

# INDEPENDENT STATE OF PAPUA NEW GUINEA.



No.        of 2020.

## *Land Registration (Strata Title) Bill 2020.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



An Act.

***Land Registration (Strata Title) Bill 2020,***

Being an Act to unify the law relating to the registration of strata titles, and for related purposes.

**PART 1 – PRELIMINARY**

**Section 1 – Name of Act**

This Act is the Land Registration (Strata Title) Bill 2020.

**Section 2 – Terms used in the Strata Title Act and Strata Title (Management) Act**

A term defined in the Strata Title Act 2020 or the Strata Title (Management) Act 2020 has the same meaning as in this Act.

**Section 3 – Relationship with Land Registration Act**

- (1) This Act is incorporated with the Land Registration Act 1981, and must be read as one with that Act.
- (2) A strata plan and any other document lodged with the Registrar of Titles under this Act is an instrument affecting land for the Land Registration Act 1981.
- (3) The following documents lodged with the Registrar of Titles under this Act or the Strata Title Act 2020 need not be attested by a witness (despite the Land Registration Act 1981, section 19):
  - (a) a document signed by the Minister;
  - (b) an office copy of a court order.

**Section 4 – Time of registration**

- (1) For the Land Registration Act and this Act, a strata plan is registered when the Registrar of Titles endorses the date of registration and the number allotted to it.
- (2) For the Land Registration Act and this Act, a document (other than a strata plan) lodged with the Registrar of Titles under this Act is registered when a memorial relating to the document is endorsed on or annexed to –
  - (a) the strata plan; and
  - (b) for a document relating to the cancellation or amendment of the strata plan – each affected lease.

**PART 2 – REGISTRATION OF STRATA PLANS**

**Section 5 – Formal requirements for strata plans**

General

- (1) One copy of each hard copy sheet, electronic image or data set containing a diagram must be of good quality and in accordance with format requirements approved by the Registrar of Titles.
- (2) The approved format requirements may include requirements about -

- (a) the following matters in relation to a hard copy sheet:
  - i) the size of a page;
  - ii) margin standards;
  - iii) alteration standards;
  - iv) the number of copies required;
  - v) the page numbering standards; and
- (b) the following matters in relation to an electronic image:
  - i) the size of the image;
  - ii) electronic formatting standards;
  - iii) alteration standards;
  - iv) page numbering standards; and
- (c) in relation to a data set—page numbering standards.

Requirements in relation to diagrams

- (3) Each diagram must be drawn to a scale sufficient to enable all details and notations to be clearly shown.
- (4) The scale to which a diagram is drawn must be expressed as a ratio combined with a graphic bar scale.
- (5) Each diagram must indicate, by an arrow or other appropriate means, the direction of North.
- (6) All linear measurements must be shown in metres and decimal fractions of a metre.
- (7) If necessary, a diagram may be started on 1 sheet and continued on a subsequent sheet and, in such a case, the diagrams must be so drawn that the complementary parts or lines on the several sheets show, when placed side by side, the complete diagram.

Numbering of units and unit subsidiaries

- (8) Units must be numbered consecutively, starting with the figure 1.
- (9) A unit subsidiary must be shown as having the same number as the unit to which it is appurtenant prefixed with the letter S.
- (10) If there are two or more unit subsidiaries appurtenant to a unit, each of those unit subsidiaries must be distinguished by the addition of a consecutive number in brackets starting with the figure (1), thus SI (1), SI (2) and so on.

**Section 6 – Registration of strata plan**

- (1) The Registrar of Titles must register a strata plan on the lodgement of all the following documents within 3 months after the day the plan is endorsed under the Strata Title Act 2020, section 36:
  - (a) an application;
  - (b) the number of copies of the endorsed strata plan (prepared in accordance with section 6) required by the Registrar of Titles;
  - (c) the duplicate lease of the parcel, or the duplicate certificate of title for the parcel;
  - (d) the written consent to the registration of the strata plan of everyone with a registered estate or interest in the lease of the parcel;
  - (e) a certificate issued by the Commissioner of Taxation certifying that –
    - i) no land rent or other amounts payable under the terms of the state lease are outstanding at the time the strata plan is to be registered; and
    - ii) no duty or other amounts assessed as payable under the Stamp Duties Act 1952 are outstanding at the time the strata plan is to be registered.
- (2) On registration of the strata plan, the Registrar of Titles must give 1 copy to the person on whose behalf the documents were lodged and 1 copy to the Department.

