LAWS OF HONG KONG

MULTI-STOREY BUILDINGS (OWNERS INCORPORATION) ORDINANCE

CHAPTER 344

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CHAPTER 344.

MULTI-STOREY BUILDINGS (OWNERS INCORPORATION) ORDINANCE.

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CHAPTER 344.
MULTI-STOREY BUILDINGS (OWNERS INCORPORATION).

To facilitate the incorporation of owners of flats in multi-storey buildings, to provide for the management of such buildings and for matters incidental thereto or connected therewith.

[19th June, 1970.]

PART I.

SHORT TITLE AND INTERPRETATION.

1. This Ordinance may be cited as the Multi-storey Buildings (Owners Incorporation) Ordinance.

2. In this Ordinance, unless the context otherwise requires—

"administrator" means a person appointed as an administrator under section 30 or 31;

"building" means—

(a) any building which consists of two or more levels, including basements; and

(b) the land upon which such a building is erected and any land in common ownership with such land;

"common parts" means—

(a) the whole of a building, except such parts as have been specified or designated in an instrument registered in the Land Office as being for the exclusive use, occupation or enjoyment of an owner; and

(b) unless so specified or designated, those parts specified in the First Schedule;

"corporation" means a corporation registered under section 8;

"court" means the District Court;

"deed of mutual covenant" means a document which—

(a) defines the rights, interests and obligations of owners among themselves; and

(b) is registered in the Land Office;

"flat" means any premises in a building which are referred to in a deed of mutual covenant whether described therein as a flat or by any other name and whether used as a dwelling, shop, factory, office or for any other purpose, of which the owner, as between himself and owners or occupiers of other parts of the same building, is entitled to the exclusive possession;
“(Cap. 128.) “Land Office” means the Land Office established under the Land Registration Ordinance and a District Land Office established under the New Territories Ordinance;

“(Cap. 97.) “Land Officer” includes, in relation to buildings on land registered in a District Land Office, an Assistant Land Officer appointed under section 9 of the New Territories Ordinance, save that only the Land Officer may specify forms;

“(Cap. 97.) “management committee” means a management committee appointed under section 3 or 4;

“owner” means—
(a) a person who for the time being appears from the records at the Land Office to be the owner of an undivided share in land on which there is a building; and
(b) a registered mortgagee in possession of such share;

“registered mortgagee” means—
(a) a person to whom an owner’s interest in a building has been mortgaged or charged under a mortgage or charge which has been registered in the Land Office; and
(b) a person in whose favour a charge upon a flat has been created by virtue of any Ordinance;

“register” means the register of corporations maintained under section 12;

“share” means the share of an owner in a building determined in accordance with section 39.

PART II.

MANAGEMENT COMMITTEE.

3. (1) A meeting of the owners to appoint a management committee may be convened by—
(a) any person managing the building in accordance with the deed of mutual covenant (if any); or
(b) any other person authorized to convene such a meeting by the deed of mutual covenant (if any); or
(c) the owners of not less than five per cent of the shares.

(2) At a meeting convened under subsection (1) a management committee may be appointed—
(a) in accordance with the deed of mutual covenant, if the deed provides for the appointment of a management committee; or
(b) if there is no deed of mutual covenant, or the deed contains no provision for the appointment of a management committee, by a resolution of the owners of not less than fifty per cent of the shares.
4. (1) The court may, upon application by—
   (a) the owners of not less than twenty per cent of the shares; or
   (b) the Attorney General,

order that a meeting of owners shall be convened, by such owner as the court may direct, to appoint a management committee.

(2) Upon the making of an order under subsection (1) the court may order that the costs of the application shall be paid by the applicant or by any person opposing the application.

(3) If a corporation is established, the corporation shall refund to the applicant any costs paid by him in accordance with an order made under subsection (2).

(4) At a meeting convened in accordance with an order made under subsection (1), a management committee may be appointed by a resolution passed by a majority of votes of the owners voting at the meeting personally or by proxy.

5. (1) Notice of a meeting convened under section 3 or 4 shall be served upon each owner in accordance with subsection (2) not less than fourteen days before the date of the meeting—
   (a) in the case of a meeting convened by a person referred to in paragraph (a) or (b) of subsection (1) of section 3, by the convenor;
   (b) in the case of a meeting convened by the owners referred to in paragraph (c) of subsection (1) of section 3, by an owner nominated by the convenors;
   (c) in the case of a meeting convened in accordance with an order made under subsection (1) of section 4, by the owner directed by the court to convene the meeting.

