

Apartment Ownership

A LAW TO PROVIDE FOR THE REGISTRATION OF MULTISTOREYED PROPERTIES, THE DIVISION THEREOF INTO INDEPENDENT UNITS WITH COMMON ELEMENTS APPURTENANT THERETO, TO ENABLE THE SEPARATE OWNERSHIP OF, AND DISPOSITION OF TITLES TO, SUCH UNITS, TO REPEAL THE CONDOMINIUM PROPERTY ACT, NO. 12 OF 1970, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the National State Assembly of the Republic of Sri Lanka as follows:-

- Short title. 1. This Law may be cited as the Apartment Ownership Law, No. 11 of 1973.
- Application of law. 2. This Law shall apply to property comprising land with a building or buildings of more than one storey and having more than one independent unit of residential or non-residential accommodation, hereinafter referred to as "Condominium Property".
- Application for registration for Condominium Plans. 3.
(1) Any person claiming to be an owner of any Condominium Property may make application to the Registrar for the registration of a Plan of the Condominium Property (hereinafter referred to as "Condominium Plan").
(2) Every person who, on the date of commencement of this Law, is the owner of a house or houses in excess of the permitted number of houses within the meaning of the Ceiling on Housing Property Law, No. 1 of 1973, shall, if any of the houses owned by him is a unit of a Condominium Property, make application to the Registrar, within six months of such date, for the registration of a Condominium Plan of such Property.
(3) Every person who, after the date of commencement of this Law, becomes the owner of a house or houses in excess of the permitted number of houses within the meaning of the Ceiling on Housing Property Law, No. 1 of 1973, shall, if any of the houses owned by him is a unit of a Condominium Property and if a Condominium Plan of such Property has not been registered under this Law, make application to the Registrar, within six months of becoming such owner, for the registration of a Condominium Plan of such Property.
(4) Every person who is the owner of a house in respect of which an application has been made under section 13 of the Ceiling on Housing Property Law, No. 1 of 1973, shall, if such house is a unit of a Condominium Property and if required to do so by the Commissioner for National Housing, make application to the Registrar, within three months of being so required, for the registration of a Condominium Plan of such Property.
(5) Every application for the registration of a Condominium Plan shall be accompanied by two copies of the Plan, one marked 'Original' and the other marked 'Duplicate'.
- Instrument affecting land. 4. A Condominium Plan or a Plan of re-division or amalgamation shall be deemed to be an instrument affecting land for the purposes of the Registration of Documents Ordinance.
- Condominium Plan. 5.
(1) The Condominium Plan shall comprise-
(i) a survey plan which shall be prepared and drawn by a licensed surveyor and shall-
(a) delineate the horizontal surface boundaries of the land and the location of the building in relation thereto;
(b) identify the units into which the building is divided and distinguish such

units by assessment numbers, numbers, or other symbols;

(c) specify the floor area of each unit, and define the boundaries of each unit by reference to floors, walls, ceiling or roof, the common boundary of any unit with another unit, or with the common elements, being the centre of the floor, wall or ceiling, as the case may be;

(d) define the common elements of the Condominium Property;

(e) bear an endorsement by the licensed surveyor preparing it to the effect that the building shown in the Plan is within the external horizontal boundaries of the land:

(f) have attached to it a certificate of a qualified architect or a qualified civil or structural engineer to the effect that the units shown therein are the same as those existing on the land; and

(ii) a declaration in the prescribed form which shall be made by the applicant and attested by a Notary Public and shall contain-

(a) a description, by reference to the survey plan, of the land on which the building is located and to which title is claimed, its boundaries, extent and situation specifying the Administrative District, Divisional Revenue Officer's division, village, ward, pattu, korale or other division or district in which the land is situated, and in case the land is situated in a town, the name, if any, of the street in which it is situated, together with the assessment number;

(b) the name and address of the owner or owners of the Condominium Property;

(c) the particulars of deeds, instruments or other documents and of other evidence of title relied upon by the applicant in support of the claim to title;

