



GUIDELINES ON THE FORMATION OF STRATA CORPORATION

PART I: FORMATION OF STRATA CORPORATION



1. INTRODUCTION

- 1.1 A Strata Corporation is constituted when the strata plan for the development is approved by the Surveyor General and certified by the Commissioner of Land.
- 1.2 The strata plan determines areas that fall within and outside of a unit. Generally, everything inside is owned by the strata owner and is under the strata owner's responsibility and on the other hand, area outside the unit are usually **common property** which the Strata Corporation is responsible to maintain and manage.

2. REQUIREMENTS

- 2.1 After the approval of the strata plan by the Surveyor General, the applicant has to submit **Form 1** (Refer to Annex 12A) under the First Schedule of Strata Act to apply for the certification of a strata plan with Commissioner of Land.
- 2.2 Application fee for the certification of strata plan shall be imposed.



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3. MECHANISM TO CERTIFY STRATA PLAN

3.1 The plan shall be certified by the Commissioner of Land by endorsing a **certificate in the prescribed form** (Refer to Annex 12B) on the strata plan, certifying that the subdivision into stratum estates is in accordance with the requirements and provisions of this Strata Act.

4. FORMATION OF STRATA CORPORATION

4.1 On the certification of a strata plan by the Commissioner of Land, the **original proprietor** of the lot to which the plan relates shall become a strata corporation.

4.2 Thereafter the proprietors for the time being of all the units comprised in the strata plan shall, by virtue of this Strata Act, be the strata corporation members and have a right to take part in the decision-making process at general meetings.





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5. FORMATION OF STRATA CORPORATION

5.1 The strata corporation shall have the designation “**Strata Corporation Number**”

(SC/EDR BD 59577/003/2016)

SC: Strata corporation

EDR BD: District Code

59577: Parent Lot number

003: Registration of strata corporation in running number

2016: Year of registration





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6. STRATA CORPORATION REGISTER BOOK

6.1 Information to be registered:

- 6.1.1 Registration number of strata corporation
- 6.1.2 Name of strata corporation
- 6.1.3 Date of certification of the strata plan
- 6.1.4 Total number of strata units
- 6.1.5 Strata plan number (i.e. **STBM15001-008**)
- 6.1.6 EDR number of the lot
- 6.1.7 Strata EDR
- 6.1.8 Name of the landowner
- 6.1.9 Postal address
- 6.1.10 Contact number
- 6.1.11 Remarks



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7. ISSUANCE OF CERTIFICATE FOR STRATA CORPORATION

- 7.1** The Commissioner of Land shall issue a certificate certifying that the strata corporation has been duly established under this Strata Act on the day when the first annual general meeting was convened with prescribed fee (Refer to www.land.gov.bn).
- 7.2** The strata corporation shall inform and register with the commissioner of land the name of the strata corporation within **14 calendar days** from the date of the first annual general meeting.



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PART II: INITIAL PERIOD



1. The initial period refers to the period from the day the strata corporation is established to the day when the first annual general meeting (AGM) is held. During this period, the developer is responsible to maintain and manage properly any building or land intended for subdivision and the common property.
2. It is important to note, no person shall at any time collect any charge, or contribution to the management fund and sinking fund from any purchaser for the maintenance and management purpose during the DLP period. Unless the developer opens a bank account in the name of the strata corporation and pay into the account all the money he has collected for the maintenance fund after the DLP period and keep proper books of accounts so that they can be conveniently and properly audited.



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3. RESTRICTIONS DURING THE INITIAL PERIOD

- 3.1. Amend, add or revoke the bye-laws.
- 3.2. Grant an easement such as allowing the pipes of another development to pass through or a restrictive covenant.
- 3.3. Execute a transfer of common property or confer exclusive rights.
- 3.4. Borrow money and give securities.
- 3.5. Appoint a managing agent to hold office beyond the initial period.