(2) Service of a notice required to be served under subsection (1) may be effected—
   (a) personally upon the owner; or
   (b) by registered post addressed to the owner at his last known address; or
   (c) by leaving the same at the owner's flat.

(3) A notice required to be served under subsection (1) shall be published in one English language and one Chinese language newspaper specified in a list of newspapers issued for this purpose by the Secretary for Home Affairs and published in the Gazette.

(4) A notice under subsection (1) shall specify—
   (a) the date, time and place of such meeting; and
(b) the resolutions which are to be proposed and, in particular, the resolution for the appointment of a management committee.

(5) At a meeting convened under section 3 or 4—

(a) each owner shall, save where the deed of mutual covenant otherwise provides, have one vote in respect of each share which he owns;

(b) a vote may be cast either personally or by a proxy appointed in accordance with sub-paragraph (2) of paragraph 4 of the Third Schedule; and

(c) if a share is jointly owned by two or more persons, the vote in respect of that share may be cast—
   (i) by a proxy jointly appointed by the co-owners; or
   (ii) by one co-owner appointed by the others; or
   (iii) if no appointment has been made under sub-paragraph (i) or (ii) either personally or by proxy by the co-owner whose name stands first in relation to that share in the register kept at the Land Office.

(6) For the purposes of subsection (5), the appointment of a proxy shall have no effect unless the instrument appointing the proxy is produced at the meeting.

6. The provisions of the Second Schedule shall have effect with respect to the composition and procedure of a management committee.

PART III.

INCORPORATION.

7. (1) A management committee appointed under section 3 or 4 shall within fourteen days of such appointment apply to the Land Officer for the registration of the owners as a corporation under this Ordinance.

(2) An application under subsection (1) shall be in such form as the Land Officer may specify and shall include the following particulars—

(a) the name of the proposed corporation, which shall be in the form “The Incorporated Owners of ..................... ..........................”;

(b) the name (if any) and address of the building;

(c) the address of the proposed registered office of the corporation; and

(d) the name and address of the chairman and secretary of the management committee.
3. An application under subsection (1) shall be accompanied by the following documents—

(a) a copy of the deed of mutual covenant (if any) in respect of the building;

(b) where an application has been made to the court under subsection (1) of section 4, a copy of the order of the court;

(c) a copy of the resolution or other document evidencing the appointment of the management committee under section 3 or 4 certified as correct by the chairman or secretary of the management committee or by the chairman of the meeting at which the resolution was passed; and

(d) a declaration by the chairman or secretary of the management committee, in such form as the Land Officer may specify, that the provisions of section 3 or 4 and section 5 have been complied with.

8. (1) The Land Officer shall, if satisfied that the provisions of section 3 or 4 and subsections (2) and (3) of section 7 have been complied with, issue a certificate of registration in the prescribed form.

(2) With effect from the date of issue of the certificate of registration under subsection (1)—

(a) the owners for the time being shall be a body corporate with perpetual succession and shall in the name of the corporation specified in the certificate of registration be capable of suing and being sued and, subject to this Ordinance, of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer; and

(b) the management committee appointed under section 3 or 4 shall be deemed to be the first management committee of the corporation.

3. A corporation shall have a common seal, the affixing of which shall be authenticated by the signature of the chairman and secretary of the management committee.

4. A corporation shall have a registered office in the Colony.

5. The Third Schedule shall have effect with respect to the meetings and procedure of a corporation.

9. No corporation shall be registered by a name which, in the opinion of the Land Officer, is undesirable.

10. (1) A corporation may, by resolution of not less than seventy-five per cent of the votes of the owners voting either personally or by proxy, change its name.
(2) If at any time a corporation is registered by a name which, in the opinion of the Land Officer, is so similar to the name by which another corporation is registered as to be likely to mislead, the Land Officer may direct that the first mentioned corporation shall change its name within a period of six weeks from the date of the direction or such longer period as the Land Officer may allow.

(3) A corporation which makes default in complying with a direction under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of fifty dollars for each day during which the default continues.

(4) When a corporation changes its name under this section, the Land Officer shall enter the new name on the register maintained by him under section 12 in place of the former name, and shall issue an amended certificate of registration.

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

11. (1) A management committee shall cause to be prominently displayed—

(a) a copy of the certificate or amended certificate of registration issued under subsection (1) of section 8 or subsection (4) of section 10 and a notice stating the address of the registered office of the corporation—

(i) at each entrance to the building to the owners of which such certificate relates; and

(ii) on the outside of the door of the registered office of the corporation; and

(b) a notice bearing the words “Registered Office of ............ ..............................................” on the outside of the door of the registered office of the corporation.

