

NO. 21 OF 1987

SECTIONAL PROPERTIES ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. Sectional Properties Regulations, 1991.....	S7 – 39
2. Sectional Properties (By-laws of the Corporation) Regulations, 1991.....	S7 – 55

SECTIONAL PROPERTIES REGULATIONS, 1991

[L.N. 159/1991.]

1. These Regulations may be cited as the Sectional Properties Regulations, 1991.
2. A sectional plans register and a units register shall be in the form set out in the First and Fourth Schedules respectively.
3. A title deed for sectional property shall be in the form set out in the Second Schedule or in any other form the Registrar may specify.
4. The forms in the Third Schedule to the Registered Land Rules made under the Registered Land Act (Cap. 300), shall, subject to section 108 of that Act, be used with the necessary modifications, in all matters to which they refer.
5. All forms shall be clearly and legibly typed out in the English language.
6. Execution and verification of instruments under the Act shall be as specified under sections 109 and 110 of the Registered Land Act and the Rules made thereunder.
7. The fees to be paid for any procedure or function required or permitted to be done under the Act shall be as provided in the Registered Land Act and the Rules made thereunder.
8. All powers of attorney registered under the Registered Land Act shall be deemed to be powers registered under the Act where applicable.
9. (1) The Registrar shall keep a register of sectional plans and shall record in the register particulars of all the sectional plans registered pursuant to the Act.
(2) Every sectional plan referred to in paragraph (1) shall be allocated a progressive number and for the purpose of reference thereto in the register may be identified by that number.
(3) Every sectional plan referred to in paragraph (2) shall be numbered in accordance with section 18(3) and (4) of the Registered Land Act, as shown in the relevant form in the Third Schedule to these Regulations.
10. A plan presented for registration as a sectional plan, a sectional plan of sub-division or as a sectional plan of consolidation 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 Director of Surveys;
 - (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 are set out matters prescribed by section 9(1) (a), (b), (c), (e), (f), (g), (h) and (i) and (11) of the Act; and
 - (ii) further sheets containing such elevations, sections, plans diagrams and other information required by section 9(1)(d) of the Act.
11. The first sheet of the plan so presented for registration shall be signed by—
 - (a) a surveyor referred to in section 11(1)(a) of the Act and also as provided for in the Ninth Schedule of the Survey Regulations made under the Survey Act (Cap. 296), as shown in the relevant form in the Third Schedule to these Regulations;

Sectional Properties

[Subsidiary]

- (b) the appropriate person as referred to in section 11(2) of the Act;
- (c) the Local Authority as referred to in section 11(1)(b) of the Act; and
- (d) the owner of the property, and shall be based on fixed boundaries as provided in section 22 of the Registered Land Act.

12. (1) The sheets required by section 9(1)(b) and (d) of the Act shall respectively contain "Site and Building Location Plan" and "Floor Plan" and shall—

- (a) be drawn with the north point directed upwards and parallel to the sides of the sheets; and
- (b) be to a scale, selected from the standard scales tabulated in regulation 89 of the Survey Regulations which will allow all details and notations to be clearly shown.

(2) All words, letters, figures and symbols appearing on the sectional plan, shall, except where the Director of Surveys otherwise approves, be—

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

13. (1) Every floor plan of a sectional plan presented for registration shall illustrate the proposed units which shall be numbered consecutively commencing with unit 1 and terminating with a unit number to correspond to the total number of units comprised in 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.

(3) In a plan presented for registration as a sectional plan of sub-division 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.

14. (1) The schedule specifying the unit number, unit factor and the approximate floor area for each unit expressed in square metres, for the purposes of section 9(1)(f) and (g) of the Act shall be in the relevant form in the Third Schedule.

(2) To each unit there shall be assigned a unit factor as shown in the relevant form in the Third Schedule so that the total of the unit factors for all units in the parcel is equal to ten thousand.

15. (1) A site and building location plan presented for registration as a sectional plan or sectional plan of consolidation shall in addition to matters referred to in regulation 10(c)(i) set out—

- (a) abutting boundaries, co-ordinates of beacons, lengths and bearings of the external boundaries of the parcel as required by regulations 91 and 92 of the Survey Regulations;
- (b) the external limits of the building, the building dimensions and the tie measurements relating the building to the parcel boundary;
- (c) any subsisting assessment 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

Sectional Properties

[Subsidiary]

- (f) a legend to explain, among other items, the boundaries of the units, unit measurements, building locations and dimensions, as shown in the relevant form in the Third Schedule.