**Section 7 – Effect of registration of strata plan on interests in parcel**

- (1) If, immediately before the registration of a strata plan, a person was the registered proprietor of a mortgage of the lease of the parcel, the person is taken to be, on the registration of the strata plan, the registered proprietor of a mortgage of the lease of each unit, as if—
  - (a) on the date when the memorandum creating the firstmentioned mortgage was executed, the mortgagor had been the lessee of all the units and that memorandum had been executed by the mortgagor accordingly; and
  - (b) the firstmentioned mortgage had been a mortgage of all the leases of the units and not of the lease of the parcel.
- (2) If, immediately before the registration of a strata plan, a person was the registered proprietor of an easement over part of the parcel, the person is taken to be, on the registration of the strata plan, the registered proprietor of an easement over so much of the land comprised in the common property and each unit as was affected by the firstmentioned easement, as if—
  - (a) on the date when the memorandum creating the firstmentioned easement was executed, the lessee of the parcel on that date had been the lessee of the common property and the unit or units and that memorandum had been executed by the lessee accordingly; and
  - (b) the firstmentioned easement had been an easement over the common property or the unit or units and not over that part of the parcel.
- (3) On and after the registration of a strata plan, a memorandum of mortgage mentioned in subsection (1), a memorandum of easement mentioned in subsection (2) and any other document relating to the lease of the parcel, or to such a mortgage or easement, are taken to be modified to the extent necessary to give effect to those subsections.

**Section 8 - Easements (subdivision of dominant tenement)**

- (1) This section applies if—
  - (a) a strata plan is registered in relation to a parcel of land; and
  - (b) immediately before the registration, an easement subsisted for the benefit of the parcel.
- (2) On and after the registration, the easement continues to subsist, as far as it is capable of doing so, for the benefit of each unit in the strata plan.

**Section 9 – Duties of Registrar of Titles after strata plan registration**

- (1) Immediately after registration of a strata plan, the Registrar of Titles must—
  - (a) cancel the lease of the parcel and the duplicate lease, or the certificate of title of the parcel and the duplicate certificate; and
  - (b) issue a certificate of title for each unit to the lessee of the unit under the Strata Title Act 2020, section 39; and
  - (c) issue a certificate of title for the common property to the owners’ corporation; and
  - (d) enter on the certificate of title for the units a memorial of any mortgage or easement to which the lease is subject under section 8; and
  - (e) enter on the certificate of title for the common property a memorial of any easement to which the lease is subject under section 8; and
- (2) If there are 2 or more mortgages under subsection (1)(d), or 2 or more easements under subsection (1)(d) or (e), the memorials of the mortgages or easements must be entered so as to preserve their priority.

**PART 3 – REGISTRATION OF INTERESTS DECLARED BY OWNERS’ CORPORATION**

**DIVISION 1 OWNERS’ CORPORATION EASEMENTS**

**Section 10 – Registration of easement declared by owners’ corporation**

- (1) The Land Registration Act 1981, Part 9 applies to the registration of an easement declared by an owners’ corporation under the Strata Title Act 2020, section 43, subject to this section.

- (2) The lodgement of the following documents is required for the registration of the easement:
  - (a) a memorandum of easement in registrable form;
  - (b) a certificate under the Strata Title (Management) Act 2020, schedule 3, section 3.19 about the resolution if the corporation declaring the easement;
  - (c) a document giving evidence of the consent to the resolution of the owners' of the affected benefited and burdened estates.
- (3) If the certificate mentioned in subsection (2)(b) is endorsed by the owners' of the affected benefited and burdened estates, there is no need to lodge a separate document evidencing consent (under subsection (2)(c)).

#### **Section 11 – Extinguishment of easement declared by owners' corporation**

- (1) The lodgement of the following documents is required for the extinguishment of the easement:
  - (a) a memorandum of extinguishment of easement in registrable form;
  - (b) a certificate under the Strata Title (Management) Act 2020, schedule 3, section 3.19 about the resolution if the corporation revoking the easement;
  - (c) a document giving evidence of the consent to the resolution of the owners' of the affected benefited and burdened estates.
- (2) If the certificate mentioned in subsection (1)(b) is endorsed by the owners' of the affected benefited and burdened estates, there is no need to lodge a separate document evidencing consent (under subsection (1)(c)).