(2) A corporation which exhibits or uses any name of or for the corporation in Chinese characters, whether or not such name is a transliteration or translation of its name in its certificate or amended certificate of registration issued under subsection (1) of section 8 or subsection (4) of section 10, shall append to such name so used in Chinese characters the Chinese characters “業主立案法團”.

(3) In the event of a contravention of this section, every member of the management committee shall be guilty of an offence and shall be liable on conviction to a fine of fifty dollars unless he proves that the offence was committed without his consent or
connivance and that he exercised all such due diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

12. (1) The Land Officer shall maintain a register of corporations.

(2) The Land Officer shall enter in the register the following particulars of each corporation—

(a) the name of the corporation;
(b) the name (if any) and address of the building;
(c) the address of the registered office of the corporation;
(d) the name and address of the chairman and secretary of the management committee;
(e) the name and address of any administrator.

(3) The secretary of the management committee shall, within twenty-eight days of the date of any change in the particulars registered under subsection (2), other than the particulars referred to in paragraph (e) of that subsection, give notice thereof to the Land Officer in such form as the Land Officer may specify.

(4) In the event of a contravention of subsection (3), the secretary of the management committee shall be guilty of an offence and shall be liable on conviction to a fine of one hundred dollars for each day during which the contravention continues.

(5) Upon payment of such fee as may be prescribed, any person may—

(a) inspect the register and any document required to be submitted to the Land Officer under this Ordinance; and
(b) require a copy or extract of any such register or document to be made and certified under the hand of the Land Officer.

13. A certificate or amended certificate of registration issued by the Land Officer in respect of a corporation shall be conclusive evidence that such corporation is incorporated under this Ordinance.

PART IV.

PROVISIONS RELATING TO CORPORATIONS.

14. (1) Subject to this Ordinance, at a meeting of a corporation any resolution may be passed with respect to the control, management and administration of the common parts and any such resolution shall be binding on the management committee and all the owners.
(2) Without prejudice to the generality of subsection (1), a corporation may by resolution at a meeting remove from office and replace any member of the management committee.

(3) A resolution for the removal of so many members of the management committee as would reduce the number of members below the number required under paragraph 1 of the Second Schedule shall not have effect unless there is appointed, at the meeting at which such resolution is passed, a sufficient number of further members as will comply with such requirements.

15. (1) The members of an approved association may, by resolution of the majority of the members thereof present and voting at a meeting convened for that purpose, resolve to requisition a meeting of the management committee in accordance with this section and shall appoint from amongst themselves one person to be known as the "tenants' representative":

Provided that the approved association shall not be entitled to requisition the convening of more than one meeting in any period of three months.

(2) Only a lawful occupier of a flat in the building and not an owner, may be appointed as the tenants' representative.

(3) The secretary of a management committee shall, on the written requisition of the approved association, which shall state the objects of the meeting, forthwith proceed duly to convene a meeting of the management committee within twenty-eight days from the date of receipt of the requisition for the purpose of hearing the tenants' representative on matters concerning the management of the building of which the members of the approved association are tenants or occupiers.

(4) In this section "approved association" means an association—

(a) formed to represent the interests of the tenants or occupiers of flats in a building; and

(b) which has been approved for the purposes of this section by the Secretary for Home Affairs.

16. When the owners of a building have been incorporated under section 8, the rights, powers, privileges and duties of the owners in relation to the common parts of the building shall be exercised and performed by, and the liabilities of the owners in relation to the common parts of the building shall, subject to the provisions of this Ordinance, be enforceable against, the corporation to the exclusion of the owners, and accordingly—

(a) any notice, order or other document which relates to any of the common parts of the building may be served upon the corporation at its registered office; and
(b) any proceedings in court in respect of any of the common parts of the building may be brought and pursued by or against the corporation.

17. (1) If a judgment is given or an order is made against a corporation, execution to enforce the judgment or order may issue—

(a) against any property of the corporation; or

(b) with leave of the court in which such judgment was given or order made, against any owner.

(2) An application for leave under paragraph (b) of subsection (1) shall be made by summons served personally upon the owner against whom execution is sought.

