

SAMOA

Arrangement of Provisions

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2014, No. 12

AN ACT to amend the Unit Titles Act 2009 (“principal Act”).
[7th April 2014]

BE IT ENACTED by the Legislative Assembly of Samoa in
Parliament assembled as follows:

1. Short title and commencement-(1) This Act may be cited as the Unit Titles Amendment Act 2014.

(2) This Act commences on the date the principal Act commences.

2. Long title amended - In the long title of the principal Act, for “the issue of computer folio certificates of title” substitute “creation of folios of the Register”.

3. Section 2 amended - In section 2 of the principal Act:

(a) insert the following definitions in their correct alphabetical order:

““approval” means approval by the Chief Executive Officer pursuant to the Survey Act 2010;

“licensed valuer” has the meaning given to it under the Land Valuation Act 2010;”;

(b) repeal the whole definitions of “recognised valuer” and “supplementary record sheet”; and

(c) in the definition of “unit plan” for “deposited” substitute “approved”.

4. Section 5 amended - In section 5 of the principal Act:

(a) for subsection (1), substitute:

“5. Subdivision effected when plan approved-(1) The subdivision of land so as to provide for units shall be effected by approval under the Survey Act 2010 of a plan that:

(a) specifies the units in relation to the building on the land; and

(b) complies with the Survey Act 2010; and

(c) complies with any other requirements as may be determined from time to time by the Chief Executive Officer, or required by the Chief Executive Officer in relation to any particular unit plan.”; and

(b) for subsection (5), substitute:

“(5) When a unit is leased, mortgaged, settled or otherwise dealt with, it must be described in the instrument evidencing the transaction as Unit No... in Unit Plan No....”.

5. Section 6 substituted - For section 6 of the principal Act, substitute:

“6. Restriction on approval of plan-(1) Subject to subsection (2), the Chief Executive Officer may approve a unit plan under the Survey Act 2010 if:

- (a) the land to which the plan relates is held in one folio of the Register; and
- (b) the land to which the plan relates is the whole of the land in a folio of the Register; and
- (c) written consent (either personally or by an agent duly authorised in writing, to the plan being deposited) has been given by any or all of the following -
 - (i) for leased land, the lessor; or
 - (ii) the registered proprietor of any mortgage or charge affecting the land or part of it; or
 - (iii) any caveator whose caveat against the land was lodged with the Registrar before the application for approval of the plan; and
- (d) the development consent for the unit plan has been issued under the Planning and Urban Management Act 2004; and
- (e) the Ministry responsible for Public Works, has certified that the building shown on the unit plan has been erected in accordance with the Regulations and Building Code under the Ministry of Works Act 2002.

(2) Subsection (1)(a) and (b) does not prevent a plan being approved where one folio of the Register can properly be issued for the land to which the plan relates.

(3) The approval of the Chief Executive Officer, when endorsed on a unit plan, shall have effect to:

- (a) approve, for the purposes of the survey provisions of the Survey Act 2010 and Part III of the Lands, Surveys and Environment Act 1989 (as the case requires), survey definitions incorporated in the plan; and
- (b) approve, for the purposes of this Act and the Land Titles Registration Act 2008, the definitions of all the units and common property shown on the plan; and
- (c) render the plan the property of the Government.”.

6. Section 7 substituted - For section 7 of the principal Act, substitute:

“**7. Relationship with other Acts** - Nothing in this Act derogates from the Ministry of Works Act 2002 or the Planning and Urban Management Act 2004.”.

7. Section 8 amended - In section 8(2) of the principal Act, for “deposited” substitute “approved”.

8. Section 9 amended - In section 9 of the principal Act:

- (a) in subsection (1), for “deposit” substitute “approval”;
- and
- (b) for subsection (2) substitute:

“(2) An easement or restriction referred to in subsection (1) is to be noted on the folio of the Register for the common property and, in the case of an easement to which the land is subject, the easement is to be shown on the unit plan.”.

