to be made with a view of introducing more innovations in land management in Kenya.

8. Contact

The Cabinet Secretary,
Ministry of Lands and Physical Planning,
Ardhi House, 1st Ngong Avenue,
P. O. Box 30450-00100,
NAIROBI
Telephone No. +254(0)20 2718050
Email address cslandskenya@gmail.com

(Legislative Supplement No. 94)

LEGAL NOTICE NO. 236

THE SECTIONAL PROPERTIES ACT

(No. 21 of 2020)

IN EXERCISE of the powers conferred by section 59 of the Sectional Properties Act, 2020, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE SECTIONAL PROPERTIES REGULATIONS, 2021

1. These Regulations maybe cited as the Sectional Properties Regulations, 2021.

Citation.

2.(1) Pursuant to section 4(1) of the Act, an existing structure may be designated a building containing a unit or part of a unit or divided into two or more units by the registration of a sectional plan prepared, by a surveyor in accordance with these Regulations.

Sectional plans.

(2) A sectional plan to be presented for registration under section 4 of the Act shall—

- (a) be drawn in waterproof ink, on tracing linen or polyester film or such other material that is of size and nature that is acceptable to the authority responsible for survey;
- (b) be prepared in sheets, each sheet of the plan being endorsed in the upper right hand corner with the words "Sheet... of... Sheets" with the appropriate numbers filled in; and
- (c) consist of—
 - (i) the first sheet on which matters prescribed in section 9 and 11 of the Act are set out; and
 - (ii) further sheets containing such elevations, sections, plans diagrams and other information required under section 9 of the Act;
- (d) be accompanied by the rent apportionment form in Form SP 1 set out in the First Schedule, where applicable; and
- (e) be submitted to the authority responsible for survey for authentication.

3.(1) The first sheet of the plan shall before being presented for registration, be endorsed, in the manner set out in Form SP 2 set out in the First Schedule, by—

The signing and endorsement of sheets.

- (a) a surveyor in accordance with section 11(1)(a) of the Act and the licence number of the surveyor indicated;
- (b) a certificate from the County Executive Committee Member in charge of approval of buildings in accordance with section 11(1)(b) of the Act;

- (c) the owner of the property; and
- (d) the Land Administration Officer confirming that rent has been apportioned to each unit on the sectional plan, where applicable.

(2) An application for endorsement under paragraph (1)(b) shall be made in Form SP 3 set out in the First Schedule.

(3) Upon receipt of an application under paragraph (2), the County Executive Committee Member in charge of approval of buildings shall endorse on the face of the sectional plan, in accordance with section 11(1)(b) of the Act, where the sectional plan is in conformity with the building and architectural plans.

4.(1) The sheets containing the requirements of section 9(1)(b) and (d) of the Act shall bear the statements "Site and Building Location Plan" and "Floor Plan", respectively and shall—

Requirements of plan sheets.

- (a) be drawn with the north point directed upwards and parallel to the sides of the plan form; and
- (b) be to a scale, selected from the standard scales prescribed in the regulations relating to survey, that will enable all details and notations to be clearly shown and ensure that the area of a unit is not less than five square cm.

(2) Every detail shown on a plan shall be distinct, and the figures not cramped.

5. All words, letters, figures and symbols appearing on the sectional plan, shall, except where the authority responsible for survey otherwise approves, be—

Expression of words, letters, figures and symbols.

- (a) shown in capital letters;
- (b) open in formation and construction; and
- (c) drawn in an upright style.

6.(1) Every floor plan of a sectional plan to be presented for registration shall illustrate the units, numbered consecutively, commencing with the first unit and terminating with a unit number that corresponds to the total number of units comprised in the parcel:

Illustration of units on a floor plan.

Provided that every numbered unit shall also bear the number of the parcel

(2) Where a numbered unit is shown as consisting of more than one part, each part shall be described as part of that numbered unit.

7.(1) For the purposes of section 9(1)(f) of the Act, the Schedule specifying the unit number, unit factor, the approximate floor area and use for each unit shall be in Form SP 4 set out in the First Schedule.

Expression of units.

(2) There shall be assigned, to each unit, a unit factor determined in the manner indicated in Form SP 5 set out in the First Schedule so that the total of the unit factors for all units in the parcel is equal to ten thousand.

8.(1) A site and building location plan presented in support of a sectional plan or a sectional plan of subdivision or sectional plan of consolidation shall in addition to matters referred to in regulation 2(2)(c)(i) set out—

Matters to be set out in a site and building location plan.

- (a) abutting boundaries, co-ordinates of beacons, lengths and bearings of the external boundaries of the parcel as may be required by the Survey Regulations;
- (b) the georeferenced external limits of the building, the building dimensions and the tie line measurements relating the building to the parcel boundary;
- (c) any subsisting easement or utility rights of way;
- (d) where any encroachment exists in respect of a wall, the relationship of the inner surface of the wall to parcel boundary beyond which the wall encroaches;
- (e) exclusive possession areas and extent of the common property area; and
- (f) a legend to explain, among other items, the boundaries of the units, unit measurements, building locations, dimensions and symbols, as shown in Form SP 6 set out in the First Schedule.

(2) The building dimension and tie measurements shall be recorded to 0.01 of a meter.

(3) The areas of a unit shall be recorded to 0.1 square meters.

9.(1) A person who wishes to register a sectional plan in accordance with section 4 of the Act shall apply for registration in Form LRA 9 set out in the Sixth Schedule to the Land Registration (General) Regulations, 2017.

Registration of sectional plans.

LN 278/2017

(2) The application under paragraph (1) shall be accompanied by—

- (a) the original certificate of title or lease to the parcel in respect of which the sectional plan is made; and
- (b) an application for the registration of the corporation in Form SP 7 set out in the First Schedule.

(3) The registrar shall consider the applications made under paragraphs (1) and (2)(b) and—

- (a) register the sectional plan in a Sectional Plan Register kept in Form SP 8 for freehold and Form SP 9 for leasehold, set out in the First Schedule; and
- (b) register the corporation in the Corporation Register kept in Form SP 8 and Form 9 set out in the First Schedule, for freehold and leasehold as the case may be and issue a registration certificate for the Corporation in Form SP 10 set out in the First Schedule.

(4) The Registrar shall pursuant to section 5(1)(a) of the Act close the register of the parcel described in it upon the registration of the sectional plan under paragraph (3)(a).

(5) The Registrar shall upon the closure of a register under paragraph (4), open Unit Registers in Form SP 11 set out in the First Schedule if the parcel is freehold, and Unit Registers in Form SP 12 set out in the First Schedule if the parcel is leasehold.

(6) The Registrar shall issue a certificate of title in Form SP 13 set out in the First Schedule for every respective Unit Register opened for freehold or a certificate of lease in Form SP 14 set out in the First Schedule for every respective Unit Register for leasehold.

(7) Pursuant to section 29(2), the by-laws set out in Second Schedule shall be the by-laws of the Corporation on the first registration.

(8) The provisions of the Land Registration (General) Regulations 2017 relating to the circumstances under which the Registrar may reject a defective instrument presented for registration and right to appeal shall be applicable in relation to an application for registration of a Sectional Plan and a Corporation.

LN 278/2017

10.(1) The Registrar shall record, in the Sectional Plan Register kept under regulation 9(3)(a), particulars of all the sectional plans as registered under the Act.

Recording of the particulars of sectional plans.

(2) Every registered sectional plan shall be allocated a progressive number by which it may be identified in the Sectional Plan Register.

Provided that the parcel number shall form part of the progressive number allocated to a sectional plan.

11. Pursuant to section 5 of the Act, a register opened and maintained under the Act shall meet the requirements of section 7 of the Land Registration Act, 2012.

Registers to conform to the land Registration Act.

12.(1) Pursuant to section 9(2) of the Act, the registrar shall within twenty-one days from the day a sectional plan is registered submit to the county government of the area in which the parcel is located a copy of the sectional plan.

Submission of sectional plan to county governments

(2) The county government shall with effect from the date of receipt of a sectional plan submitted under paragraph (1) apportion rates to each unit on the sectional plan to enable individual unit owners pay their rates separately.

13. In a plan presented for registration as a sectional plan of subdivision or sectional plan of consolidation, the original unit shall be cancelled in the existing sectional plan and the new unit shall be numbered consecutively, the lowest new unit number being greater by one than the highest number in the existing sectional plan.

Presentation of units in sectional plan of subdivision or consolidation

14.(1) The Registrar shall, before registering a sectional plan of subdivision of a unit or units, cause to be—

Notification of subdivision and illustration of units.

- (a) endorsed on the original registered sectional plan, a notification of the subdivision; and
- (b) indicated on the diagram in the original registered sectional plan, illustrating the unit or units being subdivided that the unit or units are subdivided.

(2) Where the subdivision is in respect of a unit or units that is or are charged or otherwise encumbered, the registrar shall require production of consent of the chargee or encumbrancer before the sectional plan of subdivision is registered.

15.(1) The Registrar shall, before registering a sectional plan of consolidating of a unit or units, cause to be—

Notification of consolidation and illustration of units.

- (a) endorsed on the original registered sectional plan a notification of the consolidation; and
- (b) indicated on the diagram in the original registered sectional plan, illustrating the unit or units being consolidated that the unit or units are consolidated.

(2) Where the consolidation is in respect of a unit or units that is or are charged or otherwise encumbered, the registrar shall require production of consent of the charge or encumbrancer before the sectional plan of consolidation is registered.

16. Where the sub-division of a unit or consolidation of units is likely to affect the incidental rights of any unit owner in respect of common property and all other rights appurtenant as provided under section 7 of the Act, a sectional plan for sub-division or consolidation in that respect shall not be registered unless an affected owner has given prior consent in Form SP 15 set out in the First Schedule, to inform the giving of consent by the corporation and approval by the county government pursuant to section 12(1) of the Act.

Incidental rights.

Provided that an owner or corporation shall not unreasonably withhold such consent.

17.(1) The Registrar may add continuation sheets to a sectional plan register on which may be made any endorsement, registration memorandum, notification or other entry that is to be or may be made on the register.

Addition of continuation sheets.

(2) Each such sheet added to the register by the Registrar pursuant to paragraph (1) shall—

- (a) be numbered consecutively; and
- (b) be signed by the Registrar.

18.(1) Pursuant to section 13(2) of the Act, long-term leases shall be converted to sectional units in accordance with these regulations, where—

Conversion to sectional units.

- (a) all the units have been transferred to the respective owners and the reversionary interest has been transferred to the management company to hold in trust for the owners as noted on the title; or

- (b) all the units have been transferred to the respective owners and the reversionary interest is by written agreement intended to be transferred to the management company to hold in trust for the owners; or
- (c) part of the units have been transferred to the respective owners and the reversionary interest is by written agreement intended to be transferred to the management company to hold in trust for the owners.

(2) The management company shall apply for conversion under paragraph (1)(a) and (b) in Form SP 16 set out in the First Schedule to the Registrar for registration.

(3) Where the shares in the management company have not been issued to the owners as per agreement and the management company has failed to apply for conversion under paragraph (2), any owner or owners may apply for registration in accordance with paragraph (2).

(4) The developer shall apply for conversion under paragraph (1)(c) in Form SP 16 set out in the First Schedule to the Registrar for registration.

(5) Where the developer has failed to apply for conversion under paragraph (4), the management company or any owner or owners may apply for registration in accordance with paragraph (4).

(6) Subject to paragraph (7), the Registrar may on reasonable grounds dispense with the production of the title to the parcel for applications made under paragraph (3) and (5).

(7) Where a property is charged or otherwise encumbered, the application for conversion shall be made by the respective applicants and be delivered to the encumbrancer or appointed representative who shall submit for issuance of a new certificate of lease or certificate of title, as the case may be, noted with the encumbrances, to the encumbrancer.

(8) The failure by a registered proprietor of a parcel, a developer, a management company or an owner of a unit to submit a sectional plan to the Registrar for registration under paragraph (7) shall not invalidate the security or interest held by the encumbrancer.

(9) In the event that the chargee exercises its statutory power of sale in respect of a unit, the Registrar shall issue a new certificate of lease in the name of the transferee upon registration of transfer by chargee.

19.(1) An application for conversion under regulation 18 shall be accompanied by— Conversion.

- (a) the sectional Plan;
- (b) the sublease or long-term lease;
- (c) certificate of lease; or
- (d) the parcel title or a copy of the parcel title.

(2) Where the management company or owners of the units intend to apply for conversion under regulation 18 but are unable to avail the original title to the parcel, which is not otherwise encumbered, an indemnity shall be provided in accordance with regulations 27 and 28 of Land Registration (General) Regulations, 2017 and the Registrar shall by notice in the *Gazette* call for the title for purpose of conversion.

(3) Upon the expiry of sixty days from the date of notice, the Registrar shall, if the title is not availed—

- (a) register the sectional plan;
- (b) issue the respective unit owners with certificate of title or lease for sectional units under this Act; and
- (c) close the parcel register.

20. Where the management company or owners have initiated the preparation of a sectional plan during conversion and where they fail to avail the approved architectural plans or the available approved architectural plan is at variance with the development—

- (a) the management company or the owners shall avail a sworn affidavit detailing the loss or inability to avail the said documents;
- (b) the sectional plan may be prepared by the surveyor without necessarily relying on the approved architectural plan;
- (c) the county government may endorse its certificate on the sectional plan without the production of the approved architectural plans based on the sworn affidavits.