### **DIVISION 2 OWNERS' CORPORATION CHARGES**

#### **Section 12 – Registration of charge to secure unpaid amounts**

The lodgement of the following documents is required for the registration (under the Land Registration Act 1981, section 62) of a charge declared by an owners' corporation under the Strata Title (Management) Act 2020, section 92:

- (a) a memorandum of charge in registrable form;
- (b) a copy of the declaration, certified under the corporation seal to be a true copy.

#### **Section 13 – Registration of discharge**

The lodgement of the following documents is required for the registration (under the Land Registration Act 1981, section 77) of a discharge in relation to a charge the declaration of which is revoked under the Strata Title (Management) Act 2020, Section 93:

- (a) a discharge in registrable form;
- (b) a copy of the revocation, certified under the corporation's seal to be a true copy.

### **PART 4 – CANCELLATION AND AMENDMENT OF STRATA PLANS**

#### **Section 14 – Cancellation of strata plans (registration)**

The Registrar of Titles must register a cancellation authority or cancellation order on the lodgement of the authority or order while it is stated to remain in force.

#### **Section 15 – Effect of cancellation of strata plan**

- (1) This section applies if a lease is cancelled, and a new lease arises, under the Strata Title Act 2020, section 64 (Cancellation of strata plan – effects).
- (2) A relevant interest noted on the cancelled lease immediately before the registration of a cancellation authority or cancellation order, applies to the new lease in the same way as it applied to the cancelled lease.
- (3) On and after the registration of a cancellation authority or cancellation order, a relevant interest mentioned in subsection (2), a memorandum of easement mentioned in subsection (2) and any other document relating to the lease of the common property or the relevant unit or units, or to

such a mortgage or easement, are taken to be modified to the extent necessary to give effect to those subsections.

- (4) In this section “relevant interest” in a lease of a unit means a mortgage of the lease of a unit.

**Section 16 – Duties of Registrar of Titles on registration of order**

- (1) Immediately after the registration of a cancellation authority or cancellation order, the Registrar of Titles must—
  - (a) cancel the strata plan; and
  - (b) cancel the certificate of title for each unit and for the common property; and
  - (c) issue to a person who holds a share in the estate, or the entire estate, under the Strata Title Act 2020, section 65(1)(a) a certificate of title for that share or estate, subject to subsection (2); and
  - (d) enter on each folio of the register in relation to the new certificate of title, a memorial of any easement or relevant interest in the lease of the unit which applies to the lease under section 17 and, if the lease is subject to 2 or more relevant interests, enter the memorials in a way that preserves their priority.
- (2) The Registrar of Titles may, in his or her discretion, refuse to issue a certificate of title under subsection (1)(c) to the person who was the lessee of a unit until the duplicate copy of the certificate of title for that unit has been lodged with the Registrar of Titles.
- (3) Subsection (2) does not prevent the issue of a certificate of title if the Registrar of Titles has dispensed with, or has been ordered by the court to dispense with, the lodgement of the document mentioned in that subsection.
- (4) The registrar-general must cancel a certificate of title lodged under subsection (2).
- (5) In this section “relevant interest”, in a lease of a unit—see section 16(4).

**Section 17 – Amendment of strata plans (registration of authorities)**

- (1) The Registrar of Titles must register any of the following authorities for the amendment of a unit’s plan on the lodgement of the authority while it is stated to remain in force:
  - (a) an authority under the Strata Title Act 2020, section 32 (Amendment of development statements after registration);
  - (b) a unit entitlement authority;
  - (c) a boundary authority.
- (2) On the lodgement of an authority authorising the amendment of a strata plan, the Registrar of Titles may—
  - (a) if the boundaries are changed—require, in addition, the lodgement of any stated document or diagram showing the boundaries as so changed; and
  - (b) if the schedule of unit entitlement is amended—require, in addition, the lodgement of a copy of the schedule of unit entitlement as so amended; and
  - (c) register any such document, diagram or schedule accordingly.

**Section 18 – Registration of final building damage orders**

- (1) The Registrar of Titles must register a final building damage order of the Supreme Court for the amendment of a strata plan on lodgement of an office copy of the order.
- (2) On the lodgement of an office copy of the order, the Registrar of Titles may—
  - (a) if the boundaries are changed—require, in addition, the lodgement of any stated document or diagram showing the boundaries as so changed; and
  - (b) if the schedule of unit entitlement is amended—require, in addition, the lodgement of a copy of the schedule of unit entitlement as so amended; and
  - (c) register any such document, diagram or schedule accordingly.
- (3) On registration of the order, the Registrar of Titles must—
  - (a) cancel the certificate of title and the duplicate certificate of title for any unit authorised to be eliminated; and
  - (b) make any entries on the register necessary to give effect to the order.