4. FIRST ANNUAL GENERAL MEETING (AGM)

- 4.1. **For existing building:** The first annual general meeting of the strata corporation shall be held **within 3 months** after the date of the certification of the strata plan by the Commissioner of Land or the **first sale of a unit**, whichever is the later.
- 4.2. **For new development:** The first annual general meeting of the strata corporation shall be held **within 12 months** after the date of the certification of the strata plan by the Commissioner of Land or within one month after the expiry of DLP period or of **the first sale of a unit**, whichever is the later.
- 4.3. The annual general meeting must be held at least **once in every calendar year** and **not more than 15 months** after the holding of the last preceding annual general meeting.



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- 4.4. It shall be the duty of the developer to conduct the first annual general meeting within the stipulated time frame.
- 4.5. Failure to comply with paragraph 4.4 commits an offence and shall, on conviction, be liable to a fine not exceeding **ten thousand Brunei dollars**.
- 4.6. The developer shall give written notice of the first annual general meeting to all strata proprietors **not less than 21 days** before the meeting, specifying the place, the date and the time of the meeting and the proposed agenda shall be given to all persons entitled to exercise a vote.





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5. AGENDA FOR THE FIRST ANNUAL GENERAL MEETING

5.1. The agenda for the first annual general meeting shall include the following matters:

5.1.1. To determine the number of members of the strata corporation and to elect strata corporation committee and to appoint the chairman and secretary of the strata corporation.

5.1.2. To determine the amount to be paid by a strata owner as the charges and contribution to the maintenance and sinking fund and to decide on the appointment of property manager and determine the service charges.

5.1.3. To determine the rate of interest payable by a strata owner in respect of any late payment of the charges, or contribution to the sinking fund by the strata owner including the annual strata tax of each strata unit.

5.1.4. To confirm the taking over of the strata corporation from the developer.

5.1.5. To make additional by-laws.

5.1.6. To consider any other matter connected with the maintenance and management of the common property.



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PART III: RULES AND REGULATIONS OF STRATA CORPORATION

1. STRATA CORPORATION TO BE BODY CORPORATE

- 1.1. The strata corporation shall be **capable of suing and being sued** in its corporate name and of doing and suffering all that bodies corporate may do and suffer.
- 1.2. The strata corporation may sue in respect of **damage or injury to the common property caused by any person**, whether that person is a **unit proprietor or not**.



2. COMPANIES ACT (CHAPTER 39)

- 2.1. Nothing in the Companies Act (Chapter 39) shall apply to a strata corporation established in accordance with this Strata Act.
- 2.2. Strata Corporation will only have to be registered with the Commissioner of Land.



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3. POWERS AND DUTIES OF STRATA CORPORATION

3.1. The strata corporation shall —

3.1.1. Subject to the provisions of this Strata Act, carry out any duties imposed on it by the Rules of the strata corporation.

3.1.2. **Insure and keep insured all buildings** and other improvements on the land to their replacement value including demolition costs and architect fees against fire, flood, explosion, wind, storm, hail, aircraft and other aerial devices dropped there from, impact, riot and civil commotion, malicious damage caused by burglars and others, and earthquake.

3.1.3. Effect such **other insurance** as it is required by law to effect or as it may consider expedient.

3.1.4. **Apply insurance money received by it in respect of damage to building or improvements in rebuilding** and reinstating the said building or improvements so far as the rebuilding or reinstatement may lawfully be effected. (Fire & public liability)

3.1.5. **Pay the premiums in respect of any policies** of insurance effected by it.

3.1.6. **Keep the common property** including any roof, external wall or other structure forming part of the common property in a state of good repair.



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4. MEMBERS OF A STRATA CORPORATION

- 4.1. Until the first annual general meeting of the strata corporation, the proprietors of all the units shall constitute the committee. The committee shall consist **not being fewer than three proprietors**, as is fixed from time to time by the strata corporation at an annual general meeting.
- 4.2. Where there are **more than three proprietors**, the powers and duties of the strata corporation shall be exercised and performed by a committee.
- 4.3. The members of the committee shall be elected at each annual general meeting, to hold office until the next annual general meeting.
- 4.4. The quorum necessary for the transaction of the business of the committee shall be **50% of the members or not less than 2** whichever is the greatest.