(d) a reference to the division, volume and folio in which the land is registered under the provisions of the Registration of Documents Ordinance and, if the land is not so registered, a declaration to the effect that the land is not so registered;

(e) the particulars of every encumbrance, lis pendens, seizure, order or decree affecting the land, to the knowledge of the applicant;

(f) a description of the building, stating the number of storeys and basements and the number of units;

(g) the number or other symbol identifying each unit and a statement of its location, floor area, number of rooms, any immediate common area to which it has access, and any other information for the purpose of identification, including corresponding information relating to an accessory unit, if any;

(h) a description of the common elements of the Condominium Property; (i) the percentage of the undivided share in common elements appurtenant to each unit;

(j) a statement of the purpose for which the building and each of the unit is intended and restricted as to its use;

(k) a statement that the survey plan referred to in paragraph (i) of subsection (1) and the certificates referred to in sub-paragraph (f) of the aforesaid paragraph (i) and in subsection (2) are attached therewith;

(l) any further details in connection with the Property which the applicant may deem desirable to set forth consistent with this Law;

(m) any other information which may be required by regulations made under this Law; and

(n) the signature of the owner or owners of the Condominium Property.

(2) A Condominium Plan tendered for registration shall be accompanied by a certificate from the local authority to the effect that the division of the

<p>Registration of Condominium Plans and Plans of re-division or amalgamation and appeals against refusals.</p>	<p>building into units as illustrated in the Plan is in accord with its by-laws and regulations.</p> <p>6.</p> <p>(1) Upon receipt of an application for the registration of a Condominium Plan or a Plan of redivision or amalgamation, the Registrar may register the Plan in the register of Condominium Property, which shall be in the prescribed form, if he is satisfied that such Plan conforms to the provisions of this Law and the regulations made thereunder.</p> <p>(2) A Condominium Property in respect of which a Condominium Plan is registered under subsection (1) is hereinafter referred to as a "registered Condominium Property."</p> <p>(3) Upon the registration of a Condominium Plan under subsection (1), the Registrar shall make appropriate cross references to connect the registration with any previous registration, under the Registration of Documents Ordinance, of a deed or instrument affecting the land referred to in the Plan and shall return the copy of the Plan marked ' Original ' to the person who tendered it for registration and file of record the copy marked ' Duplicate. '</p> <p>(4) The Registrar shall from time to time cause all copies of Plans filed of record to be bound in convenient volumes.</p> <p>(5) Where the Registrar refuses to register the Condominium Plan or a Plan of redivision or amalgamation or disallows an application made under section 8 (1), he shall comply with the provisions of section 37 of the Registration of Documents Ordinance.</p> <p>(6) An appeal shall lie from every order made by the Registrar refusing registration of a Condominium Plan or a Plan of redivision or amalgamation or disallowing an application made under section 8 (1), and the provisions of section 38 of the Registration of Documents Ordinance shall apply in relation to such appeal.</p>
<p>Volumes and registers kept by the Registrar under this Law.</p>	<p>7. Section 40 of the Registration of Documents Ordinance shall apply mutatis mutandis to volumes or registers kept by the Registrar under this Law.</p>
<p>Amendment of registered Condominium Plans and Plans of redivision or amalgamation.</p>	<p>8.</p> <p>(1) The owner of any unit of a registered Condominium Property may apply in writing to the Registrar for the amendment of the registered Condominium Plan or the registered Plan of redivision or amalgamation of such Property. Where the amendment involves alteration or addition to the survey plan comprised in the Condominium Plan or the Plan of redivision or amalgamation, an amended Plan certified by a qualified architect or qualified civil or structural engineer to the effect that the Plan conforms to the position existing on the land shall accompany the application for amendment.</p> <p>(2) Where the Registrar allows an application made under subsection (1), he shall make an appropriate entry embodying the amendment in the registered Condominium Plan or the registered Plan of redivision or amalgamation, as the case may be, and in the folio of the register of Condominium Property relevant thereto.</p>
<p>Effect of registration of Condominium Plan.</p>	<p>9.</p> <p>(1) Upon registration of a Condominium Plan, the building depicted therein shall be deemed to be divided into the units identified therein, and each such unit shall be deemed to have appurtenant thereto in undivided shares such proportion of the land and other common elements defined in the Condominium Plan as the floor area of the unit bears to the aggregate floor area of all the units comprised in the Plan.</p>

(2) Notwithstanding anything to the contrary in any other law, but subject to the provisions of this Law, after the registration of a Condominium Plan, any unit depicted therein together with the common elements appurtenant thereto may be held and dealt with in the same manner and form as any land.