18. (1) The corporation shall—

(a) maintain the common parts and the property of the corporation in a state of good and serviceable repair and clean condition;

(b) carry out such work as may be ordered or required in respect of the common parts by any public officer or public body in exercise of the powers conferred by any Ordinance;

(c) do all things reasonably necessary for the enforcement of the obligations contained in the deed of mutual covenant (if any) for the control, management and administration of the building.

(2) A corporation may, in its discretion—

(a) engage and remunerate staff for any purpose relating to the powers or duties of the corporation under this Ordinance or the deed of mutual covenant;

(b) retain and remunerate accountants for the purposes of auditing the corporation’s books of accounts and preparing the annual income and expenditure accounts and balance sheets;

(c) retain and remunerate a manager or other professional trade or business firm or person to carry out on behalf of the corporation any of the duties or powers of the corporation under this Ordinance or the deed of mutual covenant;

(d) insure and keep insured the building or any part thereof to the reinstatement value thereof against fire and other risks;

(e) purchase, hire or otherwise acquire movable property for use by the owners in connexion with their enjoyment of the common parts or to satisfy any requirement of a
public officer or public body for the purpose of any Ordinance;

(f) establish and maintain lawns, gardens and playgrounds on the common parts;

(g) act on behalf of the owners in respect of any other matter in which the owners as tenants in common have a joint interest or liability.

19. If a deed of mutual covenant provides that if an owner fails to pay any sum which is payable under the deed of mutual covenant, a person may sell that owner's interest in the land or register a charge against such interest in the Land Office, then, notwithstanding the provisions of the deed of mutual covenant, the corporation may, to the exclusion of such person, exercise such power of sale or register such charge in the same manner and subject to the same conditions as if it were the person referred to in the deed of mutual covenant.

20. (1) A corporation shall establish and maintain a general fund—

(a) to defray the cost of the exercise of its powers and the performance of its duties under the deed of mutual covenant (if any) and this Ordinance; and

(b) to pay Crown rent, premiums, taxes or other outgoings which are payable in respect of the building as a whole.

(2) A corporation may establish and maintain a contingency fund—

(a) to provide for any expenditure of an unexpected or urgent nature; and

(b) to meet any payments of the kind specified in subsection (1) if the fund established thereby is insufficient to meet them.

21. (1) A management committee shall determine the amount to be contributed by the owners to the fund established and maintained under section 20 during such period, not exceeding twelve months, as the management committee specifies.

(2) Subject to subsection (1) of section 14 and to subsection (3), a management committee shall not increase the amount determined in accordance with subsection (1).

(3) A management committee may increase the amount required to be contributed by the owners to the extent to which the funds established and maintained under section 20 are insufficient to meet any payment due by the corporation in respect of the cost of complying with—

(a) an order of a court; or
any notice, order or other document served upon the
corporation in relation to the common parts by a public
officer or public body under any Ordinance.

22. (1) The amount to be contributed by an owner towards
the amount determined under section 21 shall be—

(a) fixed by the management committee in accordance with
the deed of mutual covenant; and

(b) payable at such times as the management committee
may determine.

(2) If there is no deed of mutual covenant, or if the deed of
mutual covenant does not provide for the fixing of contributions,
the amount to be contributed by an owner towards the amount
determined under section 21 shall be fixed by the management
committee in accordance with the respective shares of the owners.

(3) The amount payable by an owner under this section shall
be a debt due from him to the corporation at the time when it is
payable.

(4) A certificate in writing signed by the chairman of the
management committee stating the amount to be contributed
under this section by an owner and when it is payable shall be
admissible in evidence in any proceedings as prima facie evidence
of the facts stated therein without further proof.

23. (1) If any amount payable under section 22 by an
owner who is not occupying a flat in the building concerned
remains unpaid for a period of one month after it has become
due to the corporation, the corporation may, without prejudice
to any right of action against the owner, by notice in writing
addressed to the occupier of the flat and served upon him either
personally or by registered post, demand such amount from the
occupier, who shall, subject to subsection (2), thereupon be liable
to pay the same to the corporation.

(2) Notwithstanding subsection (1), the liability of the occupier
of a flat to pay an amount demanded from him under subsection
(1) shall extend only to such amount of rent or other charge (exclusive
of rates) as is due at the time of service on him of the demand,
or falls due subsequently from him, in respect of his occupation
of the flat.