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5. ELIGIBILITY FOR VOTING

5.1. At any meeting of strata corporation or of the committee, a power of voting -

5.1.1. Shall not be exercised by any person who is **less than 18 years** of age.

5.1.2. Shall not be exercised by any person who is by any rule of law **incompetent** to deal with his property. For instance, unsound mind.



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6. VOTING AT MEETING

- 6.1. Where a unanimous resolution is required, each person who is a proprietor shall be entitled to exercise **one vote**.
- 6.2. In all other cases **one vote** only shall be exercised in respect of **each principal unit** and **no separate vote** may be exercised in respect of any accessory unit.
- 6.3. Any proprietor who at the time of voting is in **default** with respect to **service charges** shall **not be entitled to vote**.
- 6.4. Where the proprietor for the time being of any unit comprised in the strata plan transfers that unit to any other person, until the strata corporation is notified in writing of the transfer. The transferee shall not be entitled to exercise the voting rights at a general meeting unless **with the consent of the other proprietors** present at the meeting.
- 6.5. At meetings of the committee, all matters shall be determined by a **simple majority of votes**. In the case of equality of votes the **chairperson** for the time being of the meeting shall have a casting vote as well as a deliberative vote.



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7. DUTIES OF STRATA CORPORATION COMMITTEE

- 7.1. Keep minutes of the meeting.
- 7.2. Minutes to be kept of general meetings of the strata corporation and include therein a record of all unanimous resolutions.
- 7.3. The strata corporation must display a copy of the minutes of the general meeting on the common notice board, within **30 days** after the meeting and for a period of **at least 30 days**. A copy of the minutes may also be distributed to every proprietor by post or through electronic means.
- 7.4. The information recorded in the minutes of a general meeting must contain:
 - 7.4.1. Date, time and place of the meeting
 - 7.4.2. Names of proprietor present
 - 7.4.3. Names of proprietors who have appointed proxies
 - 7.4.4. Names of proxy present
 - 7.4.5. Results of the votes on every motion submitted at the general meeting
 - 7.4.6. Text of every resolution of the strata corporation made at the meeting



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8. GENERAL MEETING

- 8.1. All general meetings of the strata corporation other than annual general meetings shall be called **extraordinary general meetings**.
- 8.2. Every general meeting shall give not less than **7-day notice** of a meeting, specifying the reason for calling the meeting.
- 8.3. Any notice required to be given under paragraph 8.1 shall be sufficiently given if delivered personally to the person concerned or left or sent by letter posted to the person concerned, at the last address of that person notified to the strata corporation, or if no such address has been so notified at that person's last known place of residence, provided that, if a proprietor advises the strata corporation in writing that he requires notices sent to him by post to be sent by registered post, a notice thereafter sent to him by post shall not be sufficiently given unless it is sent by registered post.



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- 8.4.** If within half an hour from the time appointed for a general meeting of the strata corporation a quorum is not present, the meeting shall stand postponed to the same day in the next week at the same place and time and if the quorum is not present within half an hour from the time appointed for the meeting, the number of persons present and entitled to vote at the expiration of that time shall constitute a quorum.
- 8.5.** At a general meeting of the strata corporation, the chairman shall normally be the convener of the committee if he is present. If there is no convener or if the convener is not present or unwilling to act, a chairman shall be elected at the commencement of the meeting.





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9. OBLIGATIONS OF STRATA CORPORATION

- 9.1. The strata corporation shall keep a record of the Rules in force.
- 9.2. The strata corporation shall, on the application of a proprietor or a person authorized by a proprietor to apply, supply to him a copy of the Rules in force and may require him to pay a reasonable charge.
- 9.3. The Strata Corporation shall, on the application of any person who satisfies the strata corporation that he has a proper interest in so applying, make the Rules available for inspection.