**Section 19 – Notice of cancellation or amendment to Department**

Immediately after the registration of an authority or order for the cancellation or amendment of a strata plan, the Registrar of Titles must give written notice of registration to the Department.

**PART 5 – REISSUE OF STRATA PLANS**

**Section 20 – Reissue of strata plans**

- (1) If the Registrar of Titles considers it desirable, the Registrar of Titles may reissue a registered strata plan in substantively identical terms.
- (2) A reissued strata plan for a parcel is taken for all purposes to be the registered strata plan for the parcel.
- (3) The reissue of a strata plan does not have the effect of cancelling the previous registration of the plan.

**PART 6 – FORFEITURE AND EXPIRY OF LEASES**

**Section 21 – Registration of forfeiture of unit lease**

- (1) The Registrar of Titles, on proof to his or her satisfaction of the forfeiture of the lease of a unit, must—
  - (a) cancel the certificate of title for the unit; and
  - (b) enter on the relevant units plan a memorial of the forfeiture; and
  - (c) enter on the schedule of unit entitlement a memorial stating that it has effect in accordance with the Strata Title Act 2020, section 71 (Effect of forfeiture of unit lease).
- (2) The forfeiture does not release the lessee from any liability in relation to the breach of any covenant expressed or implied in the lease.

**Section 22 – Cancellation of memorials made under section 22**

On lodgement of a notice under the Strata Title Act 2020, section 72 (New unit lease), the Registrar of Titles must register the notice and –

- (a) enter on the strata plan and the schedule of unit entitlement further memorials cancelling the memorials entered under section 22; and
- (b) issue to the person named in the notice a certificate of title for the unit.

**Section 23 – Registrar of Titles to enter expiry of lease in register**

On the expiry of the terms of the leases of the units and the lease of the common property, the Registrar of Titles must cancel the strata plan and the certificates of title and duplicate certificates of title for the units and the common property.

**PART 7 – MISCELLANEOUS**

**Section 24 – Change of address for service**

The Registrar of Titles must register a change of address for service of an owners' corporation on lodgement of a notice of the change under the Strata Title (Management) Act 2020, section 118.

**Section 25 – Amendment of rules (registration)**

The registrar-general must register an amendment of the rules of an owners' corporation on the lodgement of a certificate under the Strata Title (Management) Act 2020, schedule 3, section 3.19 about the special resolution authorising the amendment.

**Section 26 – Appointment of administrator (registration)**

The Registrar of Titles must register an administration order of the Supreme Court under the Strata Title (Management) Act 2020, division 16 on the lodgement of an office copy of the order.

**Section 27 – Withdrawal of strata plan**

- (1) At any time after the lodgement with the Registrar of Titles of an application for the registration of a strata plan and before the strata plan is registered, the applicant may apply in writing to the Registrar of Titles for the withdrawal of the application for registration.
- (2) The Registrar of Titles must, on the receipt of an application under subsection (1), endorse the application for the registration of the strata plan as being withdrawn and give the applicant the documents lodged under section 7.

**Section 28 – Trusts**

- (1) If, immediately before the registration of a strata plan, the lessee of the parcel (the former lessee) held the lease as trustee, on registration of the strata plan the former lessee holds the leases of the units in trust for the people for whom, and the purposes for which, the lease of the parcel was held.
- (2) If, immediately before the registration of a cancellation authority or cancellation order, a unit owner (the former owner) held the lease of the unit as trustee, on registration of the authority or order the former owner holds the share of the estate (or the entire estate) held under the Strata Title Act 2020, section 65 (Cancellation of strata plan – new lease over parcel) in trust for the people for whom, and the purposes for which, the lease of the unit was held.

**Section 29 – Delivery to Registrar of Titles of certificates of title**

- (1) The Registrar of Titles may, by written notice, require a person having in his or her possession, custody or control the certificate of title for a unit the lease of which has been terminated to give it, within a time specified in the notice, to the Registrar of Titles for cancellation.
- (2) A person must not, without reasonable excuse, fail to comply with a requirement under subsection (1).