21.(1) A management company in respect of long-term leases that are the subject of conversion shall transfer all its assets and liabilities to the corporation within a period of one year from the date of registration of the corporation.

(2) The By-laws of the Corporation may be amended by including duly modified terms and conditions of long-term leases that are subject of conversion.

22. Regulation 18 shall not apply to long-term leases not falling in the category specified in that regulation including those in respect of—

- (a) which it is expressly provided by agreement that reversionary interest belongs to the developer or lessor or management company as legal owner and not as trustee;
- (b) large mixed-use developments and phased developments where it is by agreement provided that reversion shall be retained by the developer or to be otherwise held by a management company; or
- (c) projects of strategic national importance, substantial transactions, and special economic zones, which by their nature, renders it impractical to relinquish reversionary interest.

Preparation and approval of sectional plans without approved architectural plans.

Winding-up of management companies.

Long-term leases exempt from conversion.

23.(1) Where the corporation deems it necessary to amend its by-laws pursuant to section 29 of the Act, the amended copy shall be filed with the Registrar who shall note on the sectional plan if satisfied that the amendments are in conformity with the Act

Amendment of by-laws.

(2) On noting amendment of the by-laws in paragraph (1), the Registrar shall endorse on the relevant corporation register a notification which shall—

- (a) contain any particulars the Registrar directs; and
- (b) be signed by the Registrar.

24.(1) Where a sectional plan was registered and sectional titles issued without the registration of a corporation, the owners shall apply for the registration of a corporation in Form SP 7 set out in the First Schedule by providing the Registrar with the list of names on the sectional plan.

Registration of corporation on registered sectional plans.

(2) The registrar shall proceed to register the corporation in the corporation register kept in Form SP 8 and Form SP 9 and thereafter issue the certificate of the corporation in Form SP 10 set out in the First Schedule.

25.(1) An owner desiring to rent out his unit shall notify the corporation in Form 17 set out in the First Schedule wherein the owner shall provide the address for effecting a notice under regulation 23.

Notice by owner.

(2) Upon renting out the unit, the owner shall within twenty-one days from commencement of the tenancy notify the corporation of the name of tenant residing in the unit in Form 18 set out in the First Schedule.

(3) On lapse of tenancy agreement, the owner shall within twenty days give notice to the corporation in Form SP 18 set out in the First Schedule.

26.(1) Where a tenant occupying a unit is in breach of the by-laws as provided under section 46, the corporation shall notify the owner of the unit in Form 19 set out in the First Schedule to take necessary action.

Notice by the corporation.

(2) Where a notice under paragraph (1) has been given and the owner has failed to take necessary action, the corporation shall refer the matter to the Internal Disputes Resolution Committee for determination as a dispute.

(3) Where the dispute under paragraph (2) is decided against the tenant, the corporation shall issue a notice to the tenant to vacate the premises in Form 20 set out in the First Schedule.

27.(1) Upon termination of sectional status pursuant to section 47, the corporation shall file with the Registrar a notice of termination of the sectional status of a building in Form SP 21 set out in the First Schedule.

Termination of sectional status.

(2) On receipt of a notice referred to in paragraph (1), the Registrar shall give a notice of thirty days in the *Gazette* before

endorsing on the relevant Sectional Plan Register a notification of the termination of the sectional status and the vesting of the parcel in the owners.

(3) The notice under paragraph (2) shall contain any other particulars the Registrar directs and be signed by the Registrar.

28. Where a parcel is transferred by a corporation pursuant to section 49 of the Act, the Registrar shall—

Transfer of parcel.

- (a) enter on the relevant sectional plan register a notification of the cancellation of the plan; and
- (b) indicate in an appropriate manner on any relevant register that the sectional plan has been cancelled.

29.(1) Pursuant to section 20(6) of the Act, the Corporation shall during every annual general meeting elect members to the Internal Disputes Resolution Committee to hear disputes whenever they arise.

Internal Disputes
Resolution
Committee

(2) The Committee shall comprise not less than three members and not more than five members of the Corporation.

(3) The Board shall designate the chairperson and the secretary to the Committee.

(4) The Committee shall sit and dispense on any dispute within reasonable time-lines as may be directed by the Board.

(5) Where the dispute is relates to the Board or a member of the Board, a member of the Board who may have been appointed to the Committee shall not participate in the proceedings.

(6) The Committee shall hear and determine the matter within the timelines specified and communicate its determination to the disputing parties with a copy being given to the Board

(7) The Committee may upon receiving notification of a dispute from an aggrieved party, at any time and with sufficient notice, to summon parties to the dispute to appear before the committee, at such place and time as shall be specified in the summons.

(8) The Committee shall provide a written notice of not less than seven days when such summons are given.

(9) Where a party fails to appear after being summoned, the Committee shall proceed to determine the matter and give its verdict.

(10) A party aggrieved by the decision of the Committee they may seek other legal redress mechanisms.

(11) The Committee in its deliberations shall ensure impartiality in determining the matter brought before it and give every member a fair hearing.

30. Where there is a change of address, the Corporation shall notify the registrar of change of address, in Form SP 22 set out in the First Schedule

Notification of
change of address.

31. Where there is a change to board membership as provided under section 26(2) of the Act the corporation shall give notice to the

Notification of
change of Board
membership.

Registrar in Form SP 23 set out in the First Schedule and such changes shall be noted in the Corporation Register.

32.(1) Upon the change of membership of the corporation by way of exit or entry of a unit owner, the corporation shall give notice to the registrar in Form SP 24 set out in the First Schedule, to be attached to the transfer of certificate of title or certificate of lease as the case may be by the transferee.

Notification of change of corporation.

(2) The Registrar shall accordingly amend the unit register and the corporation register.

33. An application for extension or renewal of the lease term shall be made by individual owners of units in a sectional plan, as provided under the Land (Extension and Renewal of Leases) Rules 2017.

Extension or renewal of lease.

34. All forms and plans referred to in these regulations may be submitted in electronic form.

Submission of forms and plans electronically.
Execution of instruments.

35. The provisions of sections 44 and 45 of the Land Registration Act and the Land Registration (General) Regulations, 2017, on the execution and verification of instruments shall apply to instruments specified under this Act and registered under the Land Registration Act.

36. The fees prescribed under the Land Registration Act, 2012 shall be payable for any procedure or function under the Act.

Fees.

37. A power of attorney executed and verified in accordance with section 45 of the Land Registration Act, 2012 shall where applicable, be valid for the purposed of this Act.

Power of attorney.

							<p>OWNER/DEVELOPER:</p> <p>This is to certify that I being the registered owner of Parcel No.has given permission for my property to be surveyed and registered and hereby endorse in compliance with section 9.1(g) of Sectional Property Act</p> <p>NAME:P.O BOX</p> <p>Tel Email</p> <p>Signature</p> <p>Date.....</p>	
							<p>COUNTY CERTIFICATE:</p> <p>This is to certify that the sectional property survey is a representation of approved building plan No.....and is hereby endorsed in compliance with Section11.1(b) of Sectional Properties Act</p> <p>DESIGNATION.....SIGNATURE..... Date</p>	
s/no	unit no	use	unit area	exclusive use area	Total Unit area	Unit Factor	<p>LAND ADMINISTRATION OFFICER:</p> <p>This is to certify that Land Rent has been apportioned for each unit represented in this sectional plan in compliance with Regulation 2.2(e).</p> <p>NAME..... SIGNATURE.....</p>	<p>Folio</p> <p>Register</p>
							<p>LAND REGISTRAR:</p> <p>This is to certify that Sectional Plan No.....has been certified, duly entered and registered at the.....County/Sub-county Land Registry as Entry No.....on thisday of20.....</p> <p>NAME.....SIGNATURE.....</p>	
							<p>LEGEND</p>	

SCALE.....

I certify that all the work performed in the field and in the office by my assistant Mr has been carried out under my personal supervision and I take full responsibility for all the work so performed Name..... Survey License No..... Signature.....Date.....	Registration	Transactions	Authentications	Date	Records	Date	
	Date received... File reference... Computations No..... Field book No....	Provisional Approval..... Final Approval..... Charted By	Examined by Approved by..... Authenticated by	For the Director of Surveys	Traced by Compared by	Cadastral sheet R.I.M.....	Plot/Parcel No..... Ref. Map/R.I.M. Registration Block Registration County..... Locality.....
<p>I hereby certify that I, in person, made, and on the.....20.... completed the survey represented by this plan, on which are written the bearings and lengths of the lines surveyed by me, and that the survey has been executed in accordance with the existing regulations and with the approved scheme.</p> <p>Letter No of.....</p> <p>Surveyor</p>							

Form SP 3

(r. 3(2))

APPLICATION FOR ENDORSEMENT BY COUNTY GOVERNMENT

(To be submitted to appropriate County Government in Triplicate)

To;

County Executive Committee Member

(Responsible for Approval of Building Plans)

COUNTY GOVERNMENT OF

I/We hereby apply for the endorsement of the Sectional Plan in respect of building developed on parcel No: (Original Parcel no:.....) to confirm its conformity with the building plan.

Owner:.....

Address.....

Applicant

Address

Signature

Date:.....

Form SP 4

(r. 7(1))

SCHEDULE OF UNIT FACTORS

<i>Unit Number Factor</i>	<i>User</i>	<i>Approximate Flor Area m²</i>	<i>Unit</i>
			Total 10,000

Form SP 5

(r. 7(2))

DERIVATION OF UNIT FACTORS

There appears to be no prescribed formula for allocating unit factors or unit entitlement. Its determination is based on unit floor area or on the selling/ value of the unit or on location/position of the unit or on combination of these factors. Whatever method is used, it is important that the unit factors are made equitable.

Generally the method based on Unit floor area is commonly used and it is recommended that until such a time as other considerations will come to play, we base our unit factor determination on floor areas of the units.

For units numbered 1,2,3 and 4 in a sectional property building of floor areas a,b,c and d square metres respectively the corresponding unit factors shall be:

Unit 1:

$$\frac{a}{\sum A} \times 10,000$$

Unit 2:

$$\frac{b}{\sum A} \times 10,000 \quad \text{etc}$$

Where $\sum A = a+b+c+d$, ie, sum of the floor areas of all the units in the building(s).

Since $\frac{a}{\sum A}$ or $\frac{b}{\sum A}$ will be a fraction cumbersome to work with in ordinary life, the figure of 10,000 is used in the multiplication purely for the convenience of obtaining whole numbers for the units.

Also since in a given situation $\sum A$ is a constant the sum of all the derived units factors should, in the rounding up/down of the figures be equal to 10,000.

In the sectional plan of sub-division or consolidation, the unit factor or factors for the unit or units in the original sectional plan that are included in the sub-division or consolidation shall be apportioned among the newly created units or unit-section 12(4) of the Act.

Important role of the unit factors necessitates accurate determination of the unit floor areas based on precise measurements of unit boundaries.

Form SP 6

(r. 8(1)(f))

LEGEND

A legend is to explain, among other items, the boundaries of the units, unit measurements, building locations and dimensions. An example of a typical legend is as follows:

All building location dimensions are perpendicular to the property lines unless otherwise shown (radical tie distances if used should be specified (R))

All building location dimensions and exterior building dimensions are to the exterior of the concrete foundation walls (or to the exterior surface walls or an inset may be drawn to show clearly the point of measurement)

The boundary of any unit with common property is the undecorated interior surface of the unit floor, wall or ceiling as the case may be (or is as stipulated in section 6(1) of the Sectional Properties Act and illustrated thus.....)

All unit dimensions and floor areas are measured to the undecorated interior surface of the unit at floor level.

Or

All major plumbing, electrical, mechanical and structural facilities passing through or existing within unit boundaries that are required for the operation and support of the main building are common property.

Balconies and patios designated B1, etc and P1, etc respectively are common property that may be leased to the owner of the unit pursuant to section 22 and 23 of the Sectional Properties Act (and /or exclusive possession areas are common property and delineated thus and /or all carports are denoted C15 delineated thus and/or are exclusive possession common property and may be leased or otherwise granted by the corporation to a unit owner pursuant to section 22 & 23 of the Act.

Form SP 7

(r. 9(2)(b), 24(1))

APPLICATION FOR REGISTRATION OF CORPORATION

To the Land Registrar

..... Land Registry.

I/We, the owner(s) of Units built on land parcel no. on this day of 20.....

hereby apply for registration of Corporation for Sectional Property within the said land parcel.

My/Our details are as follows:

Name	ID/PP No	Unit No.	Address	Signature
.....
.....
.....

Form SP 8

(r. 9(3)(a), (b))

SECTIONAL PLAN REGISTER AND CORPORATION REGISTER(FREEHOLD)

SECTIONAL PLAN NO.....

PART A-PROPERTY SECTION	
Edition: Opened:	Particulars of Sectional Property
Registration Section:	Proprietor
Parcel Number (Orig. Parcel no.)	User
Approximate Area Ha No. of Units.....	
Cadastral Map Sheet No	Easements.....
Cadastral Plan No.	For Appurtenance See Registered Lease

PART B: PROPRIETORSHIP SECTION				
CORPORATION				
Entry No.	Date	Name of Corporation	Address	Initials of Registrar
BOARD MEMBERS				
Entry No.	Date	Name of Board member/Changes in Membership	Address	Initials of Registrar

CHANGE OF BY-LAWS				
Entry No.	Date	Change in the By-law	Address	Initials of Registrar

Form SP 9

(r. 9(3)(a), (b), 24(2))

SECTIONAL PLAN REGISTER AND CORPORATION REGISTER (LEASEHOLD)

SECTIONAL PLAN NO.....