10. SECRETARY

- 10.1. Where there are more than 3 proprietors, a secretary who may or may not be proprietor, shall be appointed by the strata corporation at its first annual general meeting for such term.
- 10.2. Preparing and distributing minutes of meeting
- 10.3. Carrying out all administrative and secretarial duties for the strata corporation.



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- 10.4.** The function of the secretary shall be **to keep proper books of account** which shall be kept full, true and complete accounts of the affairs and transactions of Strata Corporation and to carry out such other functions as may from time to time be delegated to him by the strata corporation.
- 10.5.** The secretary shall in each year **prepare a balance sheet** showing the Strata Corporation's financial dealings during that year and shall, **within 6 months after each annual general meeting**, send a copy of the latest balance.

11. COMMON SEAL

- 11.1.** The strata corporation shall have perpetual succession and a common seal.
- 11.2.** The common seal of the strata corporation shall not be used without the authority of the committee of the strata corporation previously given or of all affixed to any instrument, that instrument shall be attested **by at least 2 members of the committee.**



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12. MANAGEMENT AND SINKING FUNDS

12.1. The strata corporation shall —

- 12.1.1. Establish and **maintain a fund or funds** for administrative expenses sufficient in the opinion of the strata corporation for the control, management and administration of the common property.
- 12.1.2. The **management fund** is used to manage the **day-to-day** operational expenses, such as water and electricity charges for common areas, building and public liability insurance, repairs and maintenance of common areas.

13. SERVICE CHARGES

13.1. The strata corporation shall —

- 13.1.1. **Determine the service charges** to be levied for the purposes set out in paragraph (12.1.1). The amount of contribution towards the service charges is decided or reviewed at a general meeting of the strata corporation and be approved by the Commissioner of Land.



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- 13.1.2.** **Collect amounts** so determined by levying the service charges on the proprietors in **proportion to the unit entitlement** of their respective units.
- 13.1.3.** Recovery of service charges: Any service charge levied in accordance with the provisions of paragraph (13.1.2) shall be due and payable in accordance with the terms of the relevant determination; and so much of the amount as from time to time becomes payable may be recovered as a debt by the strata corporation in an action in any court.

14. INSURANCE

- 14.1.** The strata corporation shall —
- 14.1.1.** Be deemed to have an **insurable interest** in all the buildings and other improvements on the land.
- 14.1.2.** The strata corporation shall be responsible to insure the common property.
- 14.1.3.** The proprietors shall have **separate insurance on the individual units** in respect of any destructions or damages to the unit.



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15. RULES OF STRATA CORPORATION

- 15.1.** Except as otherwise provided by this Strata Act, the control, management administration, use and enjoyment of the units and the common property shown on a strata plan and the activities of the strata corporation that comprises the proprietors of those units shall, where there are more than one proprietor, be regulated by the Rules for the time being applicable to that strata corporation.
- 15.2.** Subject to any amendment, the Rules applicable to each strata corporation shall be those set out in the Second Schedule and Third Schedule of this Strata Act.
- 15.3.** The Rules in the Second Schedule may be amended, in relation to any Strata corporation, by unanimous resolution of the proprietors and not otherwise.
- 15.4.** The Rules in the Third Schedule may be amended, in relation to any strata corporation, by resolution of the strata corporation, at a general meeting.



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- 15.5.** Any amendment of any rule shall relate to the control, management, administration, use or enjoyment of the units or the common property, to the regulation of the strata corporation, or to the powers and duties of the strata corporation other than those conferred or imposed by this Strata Act.
- 15.6.** No amendment of any rule shall have effect until the strata corporation has Lodged a notification thereof in form 5 (Refer to annex 12C of this guideline) set out in the first Schedule in Strata Act with the commissioner and the Commissioner has recorded it appropriately on the supplementary record sheet.



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PART IV: BY-LAWS FOR RESIDENTS



1. BYE-LAWS OF STRATA CORPORATION

- 1.1. The strata corporation may make such by-laws as it may deem necessary or desirable from time to time in relation to the use, safety and cleanliness of the units and the common property and the conduct of the proprietors, lessees or occupiers who shall at all times observe and perform such by-laws.