(3) Upon registration of a Condominium Plan, each unit depicted therein together with the common elements appurtenant thereto shall be deemed to be absolutely owned by the person or persons described in the Plan as the owner or owners of the Condominium Property without prejudice to the right of any other person to obtain monetary compensation for any loss suffered as a result of any interest he had in the Condominium Property before such registration, being adversely affected.

Registration of deed or instrument affecting a unit.

10.

(1) No person acquiring an interest in any unit of a registered Condominium Property on a deed or instrument shall be entitled to such interest unless such deed or instrument is registered in the register of Condominium Property.

(2) Upon accepting for registration any such deed or instrument, the Registrar shall register same in the register of Condominium Property in the prescribed manner and make appropriate cross references to the relevant folios so as to connect such registration with the registration of the original Condominium Plan or a Plan of redivision or amalgamation, as the case may be.

Shares in common elements of the Property.

11. No share in the common elements of a registered Condominium Property shall be disposed of or otherwise dealt with except as appurtenant to a unit of such Property, and any alienation of any unit shall be deemed also to convey the undivided share of the owner in the common elements appertaining to that unit notwithstanding the fact that no specific or particular reference has been made thereto in the instrument or deed relating to such alienation.

Redivision or amalgamation of units.

12.

(1) Any owner or owners of units of a registered Condominium Property may, with the approval of the local authority, redivide or amalgamate his or their units by registering a Plan of redivision or amalgamation, relating to such units, in the manner provided by this Law for the registration of Condominium Plans.

(2) An application for amalgamation or redivision shall contain a declaration in the prescribed form made by the applicant which shall be attested by a Notary Public and shall contain-

(a) a description by reference to a survey plan, of the land on which the building is situated and its boundaries, extent and situation specifying the Administrative District, Divisional Revenue Officer's Division, village, ward, pattu, korale or other division or district in which the land is situated, and where the land is situated in a town, the name of the street in which it is situated, together with the assessment number;

(b) the particulars of deeds, instruments or other documents and of other evidence of title relied upon by the applicant in support of the claim to title of the unit;

(c) the particulars of every encumbrance, lis pendens, seizure, order or decree affecting the unit, if any;

(d) a reference to the division, volume and folio in which the original Condominium Plan, and where appropriate, any Plan of redivision or amalgamation, is previously registered;

(e) the name of the scheme and the number of the block, if any;

(f) the percentage of the undivided share in common elements appurtenant to the redivided or amalgamated unit;

- (g) a reference to the certificate of conformity from the local authority signifying approval of the proposed redivision or amalgamation (which certificate shall be attached to the declaration);
- (h) a reference to the survey plan (by a licensed surveyor) showing the redivision or amalgamation, such plan bearing a reference to the original Condominium Plan relating to the building containing the units proposed to be redivided or amalgamated; and
- (i) the full name, postal address and signature of the owners of the unit or units that are being redivided or amalgamated.

(3) Upon registering a Plan of redivision or amalgamation, the Registrar shall make appropriate cross references to the relevant folios so as to connect such registration with the registration of the original Condominium Plan and, where appropriate, any Plan of redivision or amalgamation previously registered.

(4) Upon the registration of a Condominium Plan of redivision or amalgamation-

- (a) the provisions of section 9 shall mutatis mutandis apply to each redivided unit or amalgamated unit; and
- (b) the units comprised therein shall be subject to the burden, and shall have the benefit, of any servitudes affecting such of the units in the original Condominium Plan as are included in the Plan of redivision or amalgamation.

