

# REPUBLIC OF VANUATU

## **BILL FOR THE STRATA TITLES ACT (AMENDMENT) ACT NO. OF 2017**

### **Explanatory Note**

This Bill amends the Strata Titles Act [CAP 266] to align the Act with the National Sub-division Policy. The vast majority of the amendments to the Act are to include in it provisions for the introduction of community plans to subdivide land into lots and common property. The amendments also limit strata plans to the creation of lots and common property in buildings.

Item 1 changes the title of the Act from “Strata Titles Act” to “Strata and Community Titles Act”.

Item 2 provides for matters necessary due to the amendment under item 1. The item changes all references under this Act to “Strata Titles Act [CAP 266]” to “Strata and Community Titles Act [CAP 266]”. The item further provides that all references to the “Strata Titles Act [CAP 266]” in any other Act or instrument are taken to be reference to the “Strata and Community Titles Act [CAP 266]”.

Item 3, 5, 9 and 14 amend several definitions and sections of the Strata Titles Act [CAP 266] by simply removing the word “strata” from all references of “strata plan” under these provisions. This allows those sections to operate on both community plans and strata plans as the word “plan” is now defined as meaning either a community plan or a strata plan.

Item 4 repeals the definition of “consent authority” and substitutes a new definition of “consent authority” which defines the consent authority as being the Land Management and Planning Committee established under section 8A of the Land Reform Act [CAP 123].

Item 6 inserts new definitions of new terms now being used under the Act.

Item 7 repeals paragraph (b) of the definition of strata plan and substitute with a new paragraph (b) as it is necessary given that the current definition does not read well.

Item 8 repeals sections 1A, 1B, 1C and 1D as they do not align with the new National Subdivision Policy.

Item 10 amends subsection 2(1) to clarify that reference to subdividing under this section means subdividing into lots.

Item 11 repeals subsections 2(1A) and 2(1B) and substitutes it with new subsections (1A), (1B), (1C) and (1D). Subsections 2(1A) and (1B) require the proprietor of a lot in a community plan who sells their lot to pay to the lessor a certain percentage of the money received from the sale. Subsection (1C) provides that the rate provided for under paragraph (1A)(a) for sale of a lot in a community plan within a rural area does not apply where the lessor and lessee have entered into other arrangements. Subsection (1D) further provides that the rate set out under subsection (1B) does not apply where the lot sold is located in a rural area and the lessor and lessee have entered into other arrangements.

Item 12 amends subsection 3(2) to correct a referencing error as well as to insert a new reference to paragraph 4A(3)(b) given that paragraph is to apply under subsection 3(2).

Item 13 inserts a new subsection 3(3A) providing for the matters that the consent authority must be satisfied of before issuing a certificate under section 4A(3)(b).

Item 15, 16 and 17 amends several paragraphs under section 4. These amendments are necessary as given that strata plan requirements are only concerned with matters relating to subdivision of lots and common property in buildings only and not land.

Item 18 provides for the requirements of a community plan.

Item 19 amends section 5 by rephrasing the section. This amendment is necessary as removing the word "strata" from the words "strata plan" would result in the section not reading well.

Items 20, 21 and 22 amends subsections 12(1) and 15(1) and paragraph 16(1)(a). These amendments are necessary to reflect the introduction of community titles under this Act.

Item 23 inserts paragraphs (ba) and (bb) after paragraph 27(b). These paragraphs provide that the Minister may make Regulations on matters relating to:

- (a) the powers of corporate bodies when dealing with the failure of a proprietor of a lot to pay contributions levied against the lot; and
- (b) the powers of Government when dealing with the failure of a body corporate in complying with its obligations under this Act.

Item 24 provides that the provisions of the Strata Titles Act [CAP 266] immediately before the commencement of this Act are to continue to apply as if this Act had not been enacted on the following:

- (a) a plan registered before the commencement of this amendment Act; and
- (b) a body corporate constituted in respect of any plan registered before the commencement of the this amendment Act.