PART A-PROPERTY SECTION	
Edition:	Particulars of Sectional Property
Opened:	
Registration Section:	Lessor.....
Parcel Number (Orig. Parcel no.)	Lessee..... User.....
Approximate Area Ha Total unit factor	Rent.....Term.....From.....
Cadastral Map Sheet No.....	Easements.....

Cadastral Plan No.		For Appurtenance See Registered Lease		
PART B: PROPRIETORSHIP SECTION				
CORPORATION				
Entry No.	Date	Name of Corporation	Address	Initials of Registrar
BOARD MEMBERS				
Entry No.	Date	Name of Board member/Changes in Membership	Address	Initials of Registrar
CHANGE OF BY-LAWS				
Entry No.	Date	Change in the By-law	Address	Initials of Registrar

Form SP 10

(r. 9(3)(b), 24(2))

CERTIFICATE OF INCORPORATION

This is to certify that the Owners, Sectional plan No. in the County of has been duly registered as a corporation on thisday of20..... under my hand and the seal ofLand Registry.

.....

Land Registrar

Form SP 11

(r. 9(5))

UNIT REGISTER (FREEHOLD)

Edition:	PART A-PROPERTY SECTION	
Opened:	User:.....	Nature of Title
Registration Section		Freehold
Unit Numberand One Ten Thousandth		

Shares in the Common Property Therein		
Approximate Unit Floor Area.....m ²		
(Original Parcel/Unit Number.....)		
Sectional Plan Number		

PART B-PROPRIETORSHIP SECTION

<i>Entry No.</i>	<i>Date</i>	<i>Name of Registered Proprietor</i>	<i>Address or Description of Reg. Proprietor</i>	<i>Consideration and Remarks</i>	<i>Signature of the Registrar</i>

PART C-ENCUMBRANCE SECTION

<i>Entry No.</i>	<i>Date</i>	<i>Nature of Encumbrance</i>	<i>Further Particulars</i>	<i>Signature of Registrar</i>

Form SP 12

(r.9(5))

UNIT REGISTER (LEASEHOLD)

Edition:	PART A-PROPERTY SECTION	
Opened:	Easement, etc	Nature of Title
Registration Section		
Unit Numberand One Ten Thousandth Shares in the Common Property Therein	Lessor..... Lessee.....	Leasehold
Approximate Unit Floor Area.....m ²	Rent..... User.....	
(Original Parcel/Unit Number.....)	Term..... Years	
Sectional Plan Number	From	

PART B-PROPRIETORSHIP SECTION

<i>Entry No.</i>	<i>Date</i>	<i>Name of Registered Proprietor</i>	<i>Address or Description of Reg. Proprietor</i>	<i>Consideration and Remarks</i>	<i>Signature of the Registrar</i>

PART C-ENCUMBRANCE SECTION

<i>Entry No.</i>	<i>Date</i>	<i>Nature of Encumbrance</i>	<i>Further Particulars</i>	<i>Signature of Registrar</i>

Form SP 13

(r. 9(6))

CERTIFICATE OF TITLE FOR SECTIONAL PROPERTY

Title Number.....

Unit Number and one ten thousandth shares in the common property herein.

Approximate Unit Floor Area.....m² User.....Sectional Plan No.
.....THIS IS TO CERTIFY THAT
.....
.....
.....

is (are) now registered as the absolute owner(s) of the freehold interest comprised in the above mentioned title, subject to such of the overriding interests set out in section 28 of the Land Registration Act as may for the time being subsist and affect the unit.

GIVEN under my hand and seal of the
.....Land Registry this day of
..... 20..........
Land Registrar

At the date stated on the front hereof, the following appeared in the register relating to the unit:

Edition:	PART A-PROPERTY SECTION	
Opened:	Easement, etc	Nature of Title
Registration Section		
Unit Numberand One Ten Thousandth Shares in the Common Property Therein		Freehold
Approximate Unit Floor Area.....m ²		
(Original Parcel/Unit Number.....)		
Sectional Plan Number.....		

PART B-PROPRIETORSHIP SECTION

Entry No.	Date	Name of Registered Unit Owners	Address and Description of Registered Unit Owner	Consideration and Remarks	Signature of Registrar

PART C-ENCUMBRANCE SECTION

Entry No.	Date	Nature of Encumbrance	Further Particulars	Signature of Registrar

Form SP 14

(r. 9(6))

CERTIFICATE OF LEASE FOR SECTIONAL PROPERTY

Title Number

Unit Number.....and.....one ten thousandth shares
in the common property herein

Approximate Unit Floor Area.....m²

User..... Rent.....

Term..... Years from.....

Sectional Plan No

THIS IS TO CERTIFY THAT

.....

is (are) now registered as the unit owner(s) of the leasehold interest comprised in the above mentioned title, subject to such of the overriding interests set out in section 28 of the Land Registration Act as may for the time being subsist and affect the unit.

GIVEN under my hand and seal of the

Land Registry this day of20.....

.....

Land Registrar

At the date stated on the front hereof, the following appeared in the register relating to the unit:

Edition:	PART A-PROPERTY SECTION	
Opened:	Easement, etc	Nature of Title
Registration Section		
Unit Numberand One Ten Thousandth Shares in the Common Property Therein	Lessor..... Lessee.....	Leasehold
Approximate Unit Floor Area.....m ²	User..... Rent.....	
(Original Parcel/Unit Number.....)	Term.....Years	
Sectional Plan Number	From.....	

PART B-PROPRIETORSHIP SECTION

<i>Entry No.</i>	<i>Date</i>	<i>Nature of Encumbrance</i>	<i>Further Particulars</i>	<i>Signature of Registrar</i>

PART C-ENCUMBRANCE SECTION

Entry No.	Date	Name of Registered Unit Owners	Address and Description of Registered Unit Owner	Consideration and Remarks	Signature of Registrar

Form SP 15

(r. 16)

CONSENT OF UNIT OWNER(S) FOR SUB-DIVISION OR CONSOLIDATION OF A SECTIONAL PLAN

Reference is made to an application by the registered owner(s) of unit(s) number for Sub-Division / Consolidation of the unit(s).

I/We, of Post Office Box Number being the registered owner(s) of the below listed unit(s) HEREBY CONSENT to Sub-Division / Consolidation of the units. I/We further confirm and undertake that in the event of the Commission exercising its statutory power of sale we shall issue a Share Certificate in favour of the Purchaser.

Name of Unit Owner	ID/PP No.	Unit No.	Postal Address	E-mail Address	Signature	Date
.....
.....
.....

Form SP 16

(r. 18(2), (4))

APPLICATION FOR CONVERSION OF SUB-LEASES/LONG-TERM LEASES

To the Land Registrar

.....Land Registry.

I the developer/Management Company/I/We, the owner(s) of Units built on land parcel no. on thisday of20.....

hereby apply for registration and issuance of certificates of lease/title under the Sectional Properties Act.

The following documents are enclosed.

	Document/Instrument	Number (where applicable)	confirmed
1	Sectional Plan		
2	Sub-leases/Long-term leases		
3	Original Title of the land parcel		
4	Certificate of title		
5			

My/Our details are as follows

<i>Name</i>	<i>ID/PP No</i>	<i>Unit No.</i>	<i>Address</i>	<i>Signature</i>
.....
.....
.....
.....

Form SP 17

(r. 25(1))

NOTICE OF INTENTION TO RENT (ISSUED TO THE CORPORATION)

To;

(Name of Corporation)

I/We the owner(s) of Unit No. intend(s) to rent out my unit and for purposes of service of a notice under Regulation 23, please use:

NAME.....

TEL:.....

E-mail:.....

P.O. Box.....

I hereby give my undertaking that I shall be liable for any damages caused by the tenant.

(Signed)

Name of Owner(s)

Form SP 18

(r. 25(2), (3))

NOTICE OF TENANCY/END OF TENANCY TO CORPORATION

To:

(Name of Corporation)

I/We the owner(s) of Unit No. has/have entered into/ended a tenancy agreement with the person whose details are as hereunder:

NAME (of tenant)

ID NO.
 PIN NO.
 TEL:
 E-mail:

 P.O. Box
 (Signed)
 Name of Owner(s)

Form SP 19 (r. 26(1))

CORPORATION NOTICE TO UNIT OWNER ON BREACH OF BY-LAWS BY TENANT

To:
 Name
 Owner Unit No

This is to notify you pursuant Section 45 of the Sectional Properties Act, 2020 that the tenant currently in occupation of Unit No. has caused the contravention/ has contravened the by-laws by:

1.
2.

Please take necessary action to ensure compliance within days from the date hereof.

If necessary action is not taken within the period specified, a vacation notice shall be issued to the tenant pursuant to Section 46(2) of the Sectional Properties Act, 2020 without further reference to you.

(signed)
 (name of person signing)
 FOR: (Name of Corporation)

Form SP20 (r. 26(2))

VACATION NOTICE TO TENANT BY CORPORATION

To
 (Name & address of tenant)
 Unit No.....

This is to notify you that you are required to vacate Unit No. pursuant to Section 46(2) of the Sectional Properties Act, 2020 within days from the date hereof having caused the contravention/contravened the by-laws by:

- 1.....
- 2.....
- 3.....

TAKE NOTE that the Corporation shall take all necessary action to ensure compliance of this notice upon expiry of the specified period.

(signed)

(name of person signing)

FOR: (Name of Corporation)

Form SP 21

(r. 27(1))

PUBLIC NOTICE ON THE TERMINATION OF SECTIONAL STATUS

Whereas Owners of Sectional Plan No.....of P.O Box in the Republic of Kenya, are registered as proprietors in absolute or leasehold interest of all the Units numbered (in the format: Registration Unit/Block no./parcel no./unit no.s)..... situated in the County of.....Whereas evidence has been adduced to show that a unanimous resolution of the owners has been reached to terminate the sectional status, notice is given that after the expiration of ninety days (90) from the date hereof I shall terminate the sectional status provided that no objection has been received within that period.

Dated the.....day of.....20.....

.....

Land Registrar

Form SP 22

(r. 30)

NOTICE OF CHANGE OF ADDRESS OF THE CORPORATION

TO: LAND REGISTRAR

The Owners, Sectional Plan No. hereby give notice that by a resolution of the Board dated it has designated

.....

.....as the address at which documents may be served on the Corporation.

Dated this day of20.....

The Seal of the Owners, Sectional Plan No. was affixed on in the presence of

.....

Members of the Board

Form SP 23

(r. 31)

NOTICE OF CHANGE OF BOARD MEMBERSHIP

The Owners, Section Plan No. hereby gives notice that on the day of 20..... the following persons were appointed members of the Board of the Owners, Sectional Plan No.

Name	ID No	Address
.....
.....

Notice is also given that on the day of 20..... the following persons ceased to hold office as members of the Board:

Name	ID No	Address
.....
.....

The members of the Board are as of this date:

Name	ID No	Address
.....
.....

Dated this day of 20.....

The Owners, Sectional Plan No. was affixed on in the presence of

.....
Members of the Board

Form SP 24

(r. 32(1))

NOTICE OF CHANGE OF CORPORATION MEMBERSHIP ON EXIT OF UNIT OWNER

The Owners, Section Plan No. hereby gives notice that on the day of 20..... the following persons exited the corporation.

Name	ID No	Unit No.	Address
.....
.....
.....

The following person(s) joined the Corporation in place of those who exited.

Name	ID No	Unit No.	Address
.....
.....
.....
.....

Dated this day of 20.....

The Seal of The Owners, Sectional Plan No..... was affixed on in the presence of

.....

Members of the Board

SECOND SCHEDULE (r. 29(7))

THE OWNERS OF SECTIONAL PLAN NO.(to specify the number given to the plan on registration)

SECTIONAL PROPERTIES CORPORATION BY-LAWS

(Made pursuant to section 29 of the Sectional Properties Act, 2020)

1.(1) The corporation shall be called "The Owners of Sectional Plan No....Corporation" hereinafter referred to in these by-laws as "The Corporation" and it is registered in __[]Registration Unit within__[] County. Name and address.

(2) The registered office of the Corporation shall be at and the postal address shall be

(3) Notice of any change of address shall be given to the Registrar within thirty days of the date the resolution of the board to change address is taken.

2.(1) In these By-laws, unless the context otherwise suggests words or phrases shall be defined and interpreted in accordance with the Sectional Properties Act, 2020 and the Regulations made there under hereinafter referred to as the "Act" and "Regulations", respectively. Interpretation.

(2) In these by-laws save as otherwise expressly stated—

"general meeting" means an annual general meeting or extraordinary general meeting convened physically or virtually or hybrid of the two, by the Corporation to conduct business of the Corporation;

"tenant" means a person renting a unit.

(3) The rights and obligations given or imposed on the Corporation or the owners under these by-laws are in addition to any rights or obligations given or imposed on the Corporation or the owners under the Act.

3.(1) These By-laws are made pursuant to section 29 of the Act to provide for the control, management and administration of the units, Objects.

the movable and immovable property of the Corporation and the common property.

(2) In addition to the by-laws prescribed herein, the Corporation may pursuant to the Act customize by-laws to suit the specific needs of a specific development

4. An owner shall—

Duties of the owner.