Servitudes.

13. Upon the registration of a Condominium Plan-

- (a) the owner of each unit shall have a servitude in common with the owners of other units to use all pipes, ducts, cables, wires, conduits, public utility lines or other common elements located in other units and serving his unit;
- (b) the owner of each unit shall have a servitude for the continuance of any encroachment by his unit on any adjoining unit or on any common element, existing at the time of the registration of the Condominium Plan as a result of construction of the building, or which may come into existence thereafter as a result of settlement or shifting of the building or as a result of restoration of the building or such unit after damage caused by fire or other casualty, or as a result of compulsory acquisition under any written law, and such encroachment shall remain undisturbed as long as the building stands;
- (c) any person authorized in that behalf by the Common Amenities Board (hereinafter referred to as "the Board") shall have the right of access at all reasonable hours of the day to any unit of such property, if the provisions of the Common Amenities Board Law apply to such property, for the purpose of inspecting and making repairs to the common elements contained therein or elsewhere in the building or of preventing damage to the common elements or to other units or of preventing any violation of any written law applicable thereto or of correcting any condition which violates the provisions of any mortgage covering any other unit;
- (d) each unit shall be subject to a servitude in favour of the owners of the other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common elements serving such other units and located in such unit;
- (e) each unit shall be subject to a servitude in favour of any adjoining unit or common element for the continued maintenance of any encroachment of such adjoining unit or common element resulting from the construction of the building and existing at the time of registration of the Condominium Plan or which may come into existence thereafter by reason of settlement or shifting of the building, or as a result of repairs to or restoration of the building or such adjoining unit or common element after damage by fire or other casualty, or as a result of compulsory acquisition under any written law and any such encroachment shall remain undisturbed so long as the building stands;

(f) each unit shall have and shall be subject to all servitudes of necessity in favour of such unit or in favour of other units and the common elements.

The owner of each unit shall have a servitude for the exclusive use of such part of the common elements as is allocated to him in the Condominium Plan.

- Ancillary rights and obligations implied. 14. All ancillary rights and obligations reasonably necessary to make servitudes effective shall attach to servitudes conferred by this Law, including the right of an owner of a dominant tenement, with the permission of the Board, to enter a servient tenement and replace, renew or restore anything which the dominant tenement is entitled to benefit from.
- Management &c, by Common Amenities Board. 15. (1) Where-
(a) the owner or owners of not less than seventy-five per centum of the number of units of a registered Condominium Property make a request in writing to the effect that the provisions of the Common Amenities Board Law shall apply to such property; or
(b) the Board is ex mero moto of opinion that the control, administration, maintenance or management of the common elements of any registered Condominium Property is unsatisfactory,
the Board may exercise in relation to such Condominium Property the powers vested in it under the Common Amenities Board Law.
(2) Before the Board exercises the powers referred to in subsection (1), its intention to do so together with the reasons therefor shall be communicated to the party making the request, if any, and to the owner and occupier of every unit in the Condominium Property.
(3) An owner or occupier of a unit may appeal in writing, against the intention of the Board to exercise in relation to his unit, the powers referred to in subsection (1), to the Minister within fourteen days of the receipt by him of the communication under subsection (2), stating the grounds of such appeal.
(4) The exercise by the Board of the powers referred to in subsection (1) or in the event of an appeal, the decision of the Minister, shall not be questioned in any court or tribunal.
- Owners of units may form themselves into associations. 16. It shall be lawful for the owners of all units of a registered Condominium Property to form themselves into associations or bodies for the purpose of controlling, managing, maintaining or administering the common elements of such Property.
- Board may transfer the control maintenance, &c., of common elements to owners of units. 17. The Board may, on application made by the owner or owners of all the units of a registered Condominium Property in relation to which the Board exercises the powers vested in it under the Common Amenities Board Law, and if satisfied that such owner or owners are capable of properly controlling, maintaining, managing and administering the common elements of such Property, divest itself of its powers under the Common Amenities Board Law in relation to such Property and transfer to such owner or owners or to any association or body of such owners formed under section 16, the control, maintenance, management and administration of such common elements.
- Insurance. 18. The owners of all the units of a registered Condominium Property shall insure and keep insured the buildings in such Property against loss or damage by fire, civil commotion and riot and such other hazards as shall be prescribed and the premium or premia for such insurance shall be shared by all the owners of the Condominium Property in proportion to their respective interests: Provided however that the preceding provisions of this section shall not affect the right of the owner of any unit to insure his own unit for his own benefit and on his own account.