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1.2. A proprietor, lessee or occupier of any unit shall not —

- 1.2.1.** Use or permit his unit to be used for any purpose which is illegal or may be injurious to the reputation of the building;
- 1.2.2.** Make undue noise in or about any unit or common property;
- 1.2.3.** Keep any animal on his unit or the common property without the prior consent of the committee of the strata corporation or if there is no committee, of the strata corporation;
- 1.2.4.** Use the common property in such a manner as unreasonably to interfere with the use and enjoyment of the common property by other proprietors, lessees or occupiers or their visitors, or allow any vehicle or thing or chattel belonging to him or to an invitee or agent of that person, to be placed or parked upon any part of the common property or do or permit to be done anything whereby any obstruction, restriction or hindrance may be caused to the common property or to persons lawfully using the same.
- 1.2.5.** Use his unit or permit it to be used in such manner or for such purpose as to cause a nuisance or disturbance to any proprietor, lessee or occupier of any other unit;



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- 1.2.6.** Paint the external portion of any unit without receiving the prior written consent of the strata corporation to such painting and the strata corporation's consent shall not be given to any colour or description which may constitute a detraction in any way from the general appearance of the building;
- 1.2.7.** Exhibit or put on any part of the outside of any building or on any unit or common property, any trade, business, professional or advertising sign, or any notice or name board or plate, without obtaining the prior written consent of the strata corporation, who may set down such rules as they deem expedient and appropriate in order that any such sign, notice, board or plate shall not constitute a detraction in any way from the general appearance of the building. Provided, however, that one sign identifying any unit and measuring no more than 50 centimeter and 30 centimeter square may be attached to the exterior of any unit without the consent of the strata corporation;
- 1.2.8.** Hold any auction sale in any part of the building or common property without the prior written approval of the strata corporation;
- 1.2.9.** Deposit or throw rubbish, dirt, trade waste material or other material anywhere except into bins or receptacles provided for this purpose and in accordance with directions given by the strata corporation from time to time and shall ensure that any refuse is securely wrapped;



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- 1.2.10.** Damage any lawn, gardens, trees, shrubs, plant or flower being part of or situated upon common property or use for his own purposes as a garden any portion of the common property except with the consent of the strata corporation;
- 1.2.11.** Mark, paint, drive nails or screws of the like, into or otherwise damage or deface any structure which forms part of the common property without the prior approval in writing of the strata corporation;
- 1.2.12.** Damage any lawn, gardens, trees, shrubs, plant or flower being part of or situated upon common property or use for his own purposes as a garden any portion of the common property except with the consent of the strata corporation;
- 1.2.13.** On the common property, use language or behave in a manner likely to cause offence or embarrassment to any other proprietor, lessee, or occupier or to any person lawfully using same.
- 1.2.14.** For the purpose of ensuring adequate and proper control and management of the units and of the common property at all times, every proprietor shall, when creating a lease or tenancy or other right of occupation in favour of some other person, ensure that a copy of the Rules of the body corporate is at all times available for perusal by any occupier of his unit.



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PART V: FACILITY / PROPERTY MANAGER



1. FACILITY / PROPERTY MANAGER

- 1.1. **Employ** for and **on behalf** of the strata corporation such assets and **servants** as it thinks fit in connection with the **control, management and administration of the common property** and the exercise and performance of the powers and duties of the strata corporation.
- 1.2. The strata corporation may enter into such contracts and other arrangements for the management of the strata corporation as it may consider necessary or desirable with **any person or company recognized by the Commissioner of Land** (Registered under BoVEA).
- 1.3. If the strata corporation decided to enter into such contract, it has to be informed to the Commissioner of Land.
- 1.4. The validity of each contract **shall not exceed 5 years**.



