

19. Transfer or lease of common property

- (1) Except as otherwise provided in this section —
 - (a) no share in the common property may be disposed of except as appurtenant to the lot of the proprietor thereof; and
 - (b) an assurance of a lot operates to assure the share of the disposing party in the common property, without express reference thereto.
- (2) Subject to subsection (10), a strata company may, pursuant to a resolution without dissent (or unanimous resolution, in the case of a two-lot scheme) and where satisfied that all persons concerned have consented in writing to the transfer or lease, execute a transfer or lease of common property, other than common property the subject of a lease accepted or acquired by the strata company under section 18(1).
- (3) Subject to subsection (10), a strata company, pursuant to a resolution without dissent (or unanimous resolution, in the case of a two-lot scheme) and where satisfied that all persons concerned have consented in writing to the transfer, may, if not prevented by the terms of the lease, transfer a lease of common property accepted or acquired by the strata company under section 18(1) or grant, by way of sub-lease, a lease of its estate or interest in common property the subject of a lease so accepted or acquired.
- (4) A strata company may, if otherwise empowered so to do, re-enter under a lease, or, pursuant to a resolution without dissent (or unanimous resolution, in the case of a two-lot scheme), accept a surrender of a lease, granted under subsection (2) or (3).
- (5) Upon execution of a transfer or lease or sub-lease in accordance with subsection (2) or (3) —
 - (a) the transfer or lease or sub-lease is valid and effective without execution by any person having any estate or interest in the common property; and
 - (b) the receipt of the strata company —
 - (i) is a sufficient discharge for; and
 - (ii) exonerates the person taking under the transfer or lease or sub-lease from responsibility for the application of, the moneys expressed to have been received by it and is likewise a sufficient discharge and exoneration for all moneys payable to the strata company under the transfer or lease or sub-lease.
- (6) Every transfer or lease or sub-lease executed under subsection (2) or (3) shall be endorsed with or accompanied by a certificate under the seal of the strata company that the resolution referred to in the relevant subsection was duly passed and that all necessary consents were given.
- (7) In favour of —
 - (a) a purchaser or lessee of the common property; and
 - (b) the Registrar of Titles,

a certificate under subsection (6) is conclusive evidence of the facts stated in it.

- (8) The Registrar of Titles shall —
- (a) in the case of a transfer of common property under this section, register the transfer by creating and registering in the transferee's name a certificate of title for the land transferred, and no notification of the transfer shall be otherwise made in the Register; and
 - (b) in the case of a lease or sub-lease of common property under this section, register the lease or sub-lease in the manner prescribed.
- (9) Upon the lodging for registration of a transfer of common property, the Registrar of Titles shall, before creating and registering a certificate of title, amend the registered strata/survey-strata plan in the manner prescribed.
- (10) Subject to subsections (11), (12) and (13) —
- (a) a transfer or mortgage of the common property or part of the common property; or
 - (b) a lease or licence, or lease and licence, to use or occupy the common property or part of the common property, for any term or terms exceeding the prescribed period in the aggregate including an option to extend or renew the term of a lease or licence granted in respect of the common property or part thereof,

is not effective unless it has been approved in writing by the Commission and the local government.

- (11) Subsection (10) does not apply so as to require the approval of the Commission in the case of a subdivision of a parcel exempted from the requirement of a certificate of approval of the Commission by regulations made under section 25(2).
- (12) Subsection (10) does not apply to a by-law referred to in section 42(8), whether made before or after the commencement of section 15 of the *Strata Titles Amendment Act 1996*, and no such by-law shall be called in question for non-compliance with that subsection.
- (13) Subsection (10) does not apply to anything done under Division 2A of Part II or Division 3 of Part III.

[Section 19 amended by No. 84 of 1994 s. 46; No. 58 of 1995 s. 21, 92 and 95; No. 14 of 1996 s. 4; No. 61 of 1996 s. 15; No. 81 of 1996 s. 153(1).]