(2) Building dimension and tie measurements shall be recorded to 0.01 of a metre.

16. (1) Before registering a sectional plan of redivision of a unit or units, the Registrar shall cause to be—

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

(2) Before registering a sectional plan of consolidating of a unit or units, the Registrar shall cause to be—

- (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 redivided that the unit or units are consolidated.

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.

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

- (a) be numbered in a manner the Registrar considers proper; and
(b) be signed by the Registrar.

18. (1) A notice of a change in the by-laws of a corporation made pursuant to section 30 of the Act shall be in the relevant form in the Third Schedule.

(2) On receipt of a notice referred to in paragraph (1), the Registrar shall endorse on the relevant sectional plan register a notification which shall—

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

19. A certificate by a corporation given pursuant to section 42(5) of the Act shall be in the relevant form set out in the Third Schedule.

20. (1) On receipt of an instrument executed by a corporation pursuant to section 42, 44, 45, or 57 of the Act, the Registrar shall endorse on the relevant sectional plan register a memorandum stating the nature of the instrument.

(2) The memorandum shall—

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

21. (1) An institutional manager appointed pursuant to section 29(6) or (7) of the Act may file with the Registrar a certified copy of the order of the tribunal appointing him as institutional manager.

(2) A corporation may file with the Registrar a certified copy of an order of the court made pursuant to section 54 of the Act.

Sectional Properties

[Subsidiary]

(3) On receipt of a copy of an order referred to in paragraph (1) or (2), the Registrar shall endorse on the relevant sectional plan register a notification which shall—

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

22. (1) A notice of the termination of the sectional status of a building shall be in the relevant form in the Third Schedule.

(2) On receipt of a notice referred to in paragraph (1), the Registrar shall endorse 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 notification shall contain any other particulars the Registrar directs and shall be signed by the Registrar.

23. A certificate given by a corporation pursuant to sections 45(4) or 57(4) of the Act shall be in the relevant form set out in the Third Schedule.

24. Where a parcel is transferred by a corporation pursuant to section 57 of the Act, the Registrar shall—

- (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.

25. The certificate for the purposes of section 59 of the Act shall be in the relevant form set out in the Third Schedule.

26. The notice of change of address required by section 66 of the Act shall be in the relevant form set out in the Third Schedule.

27. The notice required to be filed by section 26(2) of the Act shall be in the relevant form set out in the Third Schedule.

FIRST SCHEDULE

[Regulation 2.]

SECTIONAL PLAN REGISTER

..... UNITS	
SECTIONAL PLAN NO.	
Edition	PART A – PROPERTY SECTION
Opened	Particulars of Sectional Property
Registration Section	Lessor
	Lessee
Parcel Number	Rent Term From
Approximate Area in Hectare(s)	Easements
Registry Index Map Sheet
	For Appurtenances See Registered Lease

Sectional Properties

[Subsidiary]

SECOND SCHEDULE

Form Y1

(r. 3)

TITLE DEED FOR SECTIONAL PROPERTY

Title Number
 Unit Number and one ten thousandth shares in the common property herein.
 Approximate Floor Area m²
 Sectional Plan Number

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 30 of the Registered Land Act (Cap. 300) as may for the time being subsist and affect the unit.

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

Land Registrar

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

Edition:		PART A – PROPERTY SECTION	
Opened:	Registration Section	Easements, etc.	Nature of Title
Unit Number and	One Ten Thousand Shares in the Common Property Therein		Absolute
Approximate Floor Area m ²		
Sectional Plan Number			

PART B – PROPRIETORSHIP SECTION

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

Sectional Properties

[Subsidiary]

THIRD SCHEDULE
[Regulations 9 and 11.]