(3) In any proceedings by a corporation to recover an amount
payable under subsection (1), it shall be presumed, until the con-
trary is proved, that the amount claimed does not exceed the
amount of rent or other charge (exclusive of rates) due from the
occupier at the time of commencement of such proceedings.
(4) If an occupier of a flat has paid an amount in accordance with this section—

(a) that amount may, subject to the terms on which he occupies the flat, be deducted by him from the rent or other charge due in respect of his occupation of the flat; and

(b) any person, not being the owner, to whom such rent or other charge has been paid subject to such deduction, may in like manner as the occupier deduct such amount from the rent or other charge due from him in respect of the flat.

(5) Any deduction by an occupier or other person under subsection (4) shall operate as a discharge, to the extent of the amount so deducted, of his liability for the rent or other charge.

24. (1) Subject to the provisions of this section, the Distress for Rent—Rent Ordinance shall apply to an amount payable under section 22 or 23 as if the amount were rent payable to the corporation as landlord of the owner’s flat.

(2) A corporation may name as the defendant in any distress under this section “the person in occupation of” a flat, without specifying in the application or in the warrant the name of any person in occupation of the flat.

25. If an owner fails to pay any amount payable under section 22 within one month of the same becoming due and a registered mortgagee of the flat in respect of which the owner is in default has paid such amount on the owner’s behalf, such payment shall be recoverable by the registered mortgagee from the owner as if the amount of such payment formed part of the principal sum due under the registered mortgage of the flat.

26. A management committee shall, on the application of an owner, a registered mortgagee, an occupier, such other person as is referred to in paragraph (b) of subsection (4) of section 23 or a person authorized in writing in that behalf by such owner, registered mortgagee, occupier or other person, certify—

(a) the amount payable in accordance with section 22 by the owner;

(b) the extent to which such sum has been paid; and

(c) the name of the person by whom and the person on whose behalf such payment was made.

27. (1) A management committee shall maintain proper books of account and other records and shall prepare, not later than fifteen months after the date of registration of the corporation and thereafter at least once in every calendar year, an income
and expenditure account and a balance sheet which shall both be signed by the chairman of the management committee and laid before the corporation at the annual general meeting convened in accordance with sub-paragraph (1) of paragraph 1 of the Third Schedule.

(2) The management committee shall permit an owner, a registered mortgagee or any person authorized in writing in that behalf by an owner or registered mortgagee to inspect the books of account at any reasonable time.

(3) In the event of a contravention of subsection (1), every member of the management committee shall be guilty of an offence and shall be liable on conviction to a fine of two thousand dollars unless he proves—

(a) that the offence was committed without his consent or connivance; and

(b) that he exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances.

28. If a corporation has effected any policy of insurance in respect of the building or the common parts the management committee shall permit an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee, to inspect the policy of insurance and the receipt for the last premium in respect thereof at any reasonable time.

29. Subject to this Ordinance, the powers and duties conferred or imposed by this Ordinance on a corporation shall be exercised and performed on behalf of the corporation by the management committee.

PART V.

DISSOLUTION OF MANAGEMENT COMMITTEE AND APPOINTMENT OF ADMINISTRATOR.

30. (1) Subject to this section, the owners present at a meeting of the corporation convened under paragraph 1 of the Third Schedule may appoint an administrator and thereafter resolve that the management committee be dissolved.

(2) A resolution under subsection (1) shall have no effect until a copy thereof, certified as correct by the chairman of the meeting at which the resolution was passed, is lodged with the Land Officer within fourteen days after the date of the meeting.

(3) An administrator shall hold office from the date upon which a certified copy of the resolution referred to in subsection (1) is lodged with the Land Officer until—
Third Schedule.

(a) the owners present at a meeting of the corporation convened under paragraph 1 of the Third Schedule appoint—
   (i) another administrator; or
   (ii) a new management committee; or

(b) the court appoints an administrator under section 31.

Appointment of administrator by the court.

31. (1) The court may, upon application made to it by—
   (a) an owner;
   (b) a registered mortgagee of an owner’s flat;
   (c) an administrator; or
   (d) the Attorney General,

dissolve the management committee and appoint an administrator, or remove and replace an administrator, as the case may be.

   (2) The court may direct that an administrator appointed under subsection (1) shall hold office for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit, and the remuneration and expenses of the administrator shall be deemed to be part of the expenses of management of the building under this Ordinance.

Powers and duties of an administrator.

32. (1) An administrator shall have all the powers and duties of a management committee and of the chairman and secretary thereof.

   (2) An administrator shall, within seven days of the date of his appointment or the determination of his appointment, give notice thereof to the Land Officer in such form as the Land Officer may specify.

