

**STRATA TITLES (AMENDMENT)
ACT 2013 &
STRATA MANAGEMENT ACT 2013
– MAIN IMPACT**

PAM Practice Notes

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Strata Titles (Amendment) Act 2013 was published in the Government Gazette on 7 February 2013 and Strata Management Act 2013 was published in the Government Gazette on 8 February 2013.

THE MAIN IMPACT OF STRATA TITLES (AMENDMENT) ACT 2013 WITH STRATA MANAGEMENT ACT 2013

1. Operation of the Act extended to the Federal Territory of Labuan.
2. Introduction of the Electronic Land Administration System of Strata Titles (Sect 4A).
 - a. Operation of the Electronic Land Administration System of Strata Titles in any Land Registry (Sec 4B – new).
 - i. The electronic Land Administration System of Strata Titles shall come into operation in any Land Registry upon notification in the Gazette pursuant to subsection 5D (1) of the NLC [Sec 4B (1)].
 - ii. Land Registry includes –
 - In the case of titles held on Registry Titles, the office of the Registrar of titles for the state;
 - In the case of titles held on Land Office Titles, the office of the Land Administrator for the District; and
 - In times of disaster specified by the State Authority; the Disaster Recovery Centre.
3. Proprietor not obliged to submit for Sub-Division and issuance for strata titles if no parcel or part of the building or land parcel is sold, unlike the previous one, an application may be made even if no CC has been issued for the building (Sec 7).
4. Compulsory for Original Proprietor to commence application for Sub-Division of Building or Land (Sec 8).
 - a. When the parcels are sold, and completion of super-structure is certified AFTER the commencement of the 2013 Act, the proprietor is obliged to apply for Sub-Division of the building or land within 3 months [Sec 8 (2) (a)].
 - b. When a sale commenced BEFORE and the building is completed AFTER commencement of the Act, 3 months from CCC [Sec 8(2)(b)].
 - c. When building is completed BEFORE commencement of Act and parcels are sold AFTER, 3 months after CCC or first SPA, whichever is later [Sec 8(2)(c)].
 - d. When a sale commenced, and the building is completed BEFORE commencement of the Act, 3 months from date of commencement of Act [Sec 8(2)(d)].
 - e. When building completed BEFORE Act (with CCC) and sales takes place AFTER commencement of Act, 3 months from first sale [Sec 8(2)(e)].

5. Application for Certificate of Proposed Strata Plan (Sec 8A-new)

- i. For the purposes of application for Sub-Division, the original Proprietor shall apply for a certificate of proposed strata plan with the following [Sec 8(A)(1)]:
 - a) Fees for survey
 - b) Original copy of Approved Building Plans
 - c)
 - (i) If no Approved Building Plans available, Building Plans certified by an Architect or Surveyor as having been drawn according to actual features of the building and
 - (ii) Certification by an authorized officer of the appropriate Local Planning Authority that Planning Permission was given, but plans are no longer available and that the building satisfies planning requirements.
 - d) Proposed Strata Plan comprises location, storey and delineation plans containing details as required and certified by the Land Surveyor as follows:
 - (i) That he/she has to compare the plans against the Approved Building Plans;
 - (ii) In case of storey plans, boundaries follow features of permanent construction in the building;
 - (iii) That building(s) are situated wholly within boundaries except for eaves, awnings and balconies not forming part of parcel, which, if projecting over road reserve, possess permits under Sec 75A on National Land Code;
 - (iv) That each proposed parcel has –
 - Adequate means of access not passing through another parcel;
 - An adequate means of internal communication not passing through common property;
 - (v) That it has been certified by a Land Surveyor that the position of each provisional block as delineated on the location plan is wholly within the boundaries of the lot.
 - e) In the case of land parcels for erection or buildings for which planning permission was required, a certification by P Architect, or P Engineer that the building was constructed in accordance with the plans and specs with reference to which that permission was given; and the plans and specs of the building state the date on which such permission was given and reference number, if any;