- (a) permit the Corporation and its agents, at all reasonable times, on notice (except in case of emergency when no notice is required), to enter his unit for the purposes of—
 - (i) inspecting the unit;
 - (ii) maintaining, repairing or replacing pipes, wires, cables and ducts existing in the unit and used or capable of being used in connection with the enjoyment of any other unit or common property;
 - (iii) maintaining or repairing the common property; or
 - (iv) ensuring compliance to the by-laws;
- (b) forthwith carry out all work that may be required by the Corporation pursuant to these by-laws or as required by a county government or other public authority in respect of the unit, other than any work for the benefit of the building generally; and pay all rates, rent, taxes, charges and assessments that may be payable in respect of the unit;
- (c) maintain the unit in a state of good repair;
- (d) immediately notify the Corporation of—
 - (i) any change in the ownership of the unit; or
 - (ii) any charge registered against the unit; and
- (e) not make structural, mechanical or electrical alterations to his unit or to the common property without the prior written consent of the board, which shall not be unreasonably withheld; and
- (f) prior to making any alteration give to the board not less than fourteen days' notice in writing (including a description of the proposed alteration) before the intended date of commencement of the proposed alteration and shall not commence the same until such written consent as aforesaid has been received by him.

5.(1) The Corporation may—

Powers of the Corporation.

- (a) acquire movable property to be used—
 - (i) for the maintenance, repair or replacement of the immovable or movable property of the Corporation or the common property; or
 - (ii) by owners in connection with their enjoyment of the immovable and movable property of the body corporate or the common property;

- (b) borrow money required by the Corporation for the better performance of its duties or the exercise of the powers of the Corporation, subject to the borrowing limit allowed by owners in an annual general meeting;
- (c) secure the repayment of money borrowed by the Corporation and interest on that money by a negotiable instrument, a mortgage on unpaid contributions (whether levied or not), or a mortgage or charge over any property not being immovable property owned by the Corporation or by any combination of those means;
- (d) pursuant to section 32 of the Act, charge interest on any contribution owing to it by an owner at the rate not exceeding the base lending rate as published by the Central Bank of Kenya from time to time or as may be fixed by resolution of the Corporation in general meeting;
- (e) where the unit is rented, recover from rent accruing to the owner any contributions that are owing;
- (f) make an agreement with an owner or tenant of a unit for the provision of amenities or services by the Corporation to the unit or to the owner or tenant of the unit;
- (g) where the supply of electricity or water or gas to a unit is regulated by means of a sub-meter, require the owner or other occupier of the unit to pay to the Corporation by way of security for the payment of charges arising through the sub-meter an amount not exceeding shillings and if any amount is so paid is applied by the Corporation to meet such utilities, to pay such further amount or amounts by way of such security as may be necessary to maintain the amount of the security as, subject to this paragraph, the Corporation may require;
- (h) if the owner or other occupier of a unit in respect of which a sub-meter is used for the supply of electricity or water or gas refuses or fails to pay any charges due for the supply of electricity or water or gas to that unit, apply in payment of those charges all, or such part as is necessary; of any amount paid to the Corporation by that owner or occupier under paragraph (f) including any interest that may have accrued in respect of that amount under paragraph (2)(a);
- (i) by agreement with a particular owner, grant the particular owner the exclusive use and enjoyment of part of the common property or special privileges in respect of the common property or any part of it in accordance with section 40 of the Act;
- (j) give notice to the owner of the unit if the tenant occupying the unit is in breach of the by-laws as provided in the Regulations; and
- (k) give notice to a tenant to vacate the premises if the owner fails to take necessary action as per notice given under paragraph (j) and the by-laws.

(2) The Corporation shall—

- (a) lodge every sum received under paragraph (1)(g) to the credit of an interest bearing account with a bank to be determined by the Corporation and all interest accruing in respect of amounts so received shall, subject to paragraph (1)(g), be credited to the account of the Corporation;
- (b) maintain in a state of good and serviceable repair, the fixtures and fittings (including lifts) existing on the property and used or capable of being used in connection with the enjoyment of more than one unit or the common property;
- (c) where a person who has paid an amount under paragraph (1)(g) to the Corporation satisfies the Corporation that the person is no longer the owner or occupier of a unit and that the Corporation no longer has any liability or contingent liability for the supply of electricity or water or gas or other utilities to that unit during the period when the person was an owner or occupier of the unit, refund to that person the amount then held on his behalf under paragraph (1)(g);
- (d) where practicable, establish and maintain suitable lawns and gardens on the common property;
- (e) maintain, repair and where necessary, renew sewers, pipes, wires, cables and ducts existing on the property and used or capable of being used in connection with the enjoyment of more than one unit or the common property; and
- (f) on the written request of the owner or a registered chargee of his unit, produce to the owner or chargee, as the case may be, (or to a person authorized in writing by the owner or chargee) all policies of insurance effected by the Corporation together with the receipts for the last premiums paid in respect of the policies, and shall also if requested so to do in accordance with the provisions of section 39 of the Act provide copies to such owner, chargee or authorized person.

6.(1) The Board shall consist of not less than three and not more than nine persons.

Election of the Board.

(2) Notwithstanding paragraph (1), if there are not more than two owners, the Board may consist of all the owners.

(3) A person shall not be a member of the Board unless that individual has attained the age of eighteen years.

(4) The constitution of the Board shall, where practicable, comply with the requirements of the Constitution of Kenya relating to gender and shall ensure balanced and wider representation of various types of unit owners in the property.

(5) In determining the number of owners for the purposes of this by-law and of by-law 5, the co-owners of a unit or more than one unit shall be deemed to be one owner and a person who owns more than one unit shall also be deemed to be one owner.

7. (1) The Board shall comprise of unit owners elected at a general meeting: Eligibility to sit on the Board.
- (2) The Board may co-opt not more than two persons who are not owners to represent other interests.
- Provided the co-opted members of the board shall not vote or be counted when determining quorum of the meeting
- (3) Notwithstanding paragraph (1)—
- (a) if there are co-owners of a unit, only one of the co-owners shall be eligible
- (b) an owner who has not paid to the Corporation the contribution due and owing in respect of his unit is not eligible for election to the Board.
8. (1) At an election of members of the Board, each person entitled to vote may vote for the same number of nominees as there are vacancies to be filled on the Board. Voting.
- (2) Where a meeting is held virtually, owners or proxies may vote virtually.
- 9.(1) The term of the members of the Board shall be three years with one third of the members of the Board retiring annually on a rotational basis determined by lot. Term of office.
- (2) Elections to fill the vacancies created by retiring members shall be conducted immediately on their date of retirement without limiting the retiring members' right to offer themselves for re-election.
- (3) The chairperson, treasurer and secretary shall be exempt from the rotational retirement until expiry of the term of the Board
- (4) Each member of the Board shall remain in office until—
- (a) the office becomes vacant under by-law 10;
- (b) the member resigns;
- (c) the member is removed under by-law 11; or
- (d) his term of office expires,
- whichever comes first.
10. The Corporation may, by special resolution at a meeting, remove a member of the Board before the expiration of the member's term of office and appoint another person in his or her place to hold that office for the remainder of the term. Removal of a member of the Board.
11. The office of a member of the Board is vacated if the member— Vacating of the office of a member of the Board.
- (a) ceases to own a unit;
- (b) becomes bankrupt under the Insolvency Act, 2015;
- (c) is more than ninety days in arrears in payment of any contribution required to be made by him as an owner;
- (d) is the subject of a certificate of incapacity issued by a certified medical doctor;

- (e) is convicted of and is sentenced to imprisonment for an offence of more than six months;
- (f) resigns his office by serving notice in writing on the Corporation;
- (g) is absent from more than three consecutive meetings of the board without written notification to the board and it is resolved at a subsequent meeting of the board that his office be vacated; or
- (h) dies.

12. When a vacancy occurs on the Board in accordance with by-law 9 and 11 the Board may appoint a person to fill that vacancy for the remainder of the term.

Vacancy.

13.(1) At the first meeting of the members of the Board held after the meeting of the Corporation at which they were elected, the board shall designate from its members a chairperson, vice-chairperson, secretary and treasurer of the Corporation.

Officers of the Corporation.

(2) Notwithstanding paragraph (1) the Board may designate one person to fill the vacancy in the office of secretary and treasurer

(4) In addition to any other duties assigned to the officers by the Board—

- (a) the chairperson or, in the event of his absence or disability the vice-chairman—
 - (i) is responsible for the daily execution of the business of the Corporation; and
 - (ii) shall preside the meetings of the Board;
- (b) the secretary or, in the event of his absence or disability another member of the Board designated by the board—
 - (i) shall record and maintain all the minutes of the Board;
 - (ii) is responsible for all the correspondence of the Corporation;
 - (iii) shall carry out his duties under the direction of the chairperson and the Board;
 - (iv) shall give on behalf of the Corporation and of the Board all notices required to be given under the Act; and
 - (v) shall call for nominations of candidates for election as members of the Board;
- (c) the treasurer or, in the event of his absence or disability another member of the Board designated by the Board, shall—
 - (i) receive all money paid to the Corporation and deposit it as the board may direct;
 - (ii) properly account for the funds of the Corporation and keep such books as the board directs;

- (iii) present to the board when directed to do so by the Board a full detailed account of receipts and disbursements of the Corporation;
- (iv) prepare for submission at the annual general meeting—
- (A) a budget for the forthcoming fiscal year of the Corporation; and
- (B) an audited statement for the most recently completed fiscal year of the Corporation; and
- (v) notify owners of any contributions levied pursuant to this Act.
- (5) A person ceases to be an officer of the Corporation if he ceases to be a member of the Board.
- (6) If a person ceases to be an officer of the Corporation, the Board shall designate from its members a person to fill that vacancy for the remainder of the term.
- (7) If a Board consists of not more than three persons, those persons may perform the duties of the officers of the Corporation in such manner as the Board may direct.
- 14.(1) At meetings of the Board, all matters shall be determined by majority vote and in the event of a tie vote, the chairperson is entitled to a casting vote in addition to his original vote. Majority vote and quorum of the Board.
- (2) A quorum for a meeting of the board shall be of more than half of the members of the board.
15. A written resolution of the Board signed by the chairperson and the secretary of the Board has the same effect as a resolution passed at a meeting of the Board duly convened and held. Written resolution.
- 16.(1) The Corporation shall have a corporate seal that shall not be used except— Seal of the Corporation.
- (a) under the authority of a resolution of the Board;
- (b) in the presence of not less than two members of the Board who shall sign the instrument to which the seal is affixed.
- (2) Notwithstanding paragraph (1), if the corporation is comprised of two unit owners, one member may be authorized by the Board to use the seal and sign the instrument to which the seal is affixed.
17. The Board shall prescribe, by resolution— Signing authority.
- (a) those officers or other persons who are authorized to sign cheques, drafts, instruments and other documents not required to be signed under the seal; and
- (b) the manner, if any, in which the cheques, drafts, instruments and other documents are to be signed.
18. (1) The Board shall— Powers of the Board.

- (a) meet at the request of the chairperson to conduct its business and adjourn and otherwise regulate its meetings;
- (b) meet when a member of the Board gives to the other members not less than seven days' notice of a meeting proposed by him specifying the reason for calling the meeting; and
- (c) where the chairperson and the vice-chairperson are not present at the meeting, the Board members present will elect an interim chair for purposes of the meeting.

(2) The Board may on behalf of the Corporation procure the services of a property manager or any agent or employ persons it deems necessary to control, manage and administer the movable and immovable property of the Corporation and the common property and in that respect may authorize those persons to exercise the powers of and carry out the duties of the Corporation.

(3) The Board may, subject to any restriction imposed on it or direction given to it at a general meeting of the Corporation delegate to any of its members any or all of its powers and duties as it thinks fit, and may at any time revoke that delegation.

19. The Board shall—

Duties of the board.

- (a) cause proper books of account to be kept in respect of all money received and expended by it and the matters in respect of which the receipt and expenditure takes place;
- (b) prepare financial statements relating to all money of the Corporation and the income and expenditures of the Corporation for each annual general meeting;
- (c) maintain financial records of all the assets and liabilities of the Corporation;
- (d) submit to the annual general meeting an annual report consisting of the financial statements and such other information as the board may determine or as may be directed by a resolution passed at a general meeting;
- (e) on the application of an owner or chargee of a unit (or of any person authorized in writing by him) make the books of account available for inspection at a reasonable fee at all reasonable times.

20. All meetings of the Board and general meetings shall be conducted according to the rules of procedure adopted by the Board.

Procedure at meetings

21.(1) The board—

Extraordinary meeting.

- (a) shall, on the written request of the owners entitled to vote and who represent not less than twenty-five per cent of the unit owners, convene a meeting; and
- (b) may, whenever it considers it proper to do so, convene a meeting.

(2) If the Board does not within twenty-one days after the date of the making of a requisition under paragraph (1)(a) proceed to convene an extraordinary general meeting, the requisition or any of them representing more than one-half of the aggregate unit entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the board, convene an extraordinary general meeting, but any meeting so convened shall not be held after the expiration of three months from the date on which the requisition was made

22.(1) When an annual general meeting or any other meeting is to be convened, the Board shall, not less than twenty-one days prior to the day on which the meeting is to be convened, give each owner written notice of the meeting stating—

Notice of meeting.

- (a) the place, date and time at which the meeting is to be convened; and
- (b) the nature of any special business, if any, to be brought forth at the meeting.