   (3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of one hundred dollars for each day during which the contravention continues.

PART VI.

WINDING UP OF CORPORATIONS.

33. (1) A corporation may be wound up under the provisions of Part X of the Companies Ordinance as if it were an unregistered company within the meaning of that Ordinance and the provisions of that Ordinance relating to the winding up of an unregistered company shall, in so far as they are applicable, apply to the winding up of a corporation.

   (2) In applying the provisions of the Companies Ordinance under subsection (1)—

   (a) a reference to a director of a company shall be deemed to be a reference to a member of a management committee; and
(b) a reference to a member of a company shall be deemed to be a reference to an owner.

34. In the winding up of a corporation under section 33, the owners shall be liable to contribute, according to their respective shares, to the assets of the corporation to an amount sufficient to discharge its debts and liabilities.

PART VII.

MISCELLANEOUS.

35. Any person who, not being a corporation incorporated under this Ordinance, uses a name or title containing the words "Incorporated Owners" or the Chinese characters therefor, or other words or Chinese characters implying that such person is a corporation incorporated under this Ordinance, shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars.

36. Any person who—
(a) in any form required by this Ordinance, or in any notice or document given, issued or made for the purposes of this Ordinance, makes any statement or furnishes any information; or
(b) furnishes any information required to be furnished under this Ordinance, which he knows, or reasonably ought to know, to be false in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for six months.

37. A resolution passed at any meeting convened under this Ordinance shall not be invalid by reason only of the omission to give notice of the meeting to any person entitled to such notice.

38. (1) The secretary of a management committee shall maintain a register, in which each flat in the building concerned shall be separately identified, and shall enter therein the following particulars with reference to each flat—
(a) the name and address of the owner; and
(b) the name and address of the registered mortgagee (if any).

(2) For the purposes of subsection (1)—
(a) the address of an owner shall be the address of the flat which he owns; and
(b) the address of a registered mortgagee shall be his address appearing in the registered mortgage,

unless the owner or registered mortgagee notifies the secretary of the management committee in writing of some other address.

(3) Every person who becomes an owner or a registered mortgagee of a flat shall forthwith give notice thereof to the secretary of the management committee, who shall amend the register accordingly.

(4) The register kept under subsection (1) shall, subject to any resolution of the corporation at a meeting convened under paragraph 1 of the Third Schedule, be open to inspection only by an owner and a registered mortgagee of a flat in the building concerned.

39. An owner’s share shall be determined—

(a) in the manner provided in an instrument which is registered in the Land Office; or

(b) if there is no such provision, then in the proportion which his undivided share in the building bears to the total number of shares into which the building is divided.

40. (1) A member of a management committee and any other person authorized in that behalf by the management committee may, on reasonable notice to the occupier thereof, enter a flat at any reasonable time for the purpose of—

(a) inspecting, repairing, maintaining or renewing—

(i) any common parts in the flat; or

(ii) any other property in the flat the condition of which does or may affect adversely the common parts or other owners;

(b) abating any hazard or nuisance which does or may adversely affect the common parts or other owners.

(2) A magistrate may, if satisfied by information on oath that it is necessary for any person to break into any flat which he is empowered to enter under subsection (1), by warrant authorize such person to break into the flat in the presence of a police officer.

(3) Any costs incurred by the management committee in connexion with the exercise by it of the powers conferred by subparagraph (ii) of paragraph (a) of subsection (1) or paragraph (b) of subsection (1) shall be recoverable by the corporation as a civil debt from the owner of the flat in respect of which such costs were incurred.
41. The Governor in Council may make regulations for any of the following matters—

(a) the fees payable in respect of the registration or filing of any documents submitted to the Land Officer under this Ordinance;

(b) the fees payable for the inspection or copying of any document so registered or filed;

(c) the fees payable for the issue of any certificate under this Ordinance;

(d) prescribing anything which is to be or may be prescribed under this Ordinance;

(e) the better carrying out of the purposes of this Ordinance.

42. The Governor may, by order published in the Gazette, amend the Second and Third Schedules.

43. Nothing in this Ordinance shall prevent an owner from selling, assigning, mortgaging, charging, leasing or otherwise disposing of or dealing with his undivided share in a building.

FIRST SCHEDULE. [s. 2.]

COMMON PARTS.