Duties of owners and occupiers.

19. The owner and occupier of a unit of a registered Condominium Property shall

- (a) permit the Board and its duly authorized agents at all reasonable times, to enter the unit for the purpose of inspecting the unit, and where the Board exercises the powers vested in It under the Common Amenities Board Law In relation to such Property, to enter the unit for the purpose of maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the unit and capable of being used for the benefit of any other unit or common elements of the Property or for the purpose of maintaining, repairing or renewing the common elements of the Property or for the purpose of satisfying as to the condition and safety of the common elements of the Property;
- (b) forthwith carry out all work that may be ordered by any public or local authority empowered by law so to order in respect of the unit, and pay all premia, rates, taxes, charges, outgoings and assessments that may be payable in respect of the unit;
- (c) repair and maintain the unit, and keep it in a state of good repair, reasonable wear and tear and damage by fire, storm, tempest or act of God excepted;
- (d) use and enjoy the common elements of the Property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by the occupier of any other unit (whether owner or not);
- (e) not permit or cause to be permitted the occupation of the unit by any number of persons in excess of the prescribed number;
- (f) not use the unit or permit it to be used in any manner or for any purpose that will cause a nuisance or hazard to the occupier of any other unit (whether owner or not);
- (g) not cause damage in any manner to the common elements of the Property and not make any structural alteration of such common elements without the written consent of the owners of all other units of such Property;
- (h) not use the unit for any illegal or immoral purpose or in any manner likely to be injurious to the health of the occupiers of the other units (whether owners or not);
- (i) not keep any animal or bird in the unit or in common parts of the Property, except with the express written consent of the chief occupiers of all the other units;
- (j) not make undue noise or create any other form of nuisance in or about any unit or the common elements of the Property; and
- (k) not use the unit or permit the unit to be used for any purpose other than that for which the unit is according to the Condominium Plan intended to be used.

Termination of Condominium.

20.

- (1) The District Court of the district in which a registered Condominium Property is situated may by declaration to that effect terminate the Condominium status of such Property in any of the following circumstances: –
 - (a) where an application is made for such termination to such Court by the owner or owners of all the units of the Condominium Property;
 - (b) where an application is made for such termination to such Court by the owner of any unit in the Condominium Property consequent on the building not being repaired or reconstructed within a reasonable time after there has been a total or substantial damage to, or destruction of, the building or part thereof;

(c) where, in the event of the building having become obsolete, the owners of not less than seventy-five per centum of the number of units agree not to renovate the building, and make an application for such termination to such Court.

(2) Where a unit is subject to a mortgage or is otherwise encumbered, the Court shall not entertain any application under subsection (1) unless the mortgagee or a person having any other interest in the unit is also made a party to such application, and the Court shall not allow the application unless such mortgagee or other person consents to such termination.

(3) The Court shall cause a copy of any declaration made under subsection (1) together with any conditions and directions attached thereto to be transmitted to the Registrar.

(4) Upon receipt of the copy of the declaration under subsection (3), the Registrar shall make a note thereof on the registered Condominium Plan and in the folio of the register of Condominium Property relating thereto, and upon such note being made the owners of the units described in the Plan shall be deemed to be co-owners of the Property in proportion to their respective interests.

offences and penalties.

21.

(1) Every person who contravenes or fails to comply with any provision of this Law or any regulation made thereunder or any order or direction lawfully given under this Law shall be guilty of an offence under this Law.