(2) On being notified by a chargee entitled to vote under section 24 of the Act that the charge wishes to be notified on meetings, the board shall give to that chargee the same notices required to be given to the owner under paragraph (1).

(3) At annual general meeting or any other meeting or anything done at that meeting is not invalid by reason only that a person did not receive a notice given under paragraph (1) in respect of that meeting.

23.(1) Except as otherwise provided by these by-laws, no business shall be transacted at an annual general meeting or any other meeting unless a quorum of persons entitled to vote are present or represented by proxy, at the time when the meeting commences.

Quorum at meeting of the Corporation.

(2) A quorum for an annual general meeting or any other meeting consists of not less than twenty-five per cent of all the persons entitled to receive notice under by-law 22 being present in person or represented by proxy at that meeting.

(3) If within thirty minutes from the time appointed for the commencement of an annual general meeting or any other meeting a quorum is not present, the meeting shall stand adjourned to the corresponding day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within thirty minutes from the time appointed for the commencement of the meeting, the persons entitled to vote who are present or represented by proxy constitute a quorum for the purpose of that meeting.

(4) Notwithstanding paragraph (3), if the corresponding day following the adjournment is public holiday, the meeting shall be held on the day before the public holiday.

24.(1) The chairperson or, in the event of his absence or disability, the vice-chairperson or other officer, shall preside at the annual general meeting or at any other meeting.

Procedure at meeting of the Corporation.

(2) The order of business at an annual general meeting and, as far as practicable at any other meeting, shall be as follows—

- (a) call to order by the chairperson;
- (b) call of the roll and certification of proxies;
- (c) reading of notice of the meeting;
- (d) adoption of the Agenda;
- (e) confirmation of previous minutes and matters arising;
- (f) reports from officers;
- (g) reports from committees (if any);
- (h) presentation of the audited accounts;
- (i) appointment of an auditor for the ensuing year;
- (j) presentation of ensuing year's budget for approval;
- (k) determination, where necessary, maximum borrowing powers of the Corporation.
- (l) constitution of the Disputes Resolution Committee;
- (m) the passing of resolutions;
- (n) new business;
- (o) election of members of the Board;
- (p) any other business;
- (q) closure of the meeting.

25.(1) At an annual general meeting or at any other meeting a resolution shall be voted on by a show of hands unless a poll is demanded by a person entitled to vote and present in person or by proxy, and unless a poll is so demanded, a declaration by the chairperson that a resolution has on the show of hands been carried is conclusive proof of the fact without proof of the number of proportion of votes recorded in favour of or against resolution Voting.

(2) If a person demands a poll, that person may withdraw that demand and on the demand being withdrawn the vote shall be taken by a show of hands.

(3) A poll, if demanded, shall be conducted in a manner directed by the chairman, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

(4) In the case of a tie in a vote taken at an annual general meeting or at any other meeting, whether on a show of hands or on a poll, the chairman of the meeting is entitled to a casting vote in addition to his original vote.

26. (1) If a vote is taken by a show of hands, each person entitled to vote has one vote. Number of votes.

(2) If a vote is taken by a poll, the number of votes that a person may cast shall correspond to the unit factors for the respective units represented by that person.

27. Except for matters requiring a special resolution or unanimous resolution, all matters shall be determined by a majority vote.

Votes at an annual general meeting or other meeting.

28. On a show of hands or on a poll, votes cast may be given either personally or by proxy

Manner of voting.

29. An instrument appointing a proxy shall be in writing in Form SP 25 set out to the Schedule under the hand of the person making the appointment or of his duly appointed attorney, and may be either general or for a particular meeting, but a proxy need not be an owner.

Appointment of proxy.

30. (1) Except as provided for in paragraph (2) of this by-law or section 24 of the Act, there are no restrictions or limitations on an owner's right to vote at an annual general meeting or at any other meeting.

Restriction on voting.

(2) If, at the time of an annual general meeting or of any other meeting an owner has not paid to the Corporation all contributions that are due and owing in respect of his unit, that owner shall be ineligible to cast a vote at that meeting in respect of any resolution other than a special resolution or a unanimous resolution.

(3) An owner's ineligibility to cast a vote does not affect the right of the chargee first entitled in priority in respect of a charge registered against the title of that owner's unit to vote in accordance with the Act.

31.(1) If a unit is owned by more than one person, those co-owners may vote personally or by proxy and—

Vote by co-owners.

- (a) in the case of a vote taken by a show of hands, those co-owners are entitled to one vote between them; and
- (b) in the case of a vote taken by a poll, a co-owner is entitled to the portion of the vote applicable to the unit as is proportionate to his interest in the unit.

(2) A co-owner may demand that a poll be taken.

32. If a resolution of the members of the Corporation requires a majority vote, that resolution signed in person or by proxy by all the persons who, at a properly convened annual general meeting or other meeting, would be entitled to vote, has the same effect as a resolution duly passed at the meeting.

Signed resolution majority vote.

33.(1) The Board shall establish and maintain a fund to be called the "Capital Replacement Reserve Fund" to be used for the repair or replacement of—

Capital replacement reserve fund.

- (a) immovable and movable property owned by the Corporation; and
 - (b) the common property,
- when the repair or replacement does not occur annually.

(2) The Board may by resolution determine the amount that may be paid from the Capital Replacement Reserve Fund in respect of any single item of expenditure.

34. Notwithstanding by-law 20, if a by-law is to be amended, replaced or repealed, the persons entitled to vote shall be given written copies of the text of the proposed amendment, repeal or replacement not less than fourteen days prior to the day on which the special resolution is to be voted on.

Amendment of by-laws.

35.(1) In this by-law—

Restrictions in use.

(a) "occupant" means a person present in a unit or in or on the immovable or movable property of the Corporation or the common property with the permission of an owner;

(b) "owner" includes a tenant.

(2) An owner shall not—

(a) use or enjoy the immovable or movable property of the Corporation or the common property in such a manner as to interfere unreasonably with its use and enjoyment by other owners or the occupants;

(b) use his or her unit in a manner or for a purpose that will or may cause a nuisance or hazard to any other owner or occupant;

(c) use his or her unit for any purpose (illegal otherwise) which may be injurious to the reputation of the property;

(d) make undue noise in his or her unit or on or about any immovable property of the Corporation or the common property;

(e) keep an animal in his unit or in the immovable property of the Corporation or the common property after a date specified in a notice given to him by the Board;

(f) use his unit for any other use other than that indicated in the sectional plan;

(g) do anything in respect of his unit or the immovable or movable property of the Corporation or the common property or bring or keep anything on it that will in any way increase the risk of fire or result in an increase of any insurance premiums payable by the Corporation;

(h) use a toilet, sink, tub, drain, or other plumbing fixture for a purpose other than that for which it is constructed;

(i) hang or place on the immovable property of the Corporation or the common property or within a unit anything that is, in the opinion of the board aesthetically displeasing when viewed from outside the units;

(j) leave articles belonging to his or her household on the immovable property of the Corporation or the common property when those articles are not in actual use;

- (k) obstruct a sidewalk, walkway, passage, driveway or parking area other than for ingress and egress to and from his or her unit;
- (l) use any portion of the immovable property of the Corporation or the common property except in accordance with the by-laws;
- (m) use as fuel any substance or material which may give rise to smoke or fumes or obnoxious smells; or
- (n) throw or allow to fall, any refuse or rubbish of any description on the common property or any part thereof except in refuse bins maintained by him or in refuse chutes provided in the building.

(3) An owner shall—

- (a) ensure that any occupant of his unit complies with the requirements of paragraph (2) as if he or she was the unit owner;
- (b) take all reasonable steps to ensure that his visitors do not behave in a manner likely to interfere with the peaceful enjoyment of the owner, occupier or other resident of any other unit or of any person lawfully using the common property; and
- (c) take all reasonable steps to ensure that his visitors comply with any by-laws of the Corporation relating to the parking of motor vehicles.

(4) The Corporation may notify an owner who is in breach of paragraph (2) and (3) by clearly setting out the specific breaches and the consequent penalties levied against an owner.

(5) An owner may, without obtaining the consent of the Corporation paint, wall paper or otherwise decorate the structure which forms the inner surface of the boundary of his or her unit or office locking devices, flyscreens, furnishings, furniture, carpets and other similar things to that surface, if and so long as such action does not unreasonably damage the common property.

37. We the undersigned members of the Board of Owners Sectional Plan No[] Corporation do hereby accept and receive these by-laws for and on behalf of the Corporation.

Acceptance.

TITLE NAME	I.D NO.	SIGNATURE
CHAIRPERSON:		
VICE CHARPERSON:		
SECRETARY:		
TREASURER:		

OFFICIAL CERTIFICATION

I CERTIFY that the foregoing by-laws of the Owners Sectional Plan No[]Corporation have been approved and duly registered.

Given under my hand at this Day of 20.....

..... Registrar []Land Registry

SCHEDULE

Form SP 25

(Bylaw 29)

[CORPORATION LETTERHEAD/NAME] PROXY APPOINTMENT FORM

To:

The Chairman

I/we

of National ID No:..... Tel:

P. O. Box and Email address..... being the proprietor(s)

of Unit No(s)

Appoint:

Name:.....of National ID No:.....Tel NO: and Email address; to vote for me/us and on my/our behalf, at their discretion, on any matter properly before the special/annual general meeting to be held on(day & date)..... at(time).....AM/PM or at any adjournment thereof.

I approve the registration of my/our proxy to participate in the said meeting and consent to use of the mobile number provided by my/our proxy above for purposes of communication and/or electronic voting.

Executed by said unit owner(s):

Name:Signature:

Date:

Name:Signature:

Date:

Made on the 15th November, 2021.

FARIDA KARONEY, Cabinet Secretary for Lands and Physical Planning.



THE REPUBLIC OF KENYA

LAWS OF KENYA

SECTIONAL PROPERTIES ACT

NO. 21 OF 2020

2020

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NO. 21 OF 2020

SECTIONAL PROPERTIES ACT

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NO. 21 OF 2020

SECTIONAL PROPERTIES ACT

[Date of assent: 11th December, 2020.]

[Date of commencement: 28th December, 2020.]

AN ACT of Parliament to provide for the division of buildings into units to be owned by individual proprietors and common property to be owned by proprietors of the units as tenants in common and to provide for the use and management of the units and common property and for connected purposes

[Act No. 21 of 2020.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Sectional Properties Act, 2020.

2. Application

This Act shall apply only in respect of land held on freehold title or on a leasehold title where the unexpired residue of the term is not less than twenty-one years and there is an intention to confer ownership.

3. Interpretation

In this Act, unless the context otherwise requires —

"board" means the board of a Corporation as provided for in section 26;

"building" means one or more structures on the same parcel;

"by-laws", in relation to a Corporation, means the by-laws of the Corporation as amended from time to time and includes by-laws made in substitution for them;

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to land;

"cadastral map" has the meaning assigned to it under the Land Registration Act, 2012 (No. 3 of 2012);

"cadastral plan" has the meaning assigned to it under the Land Registration Act, 2012 (No. 3 of 2012);

"certificate of lease" has the meaning assigned to it under the Land Act, 2012 (No. 6 of 2012);

"certificate of title" has the meaning assigned to it under the Land Act, 2012 (No. 6 of 2012);

"Committee" means a Dispute Resolution Committee provided for under section 20 or section 30;

"common property" means so much of a parcel as is not comprised in a unit shown in a sectional plan;

"Corporation" means the body corporate incorporated in accordance with section 17;

"county government" means a county government as provided for under Article 176 of the Constitution;

"Court" means the Environment and Land Court established under the Environment and Land Court Act, 2011 (No. 19 of 2011);

"developer" means a person who, whether alone or in conjunction with another person, sells or offers for sale to the public units or proposed units that have not previously been sold to the public;

"easement" has the meaning assigned to it under the Land Act, 2012 (No. 6 of 2012);

"geo-reference" has the meaning assigned to it under the Land Registration Act, 2012 (No. 3 of 2012);

"management agreement" means an agreement entered into by a Corporation governing the general control, management and administration of —

- (a) the movable and immovable property of the Corporation associated with the units; and
- (b) the common property associated with the units;

"owner" means a person who is registered as the proprietor of a unit in a freehold or leasehold interest;

"parcel" means the land comprised in a sectional plan;

"proprietor" means —

- (a) in relation to land or a lease, the person named in the register as the proprietor thereof; and
- (b) in relation to any unit, the person or persons for the time being registered as proprietors of an estate in the unit;

"purchase agreement" means an agreement with a developer whereby a person purchases a unit or proposed unit or acquires a right to purchase a unit or proposed unit;

"recreational agreement" means an agreement entered into by a Corporation that allows —

- (a) persons, other than the owners, to use recreational facilities located on the common property; or
- (b) the owners to use recreational facilities not located on the common property;

"register" means the register the opened for each unit under section 5 (1) (b);

"Registrar" has the meaning assigned to it under the Land Registration Act, 2012 (No. 3 of 2012);

"registry" has the meaning assigned to it under the Land Registration Act, 2012 (No. 3 of 2012);

"sectional plan" has the meaning assigned to it under section 2 of the Land Registration Act 2012 (No. 3 of 2012);

"special resolution" means a resolution —

- (a) passed at a properly convened meeting of a Corporation by a majority of not less than seventy-five per centum of all the persons entitled to exercise the voting powers conferred by this Act or the by-laws and representing not less than seventy-five per centum of the total unit factors for all the units; or
- (b) signed by not less than seventy-five per centum of all the persons who, at a properly convened meeting of a Corporation, would be entitled to exercise the voting powers conferred by this Act or the by-laws and representing not less than seventy-five per centum of all the total unit factors for all the units;

"surveyor" has the meaning assigned under section 2 of the Survey Act (Cap. 299); and

"unanimous resolution" means a resolution —

- (a) passed unanimously at a properly convened meeting of the Corporation by all the persons entitled to exercise the voting powers conferred by this Act or the by-laws and representing the total units; and
- (b) signed by all persons who, at a properly convened meeting of a Corporation, would be entitled to exercise the voting powers conferred by this Act or the by-laws;

"unit" means a space that is situated within a building and described in a sectional plan by reference to floors, walls and ceilings within the building and shall include its proportionate share in the common property;

"unit factor", in relation to a unit, means the unit factor determined for that unit as shown in the schedule of unit factors endorsed on a sectional plan registered by the Registrar; and

"user" means the purpose for which a building or unit is to be used and for which development permission has been granted by the County Government.