- f) A certified copy of the final title of the lot;
 - g) A certified copy of the document that certifies the super structure stage under Section 8(2)(a) – building and Sales & Purchase Agreement AFTER Act;
 - h) A certified copy of CCC or CFO, except for case under [Sec 8(2)(a)]; and
 - i) A certified copy of the schedule of the parcel or amended schedule of parcels filed under the SMAAct 2013 except cases Section 8(2)(b) or (d).
- ii. For purposes of Sub-Division under Sub Section 6(1A), the Proposed Strata Plan shall comprise a location plan and a delineation plan, and in case of subdivision of land with shared basement, includes a storey plan showing the approved accessory parcels and common property [Sec 8(A)(2)]
- iii. Every Location Plan shall have [Sec 8(A)(3)] –
 - (a) Lot number, title number and area specified;
 - (b) Delineation of all boundaries, boundary marks and position of all buildings, delineation of land parcels showing the position of the buildings;
 - (c) In case of subdivision of Building and into land parcels with shared basement, to include a vertical section showing floor and ceiling of each storey and height of each storey; and
 - (d) Such other details determined by the Director of Survey.
- iv. Storey Plan specs – lot and the title number, building and storey reference, delineation of each parcel with defined boundaries, parcel number as described in the Proposed Strata Plan, floor area, parts not to be included in the parcel, but are common area, details required by Director of Survey [Sec 8(A)(4)]
- v. Delineation Plan specs- lot and the total number of the land, and the land parcel to which the plan relates, delineation of each land parcel with reference to a lot boundary (bearings), indicate the number of each land parcel as described in the strata plan, the area of each land parcel, distinguish each part not to be included in the land parcel but are to become common property, details as required by Director of Survey [Sec 8(A)(5)]
- vi. Every Strata Plan shall have [Sec 8(A)(6)]–
 - (a) Legend of
 - (i) All parcels;
 - (ii) All common property;
 - (iii) All accessory parcels, and the parcels they are made appurtenant to;
 - (iv) Details required by the Director Of Survey.

- vii. Accessory Parcel specs Storey Plan specs – if bounded by walls, floors and ceilings and where it does not consist of a building, by reference to approved building plans [Sec 8(A)(7)].
 - viii. Director of Survey shall check plans, carry out survey of land or building and shall issue a certificate of proposed strata plan if the plans are in order, issue copy to Land Administrator and notify him of fees to be collected in preparation of plans [Sec 8 (A)(8)].
6. Application for Sub-Division of building and land under Sect 6(1) or of land under Sec 6(1A) using Form 1 accompanied by [Sec 9(1)]:-
- (a) Prescribed fees;
 - (b) Fees notified by the Director of Survey;
 - (c) Certificate of the Proposed Strata Plan;
 - (d) Classification certificate for low cost building;
 - (e) Written consent of every person who is entitled to the benefit of a lease of the whole or part thereof, other than a part included within one of the parcels created upon Sub-Division.

Application for Sub-Division of building and land under Sec 6(1) or of land under Sec 6(1A) using Form 1 accompanied by [Sec 9(1)]:-

- (f) Proposed name of management corporation and address for service of documents;
 - (g) Issue document of title of the lot;
 - (h) Certified copy of CCC or CFO except in 8(2)(a);
 - (i) Certified copy of the schedule of parcels or amended schedule of parcels except for case under para 8(20)(b).
7. No Application under Section 9(1) shall be made unless [Sec 9(2)] :-
- (a) Land is held under final title;
 - (b) The use of land is not contrary to the land category and conditions; and
 - (c) The land is not subject to any charge or lien.
9. Phased developments in regard to provisional block title comprising land parcels now are allowed (Sec 9A- New).
- Application, except for low cost, shall include an application for the issue of provisional strata title for a provisional block in respect of a building or land, subject to Sub-Section 6(1) or 6(1A), proposed to be, or in the course of being erected on the lot in question.

10. Replaces old 10(b) Application for Sub-Division in the case of low-cost buildings (Sec 9B- New).
 - a. Sec 9(B)(1) the State Authority (SA) may, on application, classify it to be low-cost building.
 - i. The SA may prescribe the classification of any type of building to be a low-cost building;
 - ii. Upon classification, the SA shall issue a certificate to the proprietor;
 - iii. The proprietor shall apply for sub-division under Sub-Section 9 (1);
 - iv. No building erected in a provisional block shall be classified a low-cost building.
11. Conditions for Approval
 - a. Section 10(1)– The Director shall not approve sub-division unless
 - i. Director of the Survey has issued Certificate of the proposed strata plan;
 - ii. The subdivision will not contravene any condition or restriction in interest;
 - iii. The subdivision will not contravene any written law;
 - iv. No item of land revenue is outstanding;
 - v. Consent in writing from every person who is entitled to the benefit of a lease, other than parcel owners;
 - vi. Where land on which building/s stand is held for a term of years, there remains a period no less than twenty one years;
 - vii. That the land on which the building/s stand is not subject to charge or lien;
 - viii. Assigned share units are equitable;
 - ix. Land is held under final title.
 - b. Section 10(2) – Replaces old 10(a) Application involving provisional block/s, the Director shall not approve sub-division unless
 - i. It has been certified by a Land surveyor that the position of each provisional block as delineated on the location plan is wholly within the lot boundaries;
 - ii. Quantum of provisional share units assigned to each provisional block by the proprietor are equitable.
 - c. Section 10(2) – The application is involving provisional block/s, the Director shall not approve Sub-Division unless:

iii. The proprietor has:

- Given the date by when he undertakes that the construction of the building or each building to which the provisional block or blocks relate will be completed;
- Paid to the Director in respect of each provisional block a deposit of such reasonable amount as the Director may require; and
- Furnished a written statement to agree that the amount be forfeited by the government in the event that CCC has not been issued for the provisional block by that date or such later dates the Director may allow

12. Section 13 (3) – boundary (the word “common” deleted)

- a. For the purposes of the preparation of any such certified plan, the boundary of any parcel of a building with any other parcel, or with any part of the building which is not included in any of the parcels, shall, except in so far as it may have been otherwise provided in the relevant storey plan, be taken to be the centre of the floor, wall or ceiling, as the case may be, or in the case of land parcels, the boundary shall be defined by its demarcation of the land.

13. Effect of opening of book of strata register (Sec 7)

- a. The registrar shall make in the register and issue document of title a memorial to the effect that the book (of strata register) has been opened and that common property is vested in the MC and shall return the issue document of title to the Management Corporations [Sec 17(1)].
- b. Management Corporations come into existence by virtue of opening of book of strata register and the Registrar shall issue a certificate certifying the establishment of the Management Corporations as a body corporate... [Sec 17(3)].
- c. Limited Common Property and subsidiary management corporations allowed. Designation of Limited Common Property and creation of one or more subsidiary management corporations to represent and manage different interests of parcel proprietors [Sect 17(A - New)].
 - i. Management Corporations may designate limited common property and create one or more subsidiary Management Corporations's only for his purpose of representing the different interests of parcel proprietors by way of a comprehensive resolution conducted under the Strata Title Management Act 2013 [Sec 17A(1)]
 - Very useful and timely amendment in view of proliferation of mixed use buildings such as serviced apartments and office block above commercial complex – need to separate use of different areas by different parcel proprietors

- ii. Limited common property designated... shall [Sec 17A(2)]:-
 - (a) Describe, identify or define boundaries or area of the limited common property in the special plan;
 - (b) Specifies each parcel comprised in that special plan whose proprietors are entitled to the exclusive benefit of the limited common property; and
 - (c) Conform with other details as prescribed by the Director of Survey Designation of exclusive common areas for use by a particular group of owners tackles issue of overlapping claims and privacy and security
- iii. The Management Corporations shall apply to the Director for approval for the issue of a certificate of the subsidiary management corporation for the designated limited common property [Sec 17A(3)].
- iv. The Director shall refer to the Director of Survey who shall advise the Director [Sec 17A(4)].
- v. If satisfied, the Director shall accept and issue a certificate certifying that the subsidiary management corporation is a body corporate constituted under this Act [Sec 17A(5)].
- vi. The subsidiary management corporation may sue or be sued [Sec 17A(6)].
 - A separate subsidiary management corporation for each portion of building under separate usage, such as serviced apartments with recreational facilities, office block with access to separate a car park and separate M&E systems;
 - Allows for allocation of resources and collection of charges in accordance with nature of usage, grouping of proprietors with common interests under the separate subsidiary management corporation.

14. Share units of parcels (no change) (Sec 18):

- a. "Equitable basis" to be used in the assignment of share units;
- b. Reflects the share value of the parcel;
- c. Used as a basis to determine voting rights and share of the maintenance fee and sinking fund;
- d. Expressed in whole numbers, preferably in even numbers in case of future subdivision of the parcel;
- e. Strata Management Act 2013 Section 8 First Schedule has now prescribed formula for calculating the Share Units for each Parcel.

15. Transfer of ownership of strata titles (Sec 9A – New):
- a. Original proprietor shall execute the transfer of strata title to the purchaser within 30 days from date of issue of strata title by the Land Administrator or any extended period approved by the Director upon opening of the strata register [Sec 19A(1)].
 - b. The purchaser shall execute complete documents of transfer of strata title within 30 days or any extended period approved by the Director from the date of the notice of transfer being served to the purchaser by the proprietor or from the date of purchase of the parcel, whichever is the later [Sec 19A(2)].
 - c. Any proprietor, or purchaser who fails to comply with (1) or (2) shall be guilty of an offence not less than one thousand Ringgit and not more than ten thousand Ringgit per parcel [Sec 19A(3)].