**Minister of Lands and Natural Resources**



**REPUBLIC OF VANUATU**

**BILL FOR THE  
STRATA TITLES (AMENDMENT)  
ACT NO. OF 2017**

**Arrangement of Sections**

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# REPUBLIC OF VANUATU

## **BILL FOR THE STRATA TITLES (AMENDMENT) ACT NO. OF 2017**

An Act to amend the Strata Titles Act [CAP 266].

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The Strata Titles Act [CAP 266] is amended as set out in the Schedule and any other item in the Schedule has effect according to its terms.

### **2 Commencement**

This Act commences on the day on which it is published in the Gazette.

**SCHEDULE**  
**AMENDMENTS OF THE STRATA TITLES ACT [CAP**  
**266]**

**1 Title of the Act**

Delete "Strata Titles Act", substitute "Strata and Community Titles Act"

**2 Reference to "Strata Titles Act [CAP 266]"**

- (i) Delete "Strata Titles Act [CAP 266]" (wherever occurring), substitute "Strata and Community Titles Act [CAP 266]";
- (ii) A reference to "Strata Titles Act [CAP 266]" in any other Act or instrument is taken to be reference to the "Strata and Community Titles Act [CAP 266]"

**3 Section 1 (definition of "common property")**

- (i) Delete "strata";
- (ii) Delete "located"

**4 Section 1 (definition of "consent authority")**

Repeal the definition, substitute

““consent authority” means the Land Management and Planning Committee established under section 8A of the Land Reform Act [CAP 123];”

**5 Section 1 (definitions of "lessee", "lot", "parcel" and "special resolution")**

Delete "strata plan" (wherever occurring); substitute "plan"

**6 Section 1**

Insert the following definitions in their correct alphabetical positions:

““community plan” means a plan which:

- (a) is described in its title or heading as a community plan; and
- (b) shows the whole or any part of the land comprised in it as being divided into 2 or more lots of land and common property; and
- (c) complies with the requirements of section 4A,

and includes a plan of re-subdivision of any lots or common property in a community plan registered under this Act and any amendment of the community plan or plan of re-subdivision registered under this Act;

“plan” means a strata plan or a community plan;

“plan of resubdivision” means a:

- (a) strata plan of resubdivision of a lot in a strata plan; or
- (b) community plan of resubdivision of a lot in a community plan including the subdivision of a lot in a community plan into lots in a strata plan;”

**7 Section 1 (paragraph (b) of the definition of “strata plan”)**

Repeal the paragraph, substitute

“(b) shows the whole or any part of the building on the land comprised in it as being divided into lots and common property and may divide the building into strata; and”

**8 Sections 1A, 1B, 1C and 1D**

Repeal the sections.

**9 Sections 2, 3, 11, 13, 14, 19, 20, 25 and 27**

Delete “strata” (wherever occurring)

**10 Subsection 2(1)**

After “subdivided”, insert “into lots”

**11 Subsections 2(1A) and 2(1B)**

Repeal the subsections, substitute

“(1A) If the proprietor of a lot located in a community plan sells that lot:

- (a) in the case of a community plan located in a rural area - the proprietor must pay to the lessor, 10% of the difference in amount between:

SCHEDULE  
AMENDMENTS OF THE STRATA TITLES ACT [CAP 266]

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- (i) the unimproved market value of the land at the time it was purchased or the purchase price at the time it was purchased, whichever is lower; and
  - (ii) the unimproved market value of the land at the time of the present sale or the sale price at the time of present sale, whichever is lower; or
- (b) in the case of a community plan located in an urban area - the proprietor must pay to the lessor, 5% of the difference in amount between:
- (a) the unimproved market value of the land at the time it was purchased or the purchase price at the time it was purchased, whichever is lower; and
  - (b) the unimproved market value of the land at the time of the present sale or the sale price at the time of present sale, whichever is lower.
- (1B) Subject to subsection (1D), if a proprietor of a lot in a community plan (that has never been previously sold) sells that lot, the proprietor must pay to the lessor, 5% of the unimproved market value of the land at the time of the sale.
- (1C) Paragraph (1A)(a) does not apply where the lessor and lessee have entered into other arrangements.
- (1D) Subsection (1B) does not apply where:
- (a) the lot is located within a plan in a rural area; and
  - (b) the lessor and lessee have entered into other arrangements.”