PART II – PREPARATION AND REGISTRATION OF SECTIONAL PLANS AND UNITS

4. Sub-division of buildings into units

(1) An existing structure may be designated a building containing a unit or part of a unit or divided into two or more units by the registration of a sectional plan prepared, by a surveyor, from a building plan that has been approved by a county government.

(2) A surveyor shall not prepare a sectional plan unless he is presented with proof of ownership of the parcel or unit to which the sectional plan shall apply.

(3) A sectional plan shall be accompanied by an application for registration by the corporation and a list of the persons who are the owners of the units in the parcel which shall be updated from time to time on need basis.

(4) The Registrar shall not register a sectional plan unless the sectional plan —

- (a) describes two or more units in it; and
- (b) is presented for registration in quadruplicate.

(5) For the purposes of the Land Registration Act, 2012 (No. 3 of 2012), a sectional plan shall be deemed on registration to be embodied in the register.

5. Registration of sectional plans

- (1) On the registration of a sectional plan the Registrar shall —
- (a) close the register of the parcel described in it; and
 - (b) open a separate register for each unit described in the plan; and
 - (c) on payment of the prescribed fee, issue, in respect of each unit of the sectional property, a certificate of title if the property is freehold or a certificate of lease if the property is leasehold and shall include its proportionate share in the common property.

(2) Any interests affecting the parcel which are noted on the register closed under subsection (1) (a) shall be endorsed on the registers opened under subsection (1) (b) and on the title deed for sectional property issued under subsection (1) (c).

(3) No more than one unit may be referred to in one register and no other land, except the share in the common property apportioned to the owner of that unit in accordance with section 6(2) may be referred to in the same register.

(4) Any interest affecting an individual unit which is part of a sectional plan registered under section 4(1) and not endorsed pursuant to subsection (2) of this section shall be endorsed on —

- (a) the register of the unit opened under subsection (1)(b); and
- (b) the title deed for sectional property issued in respect of the unit under subsection (1)(c).

(5) Notwithstanding any other written law, as soon as a sectional plan is registered under this Act, the title to a unit comprised in the plan shall, with effect from the date of the registration of the sectional plan, be deemed to be issued under the Land Registration Act, 2012 (No. 3 of 2012).

(6) After the register for a unit is opened pursuant to subsection (1) (b), all dealings and dispositions regarding the unit shall be done in accordance with the Land Registration Act, 2012 (No. 3 of 2012).

6. Certificate to indicate share in common property

(1) The Registrar shall, on opening a register for a unit under section 5 (1), include in that register the share in the common property apportioned to the owner of that unit under subsection (2) of this section, and shall include that share in the common property on a title deed for sectional property issued in respect of the unit under section 5(1) (c).

(2) The common property comprised in a registered sectional plan shall be held by the owners of all the units as tenants in common in shares proportional to the unit factors for their respective units.

(3) Where the same person is the owner of all the units, subsection (2) shall apply as if there were different owners for each of the units.

7. Incidental rights of owners of common property, etc.

(1) The common property and each unit on a sectional plan shall, by virtue of this section, have as appurtenant thereto all such rights of support, shelter and protection, and for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, air and all other services of whatsoever nature (including telephone, radio and television services) over the parcel and every structure

thereon as may from time to time be necessary for the reasonable use or enjoyment of the common property or unit.

(2) The common property and each unit on a sectional plan shall, by virtue of this section, have as appurtenant thereto a right to the full, free and uninterrupted access and use of light to or for any windows, doors or other apertures existing at the date of the registration of the sectional plan and enjoyed at that date.

(3) The rights created by this section shall carry with them all ancillary rights necessary to make them effective as if they were easements.

(4) Nothing in this section shall affect any parcel other than the parcel to which the sectional plan relates.

8. Liability of owner of a unit

Except to the extent that an interest endorsed on a sectional plan relates to a particular unit, the owner of a unit shall only be liable in respect of an interest endorsed on the sectional plan in proportion to the unit factor for his unit.

9. Requirements of sectional plans

(1) Every plan presented for registration as a sectional plan under this Act shall

- (a) be described in the heading of the plan as a sectional plan;
- (b) be geo-referenced;
- (c) bear a statement containing those particulars as may be necessary to identify the title to the parcel;
- (d) include a drawing illustrating the units and distinguishing the units by numbers or other symbols;
- (e) show the approximate floor area of each unit;
- (f) have endorsed on it a schedule specifying in whole numbers the unit factor for each unit in the parcel;
- (g) be signed by the proprietor;
- (h) be signed and sealed by the office or authority responsible for survey;
- (i) have endorsed on it the address at which documents may be served on the Corporation concerned in accordance with section 54;
- (j) clearly indicate the user of the unit; and
- (k) contain any other particulars prescribed in the regulations.

(2) The Registrar shall, within twenty-one days from the day a sectional plan is registered, submit to the county government of the area in which the parcel is located, a copy of the registered sectional plan.

10. Boundaries of sectional units

(1) Unless otherwise stipulated in the sectional plan if—

- (a) a boundary of a unit is described by reference to a floor, wall or ceiling;
or
- (b) a wall located within a unit is a load bearing wall, the only portion of that floor, wall or ceiling, as the case may be, that forms part of the unit, is the finishing material that is in the interior of that unit, including any lath and plaster, panelling, gypsum board panels, flooring material or coverings or any other material that is attached, laid, glued or applied to the floor, wall or ceiling, as the case may be.

(2) Notwithstanding subsection (1), all doors and windows of a unit are part of the unit unless otherwise stipulated in the sectional plan.

11. Certificates to accompany sectional plans

(1) Every plan presented for registration as a sectional plan shall be endorsed by—

- (a) a surveyor stating that the structure shown on the plan is within the external surface boundaries of the parcel which is the subject of the plan, and if gutterings project beyond those external boundaries, that an appropriate easement has been granted as an appurtenance of the parcel; and
- (b) a certificate from the county government stating that the proposed division of the structure as illustrated on the plan has been approved by the county government.

(2) A surveyor shall apply for an endorsement by a county government under subsection (1) (b), in the prescribed form, to the County Executive Committee Member responsible for approval of buildings.

(3) Where the plan presented for registration as a sectional plan is in respect of a building containing units, it shall, in addition to the certificate required under subsection (1), be endorsed by a surveyor or such other person as shall be approved by the Director of Survey stating that the units shown on the plan correlate with the existing structure.

(4) Upon the receipt of an application for an endorsement under subsection (1) (b), the respective county government shall, with respect to a structure for which a building plan was approved, issue the endorsement, within thirty days, if satisfied that the structure conformed to —

- (a) the development scheme, development control by-law, zoning by-law or land use by-law, as the case may be; and
- (b) any permit issued under that scheme or by-law that existed at the time the building permit was issued.

(5) The provisions of the law relating to physical planning and any other land use planning laws relating to the sub-division of land do not apply to the division of a building under a sectional plan if —

- (a) the surface boundaries of the parcel as defined in this Act on which that building is located correspond to the boundaries of a parcel as defined in the Physical and Land Use Planning Act (No. 13 of 2019); and
- (b) the building located on the parcel contains two or more units.

12. Application for sub-division etc., of a unit

(1) Any proprietor may, with the approval of the county government, sub-divide or consolidate his unit by registering a sectional plan relating to the unit intended to be so sub-divided or consolidated in the manner provided by this Act for the registration of sectional plans.

(2) Except as provided in this section the provisions of this Act relating to sectional plans apply with all necessary modifications to a sub-division or consolidation of units.

(3) On the registration of a sectional plan of sub-division or consolidation, units comprising the sectional plan are subject to the burden and have the benefit of any

easements affecting those units in the original sectional plan which are included in the sectional plan of sub-division or consolidation.

(4) The schedule endorsed on a sectional plan of sub-division or consolidation as required by section 9 (1) shall apportion among the units the unit factor or factors for the unit or units in the original sectional plan that are included in the sub-division or consolidation.

(5) Before registering a proposed sectional plan of sub-division or consolidation, the Registrar shall amend, in the manner prescribed by the regulations, the original sectional plan as endorsed by a surveyor.

(6) On registration of a sectional plan of sub-division or consolidation, the land comprised in it shall not be dealt with by reference to units in the original sectional plan.

13. Conversion to units

(1) If a building contains premises that are—

- (a) rented for residential or commercial purposes to a tenant who is not a party to a purchase agreement; and
- (b) not included in a sectional plan, the owner of the premises or a person acting on his behalf shall not sell those premises as a residential or commercial unit until the sectional plan that includes those premises is registered at a registry.

(2) All long term sub-leases that are intended to confer ownership of an apartment, flat, maisonette, town house or an office that were registered before the commencement of this Act shall be reviewed to conform to section 54 (5) of the Land Registration Act, 2012 (No. 3 of 2012) within a period of two years of the commencement to this Act.

(3) An owner who had already paid stamp duty for a sub-lease shall not be required to pay stamp duty during its revision under subsection (2).

(4) A developer, a management company or an owner of a unit may initiate the conversion required under subsection (2).

(5) The Registrar shall dispense with the production of the original title pursuant to section 31 of the Land Registration Act, 2012 (No. 3 of 2012) if the developer is not willing or is unavailable to surrender the title to the parcel for the purposes of conversion.

(6) The Registrar shall register a restriction against the title of the parcel to prevent any further dealings on it if a proprietor or developer fails to comply with this section.

14. Easements in favour of the owner

After the registration of a sectional plan, there is implied in respect of each unit shown on the sectional plan —

- (a) in favour of the owner of the unit and as appurtenant to the unit, an easement for the subjacent and lateral support of the unit by the common property and by every other unit capable of affording support;
- (b) in favour of the owner of the unit, and as appurtenant to the unit, an easement for the shelter of the unit by the common property and by every other unit capable of affording shelter; and

- (c) in favour of the owner of the unit, and as appurtenant to the unit, easement for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services including telephone, radio and television services through or by means of any pipes, wires, cables or ducts for the time being existing in the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of the unit

15. Easements against the owner

(1) After the registration of a sectional plan, there is implied in respect of each unit shown on the sectional plan—

- (a) as against the owner of the unit, an easement, to which the unit is subject, for the subjacent and lateral support of the common property and of every other unit capable of enjoying support;
- (b) as against the owner of the unit, an easement, to which the unit is subject, to provide shelter to the common property and to every other unit capable of enjoying shelter, and
- (c) as against the owner of the unit, an easement, to which the unit is subject, for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services including telephone, radio and television services through or by means of any pipes, wires, cables or ducts for the time being existing within the unit as appurtenant to the common property and also to every other unit capable of enjoying those easements.

(2) When an easement is implied by this section, the owner of any utility service providing a service to the parcel, or to any unit on it, is entitled to the benefit of any of those easements that are appropriate to the proper provision of that service, but not to the exclusion of the owner of any other utility service.

16. Easements or restrictions exist without mention

(1) Easements or restrictions as to user implied or created by this Act or the by-laws take effect and are enforceable—

- (a) without any memorial or notification on that part of the register constituting titles to the dominant or servient tenements, and
- (b) without any express indication of those tenements

(2) All ancillary rights and obligations reasonably necessary to make easements effectively apply in respect of easements implied by this Act, including the right of an owner of dominant tenement to enter a servient tenement and replace, renew or restore anything the dominant tenement is entitled to benefit from

PART III – ESTABLISHMENT OF THE CORPORATION

17. Establishment of a Corporation

(1) On the registration of a sectional plan, there shall be constituted a Corporation under the name "The Owners, Sectional Plan No (the number to be specified being the number given to the plan on registration)"

(2) The Registrar shall issue a certificate of registration of the corporation

(3) A Corporation shall consist of all those persons —

- (a) who are the owners of units in the parcel to which the sectional plan relates; or
- (b) who are entitled to the parcel when the sectional arrangement is terminated under this Act.

(4) The Corporation shall have perpetual succession and a common seal.

(5) The Corporation shall be regulated in accordance with this Act and the bylaws specified in the regulations shall subject thereto, have effect in relation to the corporation and its board.

(6) The provisions of the Companies Act, 2015 (No. 17 of 2015) shall not apply to the Corporation.

18. Actions by or against the Corporation

(1) The Corporation shall be capable of suing and being sued in its corporate name subject to section 21, and of doing anything that a body corporate may do.