Form SP1	(Section 9(1)(a)).
NUMBERING OF SECTIONAL PLANS	
<p>A plan presented for registration as a sectional plan, a sectional plan of redivision or as a sectional plan of consolidation shall be numbered in accordance with section 18(3) and (4) of the Registered Land Act. And the numbering shall take the following form:</p>	
<p>(a) SECTIONAL PLAN No. 1 of NAIROBI/BLOCK 753 in the format, the RLA title to the parcel is identified as required by section 9(1)(c) of the Act.</p>	
<p>(b) SECTIONAL REDIVISION PLAN No. 2 of NAIROBI/BLOCK 75/3/17 where 17 is the number of the unit in a building situated on parcel 3 in Nairobi Block 75.</p>	
<p>(c) SECTIONAL CONSOLIDATION PLAN No. 3 of NAIROBI/BLOCK 75/3/8 and 7. Similar numbering should apply to sectional plans relating to parcels in other Block or Registration Section.</p>	

SCHEDULE OF UNIT FACTORS AND AREAS

Form SP2	(Sections 9(1)(f) and (g))	
Unit Number	Unit Factor	Approximate Floor Area
Total	10,000	

Form SP3	(Section 9(1)(g))
DERIVATION OF UNIT FACTORS	
<p>There appears to be no prescribed formula for allocating unit factor or unit entitlement. Its determination may be based on unit floor area or on the selling price/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.</p> <p>Generally the method based on unit floor area is more commonly used and it is recommended that until such time as other considerations will come to play, we base our unit factor determination on floor areas of the units.</p> <p>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:</p>	
<p>Unit 1: $\frac{a}{\Sigma A} \times 10,000$</p> <p>Unit 2: $\frac{a}{\Sigma A} \times 10,000$ etc.</p>	

Sectional Properties

[Subsidiary]

THIRD SCHEDULE, FORM SP3—continued

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

Since $a/\Sigma A$ or $B/\Sigma A$ 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 unit factors - section 9(1)(g) of the Act.

Also since in a given situation ΣA is a constant, the sum of all the derived unit 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 unit factors necessitates accurate determination of unit floor areas based on precise measurements of unit boundaries.

Form SP4

(Section 30)

NOTICE OF CHANGE OF BY-LAWS

The Owners, Sectional Plan No. hereby certifies that by a special resolution passed on the by-laws of the corporation were added to, amended or repealed as follows:

(Set out terms of resolution)

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

Members of the Board

Form SP5

(Section 42(5))

CERTIFICATE OF CORPORATION

The Owners, Sectional Plan No. hereby certifies that the owners of the units in the sectional plan have by unanimous resolution, properly passed, directed the corporation to execute the instrument hereunder recited and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the corporation have consented in writing to the release of those interests in respect of the land comprised in the instrument* and the instrument conforms with the terms of that resolution.

† Instrument dated to of

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

Members of the Board

* If, in the case of a lease, interested parties have approved in writing of the execution of the lease but have not consented in writing to the release of their interests in respect of the demised land, delete the words "have consented in writing to the release of those interests in respect of the land comprised in the instrument" and substitute the words "have approved in writing of the instrument".

† Insert a description of the nature and date of the instrument, the names of the parties to it and a brief description of the land disposed of.

Sectional Properties

[Subsidiary]

THIRD SCHEDULE—continued

Form SP6

(Section 56(1))

NOTICE OF TERMINATION OF SECTIONAL STATUS

The Owners, Sectional Plan No. hereby certifies that the sectional status of the building has been terminated.

Annexed hereto is—

† a certified copy of the unanimous resolution of the owners pursuant to section 55(1) of the Sectional Properties Act.

*a certified copy of the order made by the High Court of Kenya pursuant to section 55(3) of the Sectional Properties Act, 1987.

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

Members of the Board

† delete as inappropriate.

Form SP7

(Sections 45(4) and 57(4))

CERTIFICATE OF CORPORATION

The Owners, Sectional Plan No. hereby certifies that the owners of the units in the sectional plan have, by unanimous resolution properly passed, directed the corporation to execute the instrument hereunder recited, and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the corporation have consented in writing to the release of those interests in respect of the land comprised in the instrument.

†Instrument dated to of

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

Members of the Board

† Insert a description of the nature and date of the instrument, the parties to it and a brief description of the land disposed of.