1. External walls and load bearing walls, foundations, columns, beams and other structural supports.

2. Walls enclosing passageways, corridors and staircases.

3. The roofs, chimneys, gables, gutters, lightning conductors, aerials and aerial cables.

4. Parapet walls, fences and boundary walls.

5. Vents serving two or more flats.

6. Water tanks, pumps, wells, sewers, drains, soil pipes, waste pipes, channels, water-courses, gutters, ducts, downpipes, cables, conduits, refuse chutes, hoppers and refuse container chambers.

7. Cellars, toilets, water closets, wash houses, bathhouses, kitchens and caretakers' flats.

8. Passageways, corridors, staircases, landings, light wells, staircase window frames and glazing, hatchways, roofways and outlets to the roofs and doors and gates giving access thereto.

9. Lifts, escalators, lift shafts and machinery and apparatus used in connexion therewith and the housing thereof.

10. Lighting apparatus, air conditioning apparatus, central heating apparatus, fire fighting equipment and installations intended for the use and benefit of all of the owners generally and any room or chamber in which such apparatus, equipment or installation is fitted or installed.

11. Fixtures situated in a flat which are used in connexion with the enjoyment of any other flat or other portion of the building.
SECOND SCHEDULE. [ss. 6 & 42.]

COMPOSITION AND PROCEDURE OF MANAGEMENT COMMITTEE.

1. The management committee shall consist of—
   (a) such number of persons as is specified in the deed of mutual covenant;
   (b) if there is no deed of mutual covenant or the deed does not specify the number of persons which shall constitute the management committee, not less than—
      (i) three persons if the building contains not more than twelve flats; or
      (ii) five persons if the building contains more than twelve flats.

2. The owners shall, at a meeting convened under section 3 or 4, appoint—
   (a) from amongst themselves, or in accordance with the deed of mutual covenant, the members of the management committee;
   (b) a chairman of the management committee, who shall be one of the persons appointed as a member of the management committee;
   (c) a secretary of the management committee who may, but need not be, one of the persons appointed as a member of the management committee.

3. Subject to section 14 and paragraph 4, the members of the management committee appointed at a meeting convened under section 3 or 4 shall hold office until a new management committee is appointed and assumes office at the second annual general meeting of the corporation.

4. (1) No person shall be appointed as a member of a management committee who—
   (a) has been declared bankrupt;
   (b) has entered into composition with his creditors;
   (c) has at any time been sentenced to imprisonment for six months or more.

   (2) A member of a management committee shall cease to be a member of the committee if he—
   (a) becomes disqualified for appointment as a member of a management committee under sub-paragraph (1);
   (b) becomes incapacitated by physical or mental illness;
   (c) absents himself from three or more consecutive meetings of the management committee without the consent of the management committee;
   (d) resigns his office, by notice in writing delivered to the secretary of the management committee;
   (e) ceases to be an owner, if appointed in his capacity as an owner, or ceases to be qualified to be a member according to the deed of mutual covenant; or
   (f) is removed from office by resolution of the corporation.

5. (1) At the second annual general meeting of a corporation convened in accordance with sub-paragraph (1)(b) of paragraph 1 of the Third Schedule and thereafter at every alternate annual general meeting, all members of the management committee shall retire from office.

   (2) At an annual general meeting of a corporation at which the management committee retires under sub-paragraph (1) the corporation shall, in accordance with this Ordinance, appoint—
      (a) a new management committee:
(b) a chairman of the management committee; and

c) a secretary of the management committee, if the office of secretary of
the management committee is vacant.

(3) Members of the management committee who retire under sub-paragraph
(1) shall be eligible for re-appointment under sub-paragraph (2).

6. (1) A casual vacancy occurring in a management committee may be
filled by the management committee.

(2) If a casual vacancy occurs in the office of the secretary of a management
committee, the management committee may appoint an owner or any other
person to fill the vacancy till the next annual general meeting.

7. A management committee shall, in addition to any meetings held
pursuant to section 15, meet at least once in every period of six months.

8. (1) A meeting of a management committee—

(a) may be convened at any time by the chairman; and

(b) shall be convened by the secretary, at the request of any two members
thereof, within fourteen days of receiving such request.

(2) Notice of a meeting of the management committee shall be sent by
post by the secretary to each member of the management committee at least
seven days before the date of the meeting and every such notice shall specify
the place, date and time of such meeting.

(3) If a management committee resolves that it shall meet at specified
intervals and the resolution specifies the place, dates or days and times of such
meetings, the secretary shall send a copy of such resolution, and a copy of any
subsequent resolution of the management committee affecting the same, to each
member of the management committee by post, and sub-paragraph (2) shall
not apply in the case of any such meeting.