(2) Without restricting the generality of subsection (1), the Corporation may sue for and in respect of damage or injury to the common property caused by any person, whether that person is the proprietor of a unit or not.

19. Liability in tort

(1) Where any proceedings are brought under the Occupiers Liability Act (Cap 34) or in tort or in respect of an alleged breach of any statutory duty and it is required by law that proceedings be brought against the owner or occupier of any particular parcel of land or premises, the provisions of this section shall apply notwithstanding any Act or rule of law to the contrary.

(2) For the purposes of any proceedings to which this section applies —

- (a) the common property and each of the units shall be separate premises; and
- (b) where the proceedings are brought in respect of the common property, the Corporation shall be deemed to be the owner and occupier of the common property and any judgment which may be awarded to the plaintiff shall be entered against the Corporation accordingly:

Provided that, where the cause of action arose through the negligence or unauthorized act or omission of one or more of the proprietors of former proprietors, the Corporation may join that proprietor or those proprietors as co-defendants and judgment may be given against the Corporation and the proprietor or proprietors jointly and severally.

(3) The amount of any judgment (including costs) given jointly and severally as provided in subsection (2) may be recovered as a debt by the Corporation from the proprietor or proprietors against whom judgment is given in an action in any court of competent jurisdiction.

(4) Where the defendant in any proceedings to which this section applies is the Corporation, the proprietors of the units at the time when judgment is entered shall be deemed to have guaranteed to the plaintiff the payment by the Corporation of the full amount awarded by way of judgment.

(5) If the Corporation in a general meeting so resolves, any sum payable by it in accordance with the provisions of this section may be paid out of any general fund established by it.

20. Duties of the Corporation

(1) The Corporation shall—

- (a) subject to this Act, carry out any duties imposed on it by the by-laws,
- (b) unless by unanimous resolution all the proprietors otherwise resolve, insure and keep insured buildings and other improvements on the parcel against fire,
- (c) effect such other insurance as it is required by law to effect or as it may consider expedient,
- (d) pay the premiums in respect of any policies of insurance effected by it,
- (e) keep the common property in a state of good repair,
- (f) comply with any notice or order duly served on it by the county government or public body requiring repairs to, or work to be performed in respect of, the land or any building or improvements thereon,
- (g) subject to this Act, control, manage, and administer the common property and do all things reasonably necessary for the enforcement of the by-laws,
- (h) do all things reasonably necessary for the enforcement of any lease or licence under which the land is held,
- (i) do all things reasonably necessary for the enforcement of any contract of insurance entered into by it under this section; and
- (j) do all other things to ensure the property is well managed including engaging the services of a property manager or any other persons they deem necessary

(2) The Corporation shall —

- (a) establish and maintain a fund for administrative expenses sufficient, in the opinion of the Corporation, for the control, management, and administration of the common property, and for the payment of any insurance premiums, and the discharge of any other obligation of the Corporation,
- (b) determine from time to time the amounts to be paid for the purposes aforesaid, and
- (c) raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective units.

(3) The Corporation may, pursuant to a resolution of the proprietors, distribute any money or personal property in its possession and surplus to its current requirements among the proprietors for the time being according to their unit entitlements

(4) For the purposes of effecting any policy of insurance under the provisions of subsection (1) the Corporation shall be deemed to have an insurable interest on all the buildings and other improvements on the parcel

(5) Any policy of insurance authorized by this section and effected by the Corporation in respect of any buildings or other improvements on the parcel shall not be liable to be brought into contribution with any other policy, save another policy authorized by this section in respect of the same buildings or improvements.

(6) The corporation may constitute an Internal Dispute Resolution Committee on a need basis to hear and determine disputes.

(7) The Corporation may use technology in the execution of its duties.

21. Powers of the Corporation

Subject to this Act, the Corporation shall have all such powers as are reasonably necessary to enable it to carry out the duties imposed on it by this Act and by the by-laws:

Provided that the Corporation shall not have power to carry on any trading activities.

22. Disposition and dealings affecting the common property

(1) Any disposition and dealing affecting the common property or land that is to become part of the common property shall be executed in accordance with Land Registration Act (No. 3 of 2012) and approved by a unanimous resolution of the Corporation.

(2) A certificate under the common seal of the Corporation that any such approval has been given shall be sufficient evidence of the approval in the absence of proof to the contrary.

(3) There shall be no disposition or dealing affecting the common property until a meeting of the corporation is held in accordance with section 27.

23. Registration of transfers of common property

(1) Every memorandum of transfer of the whole or any part or parts of the common property shall, in addition to any plan that the Registrar may require to be deposited under section 4, be accompanied by a sectional plan which shall be in substitution for and shall be deposited under the same number as the existing sectional plan, and shall show the effect of the transfer to the satisfaction of the Registrar.

(2) Where any unit is subject to any existing registered charge, lease, or sublease, the Registrar shall not register any transfer of the whole or any part or parts of the common property until there has been produced to him a consent in writing by every registered chargee, lessee, and sub-lessee to the release of his interest in the land comprised in the transfer; and upon registration of the transfer each such consent shall operate as a discharge of the charge or a surrender of the lease or sublease, as to the land comprised in the transfer, as the case may be.

- (3) The Registrar shall register any transfer to which subsection (1) refers by —
- (a) causing an appropriate memorial relating to the transfer to be noted on the new unit plan and on the supplementary record sheet; and
 - (b) issuing in the name of the transferee a certificate of sectional property for the land transferred, free from any incidental rights existing over the land by virtue of any written law.

24. Voting rights

(1) The voting rights of the owner of a unit shall be determined by the unit factor for his unit.

(2) When an owner's interest is subject to a registered charge, a power of voting conferred on an owner by this Act or the by-laws —

- (a) if a unanimous resolution is required, may not be exercised by the owner, but is exercisable by the registered chargee first entitled in priority; and
- (b) in other cases, is exercisable by the chargee first entitled in priority and may not be exercised by the owner if the chargee is present personally or by proxy.

(3) Subsection (2) does not apply unless the chargee has given written notice of his charge to the Corporation.

(4) An owner or chargee, as the case may be, may exercise his right to vote personally or by proxy.

25. Voting where owner incapable

(1) Any powers of voting conferred by this Act or the by-laws may be exercised

- (a) in the case of an owner who is a minor, by the guardian of his estate or, if no guardian has been appointed, by the Public Trustee; or
- (b) in the case of an owner who is for any reason unable to exercise control over his property, by the person who for the time being is authorized by law to exercise control over that property.

(2) If the Court, on application by the Corporation or by an owner, is satisfied that there is no person capable, willing or reasonably available to vote in respect of a unit, the Court—

- (a) shall in cases when a unanimous resolution is required by this Act; and
- (b) may, in its discretion, in any other case, appoint the Public Trustee or such other person as the Court determines for the purpose of exercising the powers of voting under this Act and the by-laws.

(3) On making an appointment under this section, the Court may make any order it considers necessary or expedient to give effect to the appointment.

26. Board of management

(1) A Corporation shall have a board of management that shall be constituted as provided by the by-laws of the Corporation.

(2) A Corporation shall, within fifteen days of a person becoming or ceasing to be a member of the board, file at the land registry a notice in the prescribed form stating the name and address of that person and the day that the person became or ceased to be, as the case may be, a member of the board.

(3) The powers and duties of a Corporation shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the board of the Corporation.

(4) All acts done in good faith by a board are, notwithstanding that it is afterwards discovered that there was some defect in the election or appointment or continuance in office of any member of the board, as valid as if the member had been properly elected or appointed or had properly continued in office.

27. Convening of meetings of the Corporation

When a developer registers a sectional plan, he shall within—

- (a) ninety days from the day that fifty percent of the units are sold; or

- (b) one hundred and eighty days from the day that the first unit is sold, whichever is sooner, convene a meeting of the Corporation at which a board shall be elected.

28. Annual meeting

- (1) The board shall, once every year, convene an annual general meeting of the owners.
- (2) An annual general meeting of the owners shall be convened by the board within fifteen months of the conclusion of the immediately preceding annual general meeting.

29. By-laws of the Corporation

- (1) The Corporation may make by-laws to provide for the control, management and administration of the units, the movable and immovable property of the Corporation and the common property and for establishment of a Committee.
- (2) Notwithstanding subsection (1), on first registration, the by-laws specified in the regulations shall be the by-laws of the Corporation.
- (3) Any by-law may be amended, repealed or replaced by a special resolution.
- (4) An amendment, repeal or replacement of a by-law does not take effect until
 - (a) the Corporation has filed a copy of it with the (c) Registrar; and
 - (b) the Registrar has made a memorandum of the filing on the sectional plan.
- (5) No by-law shall operate to prohibit or restrict the devolution of units or any transfer, lease or other dealing with them or to destroy or modify an easement implied or created by this Act.
- (6) The by-laws bind the Corporation and the owners to the same extent as if the by-laws had been signed and sealed by the Corporation and by each owner and contained covenants on the part of each owner with every other owner and with the Corporation to observe and perform all the provisions of the by-laws.
- (7) A by-law made by a corporation under subsection (1) shall have no force or effect to the extent to which it purports to permit material change in the use or density of the common property without the approval of the relevant county government.
- (8) A by-law made by the Corporation under subsection (1) shall have no force or effect to the extent to which it purports to prohibit or restrict—
 - (a) the keeping on a unit of a dog used as a guide by a completely blind owner, occupier or resident of the unit; or
 - (b) the use of a dog as a guide on a unit or common property by a completely or partially blind person.

30. Enforcement of by-laws

- (1) If an owner contravenes any of the by-laws, a corporation or an aggrieved owner may refer the dispute to the Committee provided for under section 20 and 30.
- (2) A corporation or an aggrieved owner shall, when referring a dispute to the Committee under subsection (1), specify the by-laws that were contravened by the owner.

(3) On hearing a dispute referred to it in accordance with subsection (1), the Committee shall determine the dispute and make a finding and order which shall be in writing and signed by the members of the Committee.

(4) A Corporation shall not commence an action under this section unless it is authorized by the by-laws to do so.

(5) Referral of a dispute to a Committee under this section shall not restrict or derogate the referee from a remedy that an owner or the corporation may have against the disputing person.

(6) In the event of non-compliance with an order of a Committee the aggrieved party may apply to the Court to enforce the order of the Committee.

(7) If a party is dissatisfied with the determination of a Committee under this section, the party may appeal to the Court.

31. Administrative expenses

(1) In addition to other powers under this Act, the Corporation shall have the power to recover, from an owner, by an action in debt, any sum of money spent by the Corporation in execution of its duties as stipulated in section 20.

(2) A contribution levied as provided in section 20(2) is due and payable on the passing of a resolution to that effect and in accordance with the terms of the resolution, and may be recovered by an action for debt by the Corporation —

- (a) from the person who was the owner at the time when the resolution was passed; and
- (b) from the person who was the owner at the time when the action was instituted, both jointly and severally.

(3) A Corporation shall, on the application of an owner or a person authorized, in writing, by him, certify —

- (a) the amount of any contribution determined as the contribution of the owner;
- (b) the manner in which the contribution is payable;
- (c) the extent to which the contribution has been paid by the owner; and
- (d) the interest owing, if any, on any unpaid balance of a contribution, and, in favour of a person dealing with that owner the certificate is conclusive proof of the matter certified in it.

(4) A Corporation may register a caution against the title to an owner's unit for the amount of a contribution levied on the owner but unpaid by him.

(5) On the registration of the caution under subsection (4) the Corporation has a charge against the unit equal to the unpaid contribution.

(6) A charge under subsection (5) has the same priority from the date of registration of the caution as a charge under the Land Registration Act (No. 3 of 2012).

(7) If the Corporation has registered a caution under this section the Corporation shall, within thirty days of the payment to it of the amount of the unpaid contribution, withdraw the caution.

32. Interest on outstanding account

The Corporation may, if permitted to do so by the by-laws, charge interest at a rate to be set out in the by-laws on any unpaid balance of a contribution owing to it by an owner.

33. Recovery of money

If any interest referred to in section 32 or a deposit is owing by an owner to a Corporation, the Corporation may, in addition to any rights of recovery that it has in law, recover that amount in the same manner as a contribution under section 31.

34. Recovery of costs

If a Corporation registers a caution against the title to a unit under section 31(4), it may recover from the owner of the unit the cost incurred in preparing and registering the caution and in discharging the caution.

35. Investments

Subject to section 32, a Corporation may invest any funds not immediately required by it only in those investments in which a trustee may invest under the Trustee Act (Cap. 167) and is endorsed by a special resolution.

36. Information on request

(1) On the written request of an owner, a purchaser or chargee of a unit, the Corporation shall, within twenty days of receiving that request, provide the person making the request, subject to the payment of such charge as is prescribed in the regulations, with one or more of the following as requested by that person —

- (a) a statement setting forth the amount of any contributions due and payable in respect of a unit;
- (b) the particulars of —
 - (i) any action commenced against the Corporation and served on the Corporation;
 - (ii) any unsatisfied judgment or order for which the Corporation is liable; and
 - (iii) a written demand made on the Corporation for an amount in excess of five thousand shillings that, if not met, may result in an action being brought against the Corporation;
- (c) the particulars of or a copy of any subsisting recreational agreement;
- (d) the particulars of or a copy of any subsisting management agreement;
- (e) a copy of the budget, if any, of the Corporation;
- (f) a copy of the financial statement, if any, of the Corporation;
- (g) a copy of the by-laws of the Corporation;
- (h) a copy of any minutes of proceedings of a general meeting of the Corporation or of the board of management.