**12 Subsection 3(2)**

Delete “section 4(3)(b)”, substitute “paragraph 4(3)(b) or 4A(3)(b)”

**13 After subsection 3(3)**

Insert

“(3A) The consent authority is to issue a certificate under paragraph 4A(3)(b), if it is satisfied that:

- (a) any consent required to be given under the provisions of the Physical Planning Act [CAP 193] or any other Act has been given; and
- (b) any conditions imposed by such consent and designated as conditions precedent to the subdivision of the land have been satisfied; and
- (c) separate occupation of the proposed lots will not contravene the provisions of the Physical Planning Act [CAP 193] or any other Act; and
- (d) any consent or approval required under the Physical Planning Act [CAP 193] or any other Act has been given in relation to the separate occupation of the proposed lots; and
- (e) the proposed subdivision of the land into lots for separate occupation and common property will not interfere with the existing or likely future amenity of the neighbourhood having regard to the circumstances of the proposal or with the public interest.”

**14 Part 3 – Heading**

Delete “strata”

**15 Paragraph 4(1)(a)**

Delete “any”, substitute “the”

**16 Paragraph 4(1)(d)**

Repeal the paragraph, substitute

- “(d) define the boundaries of each lot in the building by reference to floors, walls and ceilings, however it is not necessary to show any bearing or dimensions of a lot; and”

**17 Paragraph 4(1)(e)**

Delete “area”, substitute “floor area”



**18 After section 4**

Insert

**“4A Community plan requirements**

- (1) A community plan must:
- (a) outline the external boundaries of the land and the location of any building in relation to it; and
  - (b) include a statement containing such particulars as may be necessary to identify the title to that land; and
  - (c) include a drawing illustrating the lots and distinguishing those lots by number; and
  - (d) define the boundaries of each lot and the common property in the manner prescribed by the Regulations; and
  - (e) show the approximate area of each lot; and
  - (f) have endorsed upon it a schedule complying with the provisions of section 5; and
  - (g) have endorsed upon it the address at which documents may be served on the body corporate; and
  - (h) contain such other features as may be prescribed by the Regulations.
- (2) The common boundary of any lot with another lot or with common property is as stipulated on the community plan.
- (3) A community plan lodged for registration must be endorsed with or accompanied by a certificate:
- (a) of a surveyor that any building shown on the community plan is within the external surface boundaries of the land and where eaves or guttering project beyond such external boundaries, that an appropriate easement has been granted as an appurtenance of the land; and

- (b) of the consent authority that the proposed subdivision of the land as illustrated in the community plan, has been approved by the consent authority.
- (4) In addition to subsection (3), a plan must not be registered as a community plan unless the Surveyor General has first approved the drawing of the cadastral elements of that plan.”

**19 Sections 5**

Delete “Every plan lodged for registration as a strata plan or strata plan of resubdivision”, substitute “A plan or plan of resubdivision lodged for registration”

**20 Subsection 12(1)**

After “building”, insert “in a strata plan or in a strata plan of a resubdivision”

**21 Subsection 15(1)**

Repeal the subsection, substitute

“(1) The proprietor or proprietors become by virtue of this Act:

- (a) upon registration of the strata plan - a body corporate under the name “The Proprietors – Strata Plan No.” (the number to be specified is the number of the relevant registered strata plan); or
- (b) upon registration of the community plan - a body corporate under the name “The Proprietors – Community Plan No.” (the number to be specified is the number of the relevant registered community plan).”

**22 Paragraph 16(1)(a)**

After “building”, insert “in a strata plan or in the common property in the community plan”

**23 After paragraph 27(b)**

Insert

- (ba) matter relating to the powers of:
  - (i) the body corporate when dealing with failure of a proprietor of a lot to pay contributions levied against the lot; or

- (ii) the Government when dealing with failure of the body corporate in complying with its obligations under this Act”

**24 Transitional**

The provisions of the Strata Titles Act [CAP 266] in force immediately before the commencement of this Act are to continue to apply to:

- (a) a strata plan registered before the commencement of this Act; and
- (b) a body corporate constituted in respect of any strata plan registered before the commencement this Act,

as if this Act had not been enacted.