Form SP8

(Section 59)

CERTIFICATE VERIFYING COPIES OF A SECTIONAL PLAN

The Owners, Sectional Plan No. hereby certifies that the plans annexed hereto and marked and are true copies of a sectional plan, or an amendment to a sectional plan registered in the Land Registry on

Sectional Properties

[Subsidiary]

THIRD SCHEDULE, FORM SP10—continued

The members of the board are as of this date:

Name	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

Form SP11

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 exterior surface of exterior walls or you may draw an inset 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 8(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 (and/or all floor, wall and ceiling widths are derived from architect plans and are not confirmed by field measurements).
- 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 residential unit pursuant to section 43 of the Sectional Properties Act (and/or exclusive possession areas are common property and delineated thus and/or all carports are denoted C15 are 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 43 of the Act).

Form SP12

(Section 11)

SURVEYOR'S CERTIFICATES

I certify that:

(1) All the work performed in the field and in the office by my assistant, Mr. has been carried out under my personal direction, and I take full responsibility for all work as performed.

or

I, in person, made, and on the completed the survey

Sectional Properties

[Subsidiary]

THIRD SCHEDULE, FORM SP12—*continued*

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.

Letter No. of

- (2) The survey was performed between the dates of and 20..... and that this plan in true and correct, and is prepared in accordance with the provisions of the Sectional Properties Act
- (3) The building(s) situated on the parcel that is (are) the subject of this plan is (are) wholly within the external boundaries thereof (in case of encroachment, this statement will be varied accordingly); and
- (4) The Units shown on this plan are the same as those existing at the time of survey.

Signed

*Licensed Land Surveyor/
Government Land Surveyor*

FOURTH SCHEDULE
UNIT REGISTER (ABSOLUTE)
[Regulation 2.]

Edition:	PART A – PROPERTY SECTION				
Opened:					
Registration Section:		Nature of Title		Absolute	
Unit Number and Undivided One Ten Thousandth Shares in Common					
Property Therein					
Approximate Unit Floor Area M ²					
Original Parcel/Unit Number					
Sectional Plan Number					
PART B – PROPRIETORSHIP SECTION					
Entry Number	Date	Name of Registered Unit Owner	Address or Description of Registered Owner	Consideration and Remarks	Initials of Registrar
		First Registered Proprietor	Parcel Number	Unit Number	

SECTIONAL PROPERTIES (BY-LAWS OF THE CORPORATION) REGULATIONS, 1991

[L.N. 528/1991.]

1. These Regulations may be cited as the Sectional Properties (By-laws of the Corporation) Regulations, 1991.
2. For the purposes of section 30 of the Act, the by-laws set out in the Schedule hereto shall be deemed to be by-laws made by the Corporation to provide for the control, management and administration of the units, the movable and immovable property of the Corporation and the common property.

SCHEDULE

[Regulation 2.]

BY-LAWS OF THE CORPORATION

1. Interpretation

(1) In these by-laws—

“**Act**” means the Sectional Properties Act;

“**annual general meeting**” means an annual general meeting of the Corporation;

“**meeting**” means a meeting of the corporation.

(2) Expressions defined in section 3 of the Act have the same meaning in these by-laws.

(3) The unit factor in respect of 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.

(4) 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.

2. Duties of the owner

An owner shall—

- (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, repairing or replacing common property; or
 - (iv) ensuring that the by-laws are being observed;
- (b) forthwith carry out all work that may be required by the corporation pursuant to these by-laws or as required by a local authority or other public authority in respect of his unit, other than any work for the benefit of the building generally; and pay all rates, taxes charges and assessments that may be payable in respect of his unit;

Sectional Properties

[Subsidiary]

- (c) maintain his unit in a state of good repair;
- (d) notify the corporation forthwith 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 shall prior to making any such 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.

3. Powers of the corporation

- (1) The corporation may—
 - (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 it in the better performance of its duties or the exercise of its powers;
 - (c) secure the repayment of money borrowed by it and interest on that money by 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 it or by any combination of those means;
 - (d) grant a lease to an owner under section 42 of the Act;
 - (e) charge interest under section 34 of the Act on any contribution owing to it by an owner at such rate not exceeding the maximum rate of interest which specified banks (as defined by the Central Bank of Kenya Act (Cap. 491)) may charge for loans or advances as determined by the Central Bank of Kenya from time to time pursuant to section 39 of the Central Bank of Kenya Act, as may be fixed by resolution of the corporation in general meeting;
 - (f) make an agreement with an owner or tenant of a unit for the provision of amenities or services by it 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 under paragraph (4), 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

** amount to be determined by individual corporation.

Sectional Properties

[Subsidiary]

paid to the corporation by that owner or occupier under paragraph (g) including any interest that may have accrued in respect of that amount under paragraph (2)(a);

- (i) by agreement with a particular owner, grant him exclusive use and enjoyment of part of the common property or special privileges in respect of the common property or any part of it.
- (2) The corporation shall—
- (a) lodge every sum received under paragraph (1)(g) to the credit of an interest bearing account with a saving bank or building society and all interest accruing in respect of amounts so received shall, subject to paragraph (1)(h), be held on trust for the owner or occupier who made the payment;
 - (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 he 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 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 41 of the Act provide copies to such owner, chargee or authorized person.