9. Section 10 amended - For section 10(1) and (2) of the principal Act substitute:

“(1) On the approval of a unit plan, the Registrar shall cancel the existing folio of the Register for the land and create a new folio of the Register for each unit estate, either in freehold or leasehold, in all of the units shown in the unit plan.

(2) The Registrar shall enter a memorial of:

(a) all unsatisfied mortgages, leases and other estates and interests, outstanding or otherwise, together with any caution, caveat or writ, to which the land is subject at the time of approval of the unit plan; and

(b) in the case of a minor or a person under any other legal disability holding the unit estates of any units shown on the unit plan, state the particulars of that disability so far as the Registrar has notice or knowledge of it,

in the relevant folio or folios of the Register for the units, in such manner as to preserve their priority.”.

10. Section 11 substituted - For section 11 of the principal Act substitute:

“**11. Common Property**-(1) Upon the approval of a unit plan, a common property in the plan vests in the body corporate for the estate or interest in the land the subject of that plan, subject to any caution, but freed and discharged from any mortgage, charge, lease, writ, caveat or other dealing affecting that land immediately before registration of the plan.

(2) The Registrar shall create a folio of the Register for the estate or interest of the body corporate in any common property in the unit plan.

(3) The proprietors of all the units are beneficially entitled to the common property as tenants in common in shares proportional to the unit entitlement in their respective units.

(4) Nothing in subsection (3) affects the interests among themselves of the proprietors of the unit estate in an individual unit.

(5) While the same person can be the proprietor of more than one unit, subsection (3) applies as if there were a different proprietor of each unit.

(6) The body corporate may:

(a) sell or lease part of the common property; or

(b) grant an easement over the common property or part of it.”.

11. Section 12 amended - For section 12(3) of the principal Act substitute:

“(3) If the folio of the Register for a principal unit includes an accessory unit, an interest in that principal unit, shall not be sold, leased, mortgaged or otherwise dealt with except in a disposition, or dealing which includes the accessory unit or a corresponding interest in the accessory unit.”.

12. Section 14 amended - In section 14 of the principal Act:
(a) for subsection (1) substitute:

“(1) On the approval of a unit plan, a body corporate is created and is the body corporate for the unit title scheme created by the approval of that unit plan.”.

(b) in subsection (2), for “deposit” substitute “approval”.

13. Section 20 amended - In section 20 of the principal Act:

(a) in subsection (1), for “deposited under the Land Titles Registration Act 2008” substitute “deposited under the Survey Act 2010”; and

(b) for subsection (3) substitute:

“(3) The Registrar shall register a transfer to which subsection (1) applies by entering an appropriate memorial relating to the transfer on the folio of the Register for the common property.”.

14. Section 21 amended - In section 21 of the principal Act:

(a) for subsection (1) substitute:

“(1) Land which is transferred, free from any registered mortgage, charge, lease, or sublease or any other dealing to the body corporate of a unit plan, may be included in the subdivision to which the unit plan relates as part of the common property if the transfer contains, or has endorsed on the plan or annexed to it, a request by the body corporate that purports to be given under any unanimous resolution of the body corporate so to do, and:

- (a) if a unit estate in freehold exists in the units shown on the plan, the transfer is of an estate in fee simple in the land to which it relates; or
- (b) if a unit estate in leasehold exists in the units shown on the plan, the transfer is of an estate as lessee from the lessor of the land already included in the subdivision under a lease for the remaining period, on the same terms and conditions (other than the amount of rent), and containing the same provisions as the current lease of the land already included in the subdivision.”; and

(b) for subsection (3)(c) substitute:

- “(c) if a transfer has been made under subsection (2), have endorsed on the plan an amended schedule of unit entitlements assigned under section 8(1).”; and

(c) for subsection (5) substitute:

“(5) The Registrar shall register a transfer under subsection (1) or (2) by:

- (a) entering a memorial on the existing folio of the Register for the land the subject of the transfer and then cancelling that folio; and
- (b) entering a memorial on the folio of the Register for the common property regarding the transfer; and
- (c) entering a memorial on the folio of the register for the common property regarding any easement that is appurtenant to the land transferred or to which the land is subject.”.