(2) Where a request is made under subsection (1) and the Corporation fails to comply with provisions of that subsection, the aggrieved person may seek an order that the Corporation comply with such request.

(3) Where an aggrieved person takes proceedings before a Committee pursuant to subsection (2), the Committee shall have power to make an order against the Corporation that it comply with subsection (1) and the Committee shall

also have power to award a penalty against the institutional manager of a sum not exceeding five hundred shillings per day for each day exceeding twenty days after a request has been properly made under subsection (1).

- (4) A Committee may make an order—
- (a) pursuant to subsection (2) if it finds non-compliance with subsection (1) proved;
 - (b) dismissing the proceedings; or
 - (c) pronouncing a remedy or a penalty to ensure compliance with the by-laws, and in either case may make such award as to costs as seems appropriate in the circumstances.

(5) A Committee shall make its order under subsection (4) after a hearing conducted in accordance with the rules of natural justice.

(6) A party may appeal a decision of the Committee to any court in respect of an error of law.

37. Handing over of documents

(1) The owner of the land at the time a sectional plan is registered shall provide to the Corporation without charge not later than one hundred and eighty days from the day the sectional plan is registered the original or a copy of the following documents —

- (a) all warranties and guarantees on the movable and immovable property of the Corporation and the common property for which the Corporation is responsible;
- (b) the —
 - (i) structural, electrical, mechanical and architectural working drawings and specification; and
 - (ii) built drawings which exist for the common property for which the Corporation is responsible;
- (c) the plans that exist showing the location of underground utility services and sewer pipes;
- (d) all written agreements to which the Corporation is a party;
- (e) all certificates, approvals and permits issued by a county government, the Government or an agent of the Government which relate to any property for which the Corporation is responsible.

(2) A Corporation may, at any time before it receives a document under subsection (1), make a written request to the owner of the land referred to in subsection (1) for a copy of that document and that person shall, within twenty days receiving that request, provide to the Corporation without charge a copy of that document if the document is in the possession of that person.

38. Insurance

(1) Where a sectional plan has not been registered prior to the sale of any units, the developer —

- (a) shall insure the units and the common property against—
 - (i) loss resulting from destruction or damage caused by fire and such other perils as are specified in the by-laws; and
 - (ii) damages awarded against the developer, the owner of a unit or the Corporation in an action for occupier's liability; and

- (b) may insure the units and the common property or either of them against additional perils other than those specified in the Act or the by-laws, and for that purpose the developer has an insurable interest in the units and the common property.

(2) Upon the registration of the sectional plan, the insurable interest in the units and the common property passes to the Corporation, and if no insurance on the units and common property has been effected under subsection (1), the Corporation —

- (a) shall place insurance on the units and the common property against—
 - (i) loss resulting from destruction or damage caused by fire and such other perils as are specified in the by-laws; and
 - (ii) damages awarded against the owner of a unit or the body corporate in an action for occupier's liability; and
- (b) may place insurance on the units and the common property or either of them against additional perils other than those specified in the Act or the by-laws.

(3) A Corporation shall, subject to subsection (4), maintain such insurance on the units and common property as has been placed under subsection (1) or (2).

(4) Where insurance has been placed under subsection (1) (b) or (2) (b), such insurance may be continued by the Corporation unless it is prohibited from doing so by a resolution passed at a properly convened meeting of the Corporation.

(5) Any payment by an insurer under a policy of insurance for destruction of or damage to a unit or the common property shall, notwithstanding the terms of the policy —

- (a) be paid to the insurance trustee designated in the by-laws or, where the by-laws do not designate an insurance trustee, to the Corporation; and
- (b) be used forthwith, for the repair or replacement of the insured property which was destroyed or damaged.

(6) Notwithstanding the Insurance Act (Cap. 487) or any other policy of insurance, where insurance is placed by both a developer or a body corporate, and an owner against the loss resulting from destruction of or damage to the units or the common property —

- (a) the insurance placed by the developer or the body corporate is deemed to be first-loss insurance; and
- (b) the insurance placed by the owner of the unit in respect of the same property which is insured by the developer or the Corporation is deemed to be excess insurance.

39. Copies of insurance policies

A Corporation shall, within twenty days of receiving a request in writing from an owner or a person authorized in writing by an owner or the chargee of a unit, provide to the person making the request, subject to the payment of such charge as is prescribed in the by-laws, copies of the policies of insurance placed by the developer or the Corporation.

40. Exclusive use areas

A Corporation, by a unanimous resolution, may, if its by-laws permit, grant a lease to an owner of a unit permitting that owner to exercise exclusive use in respect of an area or areas of the common property

41. Covenants benefiting parcel

By a unanimous resolution a Corporation may be directed to accept on behalf of the owners a grant of easement or a restrictive covenant benefiting the parcel

42. Procedure for granting restrictive covenants

(1) By a unanimous resolution a Corporation may be directed to execute on behalf of the owners a grant of easement or a restrictive covenant burdening the parcel

(2) When the board is satisfied that the unanimous resolution was properly passed and that —

- (a) all persons having interests in the parcel, and
- (b) all other persons having interests, other than statutory interests, that have been notified to the Corporation, have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition,

the Corporation shall execute the appropriate instrument to grant the easement or covenant

(3) An instrument granting an easement or covenant executed in accordance with subsection (2) is valid and effective without execution by any person having an interest in the parcel, and the receipt of the Corporation is a sufficient discharge of and exonerates all persons taking under the instrument from any responsibility for the application of the money expressed to have been so received

(4) The Registrar shall not register an instrument granting an easement or covenant authorized under this section unless it has been endorsed and is accompanied by, a certificate under the seal of the Corporation stating that the unanimous resolution was properly passed and that all necessary consents were given

(5) An instrument granting an easement or a covenant under this section shall be registered in accordance with Land Registration Act (No 3 of 2012)

PART IV – PROVISIONS RELATING TO UNITS

43. Sale of units

(1) A developer shall not sell or agree to sell a unit or proposed unit unless the developer has delivered to a purchaser a copy of —

- (a) the purchase agreement,
- (b) the by-laws or proposed by-laws,
- (c) the management agreement or proposed management agreement, if any,
- (d) the recreational agreement or proposed recreational agreement, if any;
- (e) the lease or title of the parcel on which the unit is located or the certificate of title or the certificate of lease in respect of the unit,

- (f) any charge that affects or proposed charge that will affect the title to the unit or proposed unit or, in respect of that charge or proposed charge a notice prescribed under subsection (2); and
- (g) the sectional plan or proposed sectional plan.

(2) A developer shall deliver to the purchaser in respect of a charge or proposed charge a written notice stating —

- (a) the maximum principal amount available under the charge;
- (b) the maximum monthly payment that may be paid under the charge;
- (c) the amortization period;
- (d) the term;
- (e) the interest rate or the formula, if any, for determining the interest rate; and
- (f) the prepayment privileges, if any.

44. Management agreement

(1) A Corporation may contract a management agreement when its board is comprised of persons who were elected to the board while the majority of units were owned by the developer.

(2) Subject to subsection (3), a Corporation may terminate a management agreement contracted by the Corporation at any time after its board is comprised of persons who were elected to the board after the majority of the units were owned by persons other than a developer.

(3) A management agreement—

- (a) may not be terminated under subsection (2) without cause until two years have elapsed from the day that the agreement was entered into, except when the agreement permits termination at an earlier date; and
- (b) may only be terminated under subsection (2) on the Corporation giving sixty days' written notice to the other party to the agreement of its intention to terminate the agreement, and the Corporation is not liable to the other party to the agreement by reason only of the agreement being terminated under this section.

45. Renting of units

(1) An owner of a unit shall not rent his unit until he has given written notice to the Corporation of his intention to rent the unit, setting forth the address at which he may be served with a notice given by the Corporation under section 46.

(2) The owner of a unit shall give an undertaking to the Corporation to be liable for any damage caused by the tenant.

(3) The owner of a unit shall give the Corporation written notice of the name of the tenant residing in the unit within twenty days from the commencement of the tenancy.

(4) Within twenty days of ceasing to rent his unit, the owner shall give the Corporation written notice that his unit is no longer rented.

46. Notice to give up possession

(1) If a tenant occupying a unit causes the contravention or contravenes the by-laws, the corporation shall give notice to the owner of the unit to take necessary action immediately.

(2) If an owner fails to take necessary action within the time specified in the notice, the Corporation shall give the tenant a notice to vacate the premises.

(3) If a tenant refuses to vacate, the Corporation shall take necessary action against the tenant.

PART V – MISCELLANEOUS PROVISIONS

47. Termination of sectional property

The sectional status of a building may be terminated by —

- (a) unanimous resolution;
- (b) substantial or total damage to the building; or
- (c) compulsory acquisition.

48. Effect of termination of sectional property

(1) On the sectional status of the building being terminated under section 47, the Corporation shall forthwith file with the Registrar a notice of the termination in the prescribed form.

(2) On the receipt of a notice referred to in subsection (1) the Registrar shall make a notification in respect of the notice on the sectional plan in the manner prescribed by the regulations and on the notification being made, the owners of the units in the plan are entitled to the parcel as tenants in common in shares proportional to the unit factors of their respective units.

49. Sale of sectional property

(1) When the sectional status of a building is being terminated, the Corporation may, by a unanimous resolution, be directed to transfer the parcel or any part of it.

(2) When the board is satisfied that the unanimous resolution was properly passed, the transfer shall be executed in accordance to Land Registration Act (No. 3 of 2012).

(3) The Registrar shall not register a transfer executed pursuant to this section —

- (a) unless an amended cadastral map and plan of the parcel is submitted;
- (b) unless the transfer it is endorsed with or is accompanied by a certificate under the seal of the Corporation that the unanimous resolution was properly passed and that all necessary consents were given; and
- (c) until the notification required by section 48 has been made on the sectional plan.

(4) When land is transferred by a Corporation pursuant to this section, the Registrar shall —

- (a) close the registers relating to the units and open a new register; and
- (b) register the transfer in accordance with Land Registration Act (No. 3 of 2012).

50. Dissolution of Corporation

(1) The corporation shall stand dissolved upon the termination of the sectional property.

(2) By the same or subsequent order the Court may declare the Corporation dissolved on a date specified in the order.

51. Assessment and taxation

(1) The rating authority shall assess rates, charges ground rent and taxes in relation to the parcel or a part of it.

(2) For the purpose of assessment of rates and ground rent by a rating authority

- (a) each unit and the share in the common property appurtenant to the unit constitutes a separate parcel of land and improvements; and
- (b) the common property shall not constitute a separate parcel of land or improvements.

52. Liability of Corporation

The Corporation is not liable in relation to the parcel for any rate, ground rent, charge or tax levied by a rating authority.

53. Right of entry

A county government, public authority or person authorized by either a county government or public authority shall have the right to access any part of a parcel or any other part of the parcel to the extent necessary or expedient to enable it or him to exercise its or his powers.

54. Service of documents and notices

(1) Service of a document shall be effected through—

- (a) physical delivery to a registered office or by registered post;
- (b) personal service on a member of the board; or
- (c) electronic transmission.

(2) For the purposes of this section, "document" includes a summons, notice, tax notice, order and other legal process.

55. Change of address for service

(1) A Corporation may by resolution of the board change its address for service.

(2) A change in the address for service under subsection (1) does not take effect until a notice of that change of address is filed in the prescribed form at the land registry.

56. Fees for documents

The Corporation may charge a reasonable fee for the expenses incurred in producing and providing a document required under this Act.

57. Offences and penalty

(1) A person who fails to comply with section 13(1) or 43 is guilty of an offence and shall be liable on conviction to a fine not exceeding twenty million shillings or imprisonment for one year.

(2) Subject to subsection (1), a person who contravenes the provisions of this Act, for which no specific penalty is prescribed, is guilty of an offence and shall be liable, on conviction, to a fine not exceeding two hundred and fifty thousand shillings.

(3) If a Corporation fails to comply with this Act, each member of the board who is knowingly a party to that failure is guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand shillings.

58. Waiver, release, etc

(1) This Act applies notwithstanding any agreement to the contrary and any waiver or release given of the rights, benefits or protections provided by or under this Act is void.

(2) A remedy that a purchaser of a unit has under this Act is in addition to any other rights or remedies that he has at law.

(3) A purchase agreement may be enforced by a purchaser notwithstanding that the developer failed to comply with this Act.

59. Regulations

(1) The Cabinet Secretary may make regulations—

- (a) in respect of forms to be used for the purposes of this Act including the form of certificates of title to units;
- (b) respecting the manner of registering sectional plans;
- (c) prescribing the fees to be paid for any procedure or function required or permitted to be done under this Act;
- (d) respecting the practice and procedure governing application to the Court under this Act;
- (e) concerning all matters that by this Act are required or be permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) For the purposes of Article 94 (6) of the Constitution —

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act; and
- (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.

(3) The principles and standards applicable to the delegated power referred to under this Act are those found in—

- (a) the Statutory Instruments Act, 2013 (No. 23 of 2013);
- (b) the Interpretation and General Provisions Act (Cap. 2);
- (c) the general rules of international law as specified under Article 2 (5) of the Constitution; and
- (d) any treaty and convention ratified by Kenya under Article 2 (6) of the Constitution.

60. Repeal

The Sectional Properties Act is repealed.