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PART VI: SETTLING OF DISPUTES



1. INTRODUCTION

- 1.1. Disputes are generally short-term disagreements that are relatively easy to resolve.
- 1.2. The nature of strata living often produces disputes and arguments as the tenants are living in close proximity to one another and sharing common areas such as staircases, driveways, lifts, swimming pool, playground, multipurpose hall and et cetera.
- 1.3. As a result, disputes may arise on issues such as noise, parking space, repairs, maintenance, bye-laws, breach of contracts and et cetera.



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2. TYPES OF DISPUTES

2.1. Between developer and strata corporation:

2.1.1. Disputes related to the first Annual General Meeting (AGM):

Failure of the developer to comply with the duties on part II of paragraph 4.1 or 4.2 of this guideline which is to form the strata committees and to hand over the power and duties in maintaining the common area to the strata committees.

2.2. Between strata owners and strata corporation:

2.2.1. Disputes related to repair and maintenance of the common area:

This issue may arise when the strata corporation fails to perform its duties in repairing and maintaining the common area in sufficiently good order and condition.

2.2.2. Disputes related to the maintenance fee and sinking fund:

Failure of strata owners to pay service charges to Strata Corporation on stipulated time frame. By law, any registered strata owner owes any money to the strata corporation, interest shall accrue in respect of so much of the debt as remains unpaid at such rate as strata corporation shall determine and be approved by the Commissioner of land.



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2.3. Among strata owners:

2.3.1. Disputes related to the enjoyment of the common area:

Unbearable noise in or about any unit or common property produce by other strata owners. Exposure to unwanted noise may cause sleep deprivation, annoyance and health issues.



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3. METHODS FOR RESOLVING DISPUTES

3.1. Negotiation: It is the most basic means of settling differences. It is back-and-forth communication between the parties of the conflict with the goal of trying to find a solution

3.1.1. By simply negotiating with other strata owners and find the best solution to any issues.

3.1.2. By practicing good neighborliness and adopting a 'give and take' attitude living in strata development.

3.2. Mediation: It is a voluntary process in which an impartial person (the mediator) helps with communication and promotes reconciliation between the parties which will allow them to reach a mutually acceptable agreement. Mediation often is the next step if negotiation proves unsuccessful.

3.2.1. To resolve any strata disputes, strata owners may access to the strata mediation service. Strata Corporation can set up their own internal dispute handling processes to deal with minor disputes. Issues can be considered, decided and actioned by the strata corporation. These include by-law breaches, inappropriate use of common property, issues with repair and et cetera.

3.2.2. The strata owners may seek advice from the Commissioner of Land in settling any unresolved disputes by the strata corporation mediation service.

**FIRST SCHEDULE
FORMS
Form 1**

Section 14

APPLICATION FOR CERTIFICATION OF A STRATA PLAN

To: The Commissioner of Lands

I/We of [Here state address and occupation] hereby certify that I am/we are the original proprietor(s) of the following lot or lots —

[Here state full description of the lot or lots, including the area and reference to extract from the register].

I/We attach the documents referred to in section 14(1) of the Land Code (Strata) Act.

AND I/We hereby apply for the certification of the attached plan as a strata plan under the provisions of the Land Code Strata Act.

DATED this..... day of.....

.....

Signature of Original Proprietor(s)

ANNEX 12B

Form 5
NOTICE OF CHANGE OF RULE

Section 47 (6)

To: The Commissioner of Lands

NOTICE IS HEREBY GIVEN that the Rules of Strata Corporation Numberwere on the day of duly amended in the manner set out in the First (and Second) Schedule(s) hereto —

AND IT IS HEREBY CERTIFIED that each of the amendments set out in the First Schedule hereto has been duly authorised and approved by a unanimous resolution of all the proprietors who together constitute the said strata corporation [and that each of the amendments set out in the Second Schedule hereto has been duly authorised and approved by resolution of the said strata corporation at a general meeting].

DATED at this day of

The common seal of Strata Corporation

Number was hereunto affixed in the presence of:

Witness:

Witness:

ANNEX 12C