15. Section 22 amended - In section 22 of the principal Act:

- (a) repeal subsections (1) and (2); and
- (b) in subsection (3)(c), for “computer folio certificate” substitute “folio of the Register”; and
- (c) for subsection (4) substitute:

“(4) The Registrar shall, when issuing a copy of a previous unit plan, indicate on the copy the number under which that previous unit plan has been re-filed.”.

16. Section 23 repealed - Section 23 of the principal Act is repealed.

17. Section 32 amended - In section 32(3) of the principal Act:
(a) for “prescribed form” substitute “approved form”; and
(b) for paragraphs (d) and (e) substitute:

“(d) cancel the folios of the register for each of the units and common property; and
(e) enter a memorial of the expiry of the term on the lease and its counterpart and on the lessor’s folio of the Register.”.

18. Section 34 amended - For section 34(4) of the principal Act substitute:

“(4) On the deposit of a declaration under subsection (1) or (2)(b), if the Registrar is satisfied that the unit estates in leasehold in all of the units shown on the plan have merged under the provisions of this section with the reversionary estate in the land, the Registrar shall:

(a) cancel the folios of the Register for the unit estate in leasehold in each of the units and the common property; and
(b) create folios of the Register for the unit estate in freehold in each unit to the person entitled to it under subsection (3); and
(c) create a folio of the register in freehold for the common property; and
(d) cancel the lease; and
(e) cancel the lessor’s folio of the Register.”.

19. Section 40 amended - In section 40 of the principal Act, for “prescribed form” substitute “approved form”.

20. Section 41 amended - In section 41(7) of the principal Act:

- (a) for “prescribed form” substitute “approved form”; and
- (b) for “supplementary record sheet” substitute “folio of the Register for the common property”.

21. Section 42 amended - In section 42(1) of the principal Act, for “mortgage” substitute “mortgagee”.

22. Section 48 amended - In section 48 of the principal Act:

- (a) for subsection (1) substitute:

“(1) On re-development, an application shall be made to the Chief Executive Officer for approval under the Survey Act 2010 or a plan of re-development, being a new unit plan.”; and

- (b) in subsection (3), for “accepted by the Registrar for deposit” substitute “approved by the Chief Executive Officer”;
- (c) in subsection (3)(d), for “recognised” substitute “licensed”;
- (d) in subsection (4), for “recognised” substitute “licensed”;
- (e) in subsection (6), for “accepted by the Registrar for deposit” substitute “approved by the Chief Executive Officer”;
- (f) for subsection (7) substitute:

“(7) On the approval of a plan of redevelopment and the registration of any necessary transfers, the Registrar shall:

- (a) cancel the existing folios of the Register to the units affected by the redevelopment; and
- (b) create a separate folios of the Register pursuant to the plan of redevelopment for the units affected by the redevelopment.”.

23. Section 49 amended - In section 49 of the principal Act:

- (a) in subsection (2), for “prescribed form” substitute “approved form”;

- (b) in subsection (4), for “any supplementary record sheet” substitute “the folios of the Register for the units and common property”;
- (c) in subsection (6), for “issue a computer folio certificate” substitute “create a folio of the Register”;
- (d) repeal subsections (9) and (10).

24. Sections 50, 52 and 54 amended - In sections 50(2), 52(3) and 54(3) of the principal Act, for “supplementary record sheet” substitute “folio of the Register for the common property”.

25. Section 57 amended - For section 57 of the principal Act:

- (a) renumber the current provision as subsection (1); and
- (b) add the following subsection:

“(2) If no form is prescribed under subsection (1)(d), the Chief Executive Officer may approve forms for the purpose of this Act.”.

26. Section 58 repealed - Section 58 of the principal Act is repealed.

27. Consequential amendment - Section 5(1)(m) of the Land Titles Registration Act 2008 is repealed.

**The Unit Titles Amendment Act 2014 is administered
by the Ministry of Natural Resources and Environment.**

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