Part IV heading changed to “Provisional Block: Issuance of Strata Title” from “Provisional Block : Issue of strata titles upon Completion of Building”.

16. Amended Section 20 – Circumstances in which it is compulsory for a proprietor of the provisional strata title to apply for strata title
17. The proprietor of provisional title shall, within the period specified in subsections 2 and 3, apply for the Sub-Division of the building or land capable of being issued with strata titles, if at any time he has sold or agreed to sell any parcel in such building or land to any person [Sec 20(1)].
18. The period within which proprietor shall apply for strata titles are as follows [Sec 20(1)] :-
- (a) If SPA date and certification of superstructure stage is AFTER commencement of the Act – 3 months from certification of completion of the superstructure;
 - (b) If building completed after the Act and SPA date is before the Act – 3 months from issuance of CCC or CFO;
 - (c) If building completed and SPA signed BEFORE commencement of the Act – 3 months from date of commencement of Act;
 - (d) If building completed before the Act and SPA signed after the Act – 3 months from SPA date.
19. Where the proprietor of provisional title has not sold any parcel and CCC has been issued, the proprietor shall [Sec 20 (3)]:-
- (a) Where CCC or CFO has been issued after commencement of the Act, apply for issuance of the proposed strata plan to Director of Survey within 3 months from date of CCC or CFO;
 - (b) Where CCC issued before commencement of Act, apply for issuance of certificate of proposed strata plan to the Director of the survey within 3 months from commencement of Act.

20. Where the proprietor of provisional title has been issued a certificate of proposed strata plan. Shall apply for subdivision under section 20b(1) within 1 month from date of issuance of certificate of proposed strata plan [Sec 20(4)].
21. Defective application by reason of any material noncompliance treated as not being in accordance with 20 (1) – that is, treated as not having submitted an application, and therefore an offence [Sec 20(7)].
22. Proprietor of provisional title guilty an offence when an application is not made within the period specified or granted [extended under section 20 (5) and (6)] [Sec 20(8)].
23. Fine, upon conviction, of not less than 10 thousand Ringgit but not more than 100 thousand Ringgit or to imprisonment for a term not exceeding 3 years or to both and if continued offence, a further fine of not less than 100 thousand Ringgit but not more than 1 thousand Ringgit per day of continued offence [Sec 20(9)].
24. “Provisional Block : Issuance of Strata Title”
 - a. New Sections 20A and 20B – application for certificate of proposed strata plan and subdivision of building respectively.
 - b. Mirrors new section 8 (A) and section 9 except that this is for the provisional block strata title.
 - c. 2 stage process, application for certified proposed strata plan and then application for subdivision upon issuance of certified proposed strata plan.
25. Strata Management Act 2013, Act 757 - Replaces the repealed Building & Common Property Act 2007 and replaces the Strata Titles Board with the Strata Management Tribunal, which is empowered to determine in disputes relating to stratified properties.
 - a. Part I – Preliminary
 - b. Part II – Administration of Act
 - c. Part III – Dealings in Building or Land intended for Sub Division into Parcels
 - d. Part IV – Strata management before existence of Management Corporation
 - e. Part V – Strata management after existence of management Corporation
 - f. Part VI – Managing Agent
 - g. Part VII – Deposit to rectify defects – upon VP, developer to deposit in cash or bank guarantee with a Commissioner such sum for the purpose of carrying out any rectification of defects in the common property after the completion of the common property
 - h. Part VIII – Insurance – duty to insure, reinstatement value to be obtained every 5 years, subsidiary MC has obliged to insure exclusive designated common

- i. Part IX – Disputes and Strata Management Tribunal – Replaces Strata Titles Board, to hear and determine claims not exceeding RM 250,000 much like House Buyer’s Tribunal under HDAAct, no legal representation unless the Tribunal opines matter involves complex issues of law, hearings open to public, award within 60 days of the first day of hearing, the criminal penalty for failure to comply with the award of the tribunal
- j. Part X – Enforcement
- k. Part XI – Miscellaneous – section 142 – with respect to any alleged defect, unless proven to the contrary, any sign of moisture or dampness or water penetration to the ceiling of the parcel or area below shall be deemed conclusive that