4. Election of the Board

- (1) The board shall consist of not less than three and not more than eleven individuals.
- (2) Notwithstanding paragraph (1), if there are not more than six owners, the board may consist of one or more individuals not exceeding three in number.
- (3) An individual shall not be a member of the board unless that individual has attained the age of eighteen years.
- (4) In determining the number of owners for the purposes of this by-law and of by-law 5, 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.

5. Eligibility to sit on the Board

- (1) A person does not need to be an owner in order to be elected to the board.

Sectional Properties

[Subsidiary]

(2) Notwithstanding paragraph (1)—

- (a) if there are co-owners of a unit, one only of the co-owners shall be eligible to be, or to be elected to be a member of the board and the co-owner who is so eligible shall be nominated by his co-owners, but, if the co-owners fail to agree on a nominee the co-owner who owns the largest share of the unit shall be the nominee or if there is no co-owner who owns the largest share of the unit, the co-owner whose name appears first in the title deed for the unit shall be the nominee; and
- (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.

6. Voting

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.

7. Term of Office

(1) Subject to paragraph (2), a member of the board shall be elected at an annual general meeting for a term expiring at the conclusion of the annual general meeting convened in the second year following the year in which he was elected to the board.

(2) At the first meeting convened under section 27 of the Act—

- (a) not more than fifty per cent of the members of the board shall be elected for a term expiring at the conclusion of the annual general meeting convened in the year following the year in which they were elected; and
- (b) the balance of the members shall be elected for a term expiring at the conclusion of the annual general meeting convened in the second year following the year in which they were elected.

(3) Each member of the board shall remain in office until—

- (a) the office becomes vacant under by-law 9;
- (b) the member resigns;
- (c) the member is removed under by-law 8; or
- (d) his term of office expires,

whichever comes first.

8. Removal of a member of the Board

The corporation may by special resolution at a meeting remove a member of the board before the expiration of his term of office and appoint another individual in his place to hold that office for the remainder of the term.

9. Vacating of the office of a member of the Board

The office of a member of the board is vacated if the member—

- (a) becomes bankrupt under the Bankruptcy Act (Cap. 53);
- (b) is more than thirty days in arrears in payment of any contribution required to be made by him as an owner;
- (c) is the subject of a certificate of incapacity issued by a certified medical doctor;
- (d) is convicted of and is sentenced to imprisonment for an offence, not being an offence under the Traffic Act (Cap. 403);
- (e) resigns his office by serving notice in writing on the corporation; or

- (f) is absent from three consecutive meetings of the board without permission of the board and it is resolved at a subsequent meeting of the board that his office be vacated.

10. Vacancy

When a vacancy occurs on the board under by-law 9 the board may appoint an individual to fill that office for the remainder of the former member's term.

11. Officers of the Corporation

(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 chairman, vice-chairman, secretary and treasurer of the corporation.

(2) Notwithstanding paragraph (1) the board may designate one person to fill the office of secretary and treasurer.

(3) In addition to any other duties assigned to the officers by the board—

- (a) the chairman 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 at 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 chairman 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.

(4) A person ceases to be an officer of the corporation if he ceases to be a member of the board.

(5) If a person ceases to be an officer of the corporation, the board shall designate from its members a person to fill that office for the remainder of the term.

(6) 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.

[Subsidiary]

12. Majority vote and quorum of the Board

(1) At meetings of the board, all matters shall be determined by majority vote and in the event of a tie vote, the chairman is entitled to a casting vote in addition to his original vote.

(2) A quorum for a meeting of the board is a majority of the members of the board.

13. Written resolution

A written resolution of the board signed by all of the members of the board has the same effect as a resolution passed at a meeting of the board duly convened and held.