(2) Every person who is guilty of an offence under this Law shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a period not exceeding six months or a fine not exceeding one thousand rupees or to both such imprisonment and fine and if such offence is a continuing offence to an additional fine of one hundred rupees for each day on which the offence is continued after conviction.

(3) Notwithstanding anything to the contrary in any other law, every offence under this Law shall be a cognizable offence within the meaning and for the purposes of the Criminal Procedure Code.

(4) Where an offence under this Law is committed by a body of persons, whether corporate or unincorporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of such body of persons shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

Repeal.

22. The Condominium Property Act, No. 12 of 1970, is hereby repealed.

Provisions of Partition Act not to apply in certain cases.

23. The Partition Act shall not apply to any land or building comprised in any registered Condominium Plan.

Regulations.

24.

(1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before the National State Assembly for approval. Any regulation which is not so approved shall be deemed to be

rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

(5) Any regulation made by the Minister shall when approved by the National State Assembly be as valid and effectual as if it were herein enacted.

Notification of such approval shall be published in the Gazette.

This Law to prevail over other law.

25. The provisions of this Law shall have effect notwithstanding anything to the contrary contained in any other written law, and where there is any conflict or inconsistency between the provisions of this Law and such other law the provisions of this Law shall prevail over such other law.

Interpretation.

26. In this Law, unless the context otherwise requires-

” building ” means the building or buildings shown in the Condominium Plan;

” Common Amenities Board ” means the Common Amenities Board established under the Common Amenities Board Law;

” common elements “, in relation to a Condominium Property, means so much of the Condominium Property as is not comprised in any unit therein and includes-

(1) the land on which the building stands including the roads and accesses, drains and ditches, lanes, gardens, parks, playgrounds and other open spaces appurtenant to the Condominium Property;

(2) the foundations, columns, girders, beams, supports, main walls and roofs of the building;

(3) the halls, corridors, lobbies, stairs, stairways, fire escapes and entrances and exits of the building;

(4) the basements, yards, gardens, parking areas and storage spaces of the Condominium Property;

(5) the premises for the lodging of persons in charge of the Property including caretakers and watchers;

(6) installations for central services such as electricity, telephone, radio, rediffusion, air conditioning, garbage disposal and incineration;

(7) the lifts, escalators, tanks, pumps, motors, fans, compressors, ducts, and, in general, all apparatus and installations existing for common use;

(8) such community and commercial amenities as may be provided; and

(9) all other parts and facilities of the Property necessary for, or convenient to, its existence, maintenance and safety or normally in common use;

” encumbrance ” includes-

(i) a mortgage of the land or of any limited interest therein, whether arising by act of parties or by operation of law;

(ii) a lease of the land or any interest therein;

(iii) a servitude or restrictive covenant binding upon the land; and

(iv) an agreement to convey or re-convey the land or mortgage or lease the land;

” local authority “, in relation to a Condominium Property, means the local body of the area in which that Property is situated or any other authority empowered by law to approve building plans or whose approval for the construction of any building in that area is required by law;

” Plan of redivision or amalgamation ” means a Plan of redivision or amalgamation referred to in section 12;

” prescribed ” means prescribed by regulation made under this Law;

” public corporation ” means any corporation, board or other body which was

or is established by or under any written law, other than the Companies Ordinance, with capital wholly or partly provided by the Government by way of grant, loan or other form;

” Registrar ” means the Registrar of Lands appointed under the Registration of Documents Ordinance and having jurisdiction over the registration district in which the Condominium Property is situated;

” unit” means a permanently enclosed space designed for independent use consisting of one or more rooms (other than any room or rooms designed for occupation and use by- licensees) occupying the entirety or part of one or more floors in a building of more than one storey, provided that such enclosed space has a direct exit to a road or a common area leading to a road, and access cannot be had through it to any other enclosed space of like description, together with such accessory units as may be allocated to it according to the Condominium Plan for exclusive use by the occupier of the unit such as garage space, storage space, toilets, servants’ quarters, balcony or terrace.