9. The quorum necessary for the transaction of business at a meeting of a
management committee shall be fifty per cent of the members of the management
committee:

Provided that the quorum shall in no case be less than three.

10. (1) A meeting of a management committee shall be presided over by—

(a) the chairman; or

(b) in the absence of the chairman, a member appointed as chairman for
that meeting by the management committee.

(2) All acts, matters or things authorized or required to be done by the
management committee may be decided by a majority of those present and
voting at a meeting of the management committee.

(3) At a meeting of the management committee, each member present shall
have one vote on a question before the committee and if there is an equality
of votes the chairman shall have, in addition to a deliberative vote, a casting
vote.

(4) The secretary shall keep minutes of the proceedings at every meeting
of a management committee.

(5) Subject to this Ordinance, the procedure at meetings of a management
committee shall be as is determined by the management committee.
THIRD SCHEDULE.  [ss. 8(5) & 42.]

MEETINGS AND PROCEDURE OF CORPORATION.

1. (1) The management committee shall convene—
   (a) the first annual general meeting of a corporation not later than fifteen
       months after the date of the registration of the corporation;
   (b) an annual general meeting in every calendar year after the calendar
       year in which the first annual general meeting was held, and not later
       than fifteen months after the date of the previous annual general meeting;
   (c) a general meeting of the corporation at any time for such purposes as
       the management committee thinks fit.

   (2) The chairman of the management committee shall convene a general
       meeting of the corporation at the request of not less than five per cent of the
       owners for the purposes specified by such owners within fourteen days of
       receiving such request.

2. (1) Notice of a meeting convened under paragraph 1 shall be sent by
      the secretary of the management committee by post to each owner at least seven
      days before the date of the meeting.

      (2) Every notice referred to in sub-paragraph (1) shall specify—
           (a) the place, date and time of the meeting;
           (b) every resolution to be proposed or other matter to be discussed at the
               meeting.

3. (1) The chairman of the management committee appointed under
      paragraph 2 of the Second Schedule shall preside at a meeting of the corporation.

      (2) If the chairman of the management committee is absent the owners at
      a meeting shall appoint an owner as chairman for that meeting.

      (3) Subject to subsection (1) of section 10, all matters arising at a meeting
      of the corporation at which a quorum is present shall be decided by a majority
      of votes of the owners voting either personally or by proxy:

      Provided that if the deed of mutual covenant provides for any resolution
      requiring the affirmative vote of more than a simple majority of the owners
      present either personally or by proxy, the provisions of such deed of mutual
      covenant shall apply to any such resolution.

      (4) If there is an equality of votes the chairman shall have, in addition to
      a deliberative vote, a casting vote.

      (5) (a) At any meeting of the corporation each owner shall, subject to
            the provisions of any instrument registered in the Land Office and
            subject to sub-paragraph (6), have one vote in respect of each share
            which he owns.

            (b) If any share is jointly owned by two or more persons the vote in
                respect of that share may be cast—
                (i) by a proxy jointly appointed by the co-owners; or
                (ii) by one co-owner appointed by the others; or
                (iii) if no appointment has been made under (i) or (ii), either
                    personally or by proxy by the co-owner whose name stands first in
                    relation to that share in the register kept by the secretary of the
                    management committee under section 38.

      (6) If a registered mortgagee is in possession of an owner's flat, such
          mortgagee shall, to the exclusion of the owner, be entitled to exercise the voting
          rights of such owner.
(7) No resolution passed at any meeting of the corporation shall have effect unless the same was set forth in the notice sent to the owners in accordance with paragraph 2 or is ancillary or incidental to a resolution or other matter so set forth.

(8) Nothing in sub-paragraph (7) shall preclude the passing of a resolution as amended at a meeting of a corporation.

4. (1) At a meeting of the corporation the votes of owners may be given either personally or by proxy.

(2) The instrument appointing a proxy shall be in writing signed by the owner, or if the owner is a body corporate, under the seal of that body.

(3) The appointment of a proxy shall have no effect unless the instrument appointing the proxy is lodged with the secretary of the management committee not less than forty-eight hours before the time for the holding of the meeting at which the proxy proposes to vote, or within such lesser time as the chairman shall allow.

5. The quorum at a meeting of the corporation shall be—

(a) twenty per cent of the owners, in the case of a meeting at which a resolution for the dissolution of the management committee under section 30 is proposed; or

(b) ten per cent of the owners in any other case.