14. Seal of the corporation

(1) The corporation shall have a corporate seal that shall not be used except—

- (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 there are not more than two members of the corporation, one member may be authorized by the board to use the seal and sign the instrument to which the seal is affixed.

15. Signing authority

The board shall prescribe, by resolution—

- (a) those officers or other persons who are authorized to sign cheques, drafts, instruments and documents not required to be signed under the seal; and
- (b) the manner, if any, in which those cheques, drafts, instruments or other documents are to be signed.

16. Powers of the board

(1) The board shall—

- (a) meet at the request of the chairman to conduct its business and adjourn and otherwise regulate its meetings as it thinks fit; and
- (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.

(2) The board may employ on behalf of the corporation any agents and employees it thinks 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 or to the institutional manager any or all of its powers and duties as it thinks fit, and may at any time revoke that delegation.

17. Duties of the board

The board shall—

- (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 all reasonable times.

18. Procedure at meeting of the board

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

19. Meetings other than an annual general meeting

(1) The board—

- (a) shall, on the written request of the owners entitled to vote and who represent not less than fifteen per cent of the total factors for the unit, 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.

20. Notice of meeting

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

- (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 it 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 any meeting is not invalid by reason only that a person did not in fact receive a notice given under paragraph (1) in respect of that meeting.

21. Quorum at meeting of the corporation

(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 is present or represented by proxy, at the time when the meeting commences.

(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 20 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.

[Subsidiary]

22. Procedure at meeting of the corporation

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

(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 chairman;
- (b) calling of the roll and certifying of proxies;
- (c) proof of notice of meeting, waiver of proxies, as the case may be;
- (d) reading and disposal of any unapproved minutes;
- (e) reports of officers;
- (f) reports on committees;
- (g) election of members of the board;
- (h) unfinished business;
- (i) new business;
- (j) adjournment.

23. Voting

(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 chairman 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.

(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.

24. Number of votes

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

(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.

25. Votes at an annual general meeting or other meeting

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

26. Manner of voting

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

27. Appointment of proxy

An instrument appointing a proxy shall be in writing 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.

28. Restriction on voting

(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.

(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.

29. Vote by co-owners

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

- (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.

30. Signed resolution majority vote

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.

31. Capital replacement reserve fund

(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—

- (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.

32. Amendment of by-laws

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.

33. Restrictions in use

(1) In this by-law—

- (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;

Sectional Properties

[Subsidiary]

- (b) use his 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 unit for any purpose (illegal otherwise) which may be injurious to the reputation of the property;
- (d) make undue noise in his unit or on or about any immovable property 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) in the case of a residential unit, use his unit for a purpose other than for residential purposes;
- (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 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 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 was the 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) 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 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.

Sectional Properties

[Subsidiary]

FIRST SCHEDULE

[Sections 19, 30, 32 and 33.]

FEES TO BE PAID TO THE INSTITUTIONAL MANAGER

<i>Item</i>	<i>Sh.</i>
1. For a statement of the amount of any contribution due and payable in respect of a unit	300
2. For the particulars of—	
(a) any action commenced against the corporation and served on the corporation	300
(b) any unsatisfied judgement or order for which the corporation is liable	300
(c) any written demand made on the body corporate for an amount in excess of five thousand shillings which if not met, may result in an action against the corporation	300
3. For the particulars of or a copy of any substituting recreational agreement	200
4. For a copy of the by-laws of the corporation	200
5. For a copy of the budget of the corporation	200
6. For a copy of the financial statement of the corporation	200
7. For a copy of any minutes of proceedings of a meeting of the corporation or of the board	200
8. For working as an institutional manager per hour part thereof, but not payable for the production of any document or information referred to in Items one to seven of this schedule.....	300
9. For a copy of the policies of insurance placed by the developer or the corporation or institutional manager where such person has been appointed	200

SECOND SCHEDULE

[Section 29.]

Persons who may be appointed Institutional Manager. The following persons or firms may be appointed Institutional Managers—

1. An Accountant registered under the Accountants Act (Cap. 531) who has held a practising certificate for a period of not less than five years.
2. An accountancy firm that has had an office in Kenya for a period of not less than five years.
3. A person registered as an estate agent under the Estate Agents Act.
4. An Advocate of the High Court of Kenya.