



REPUBLIC OF SINGAPORE

**GOVERNMENT GAZETTE**

**BILLS SUPPLEMENT**

*Published by Authority*

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NO. 20]

MONDAY, JULY 7

[2014

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First published in the *Government Gazette*, Electronic Edition, on 7th July 2014 at 6:00 pm.

**Notification No. B 20** — The Land Acquisition (Amendment) Bill is hereby published for general information. It was introduced in Parliament on 7th July 2014.

# **Land Acquisition (Amendment) Bill**

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**Bill No. 20/2014.**

*Read the first time on 7th July 2014.*

A BILL

*intituled*

An Act to amend the Land Acquisition Act (Chapter 152 of the 1985 Revised Edition) in relation to the application of the betterment levy, operational improvements, and non-lot acquisitions in strata developments and to make related amendments to the Building Maintenance and Strata Management Act (Chapter 30C of the 2008 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

### Short title and commencement

1.—(1) This Act may be cited as the Land Acquisition (Amendment) Act 2014 and shall, with the exception of section 12, come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) Section 12 is deemed to have come into operation on 7th July 2014.

### Amendment of section 2

2. Section 2 of the Land Acquisition Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “Commissioner” in subsection (1), the following definitions:

““common property” and “lot” have the same respective meanings as in the Land Titles (Strata) Act (Cap. 158);”;

(b) by inserting, immediately after the word “includes” in the definition of “land” in subsection (1), the words “any foreshore, and”;

(c) by inserting, immediately after the definition of “land” in subsection (1), the following definitions:

““management corporation”, in relation to any land comprised in a strata title plan, means the management corporation constituted in respect of that strata title plan under the Land Titles (Strata) Act;

“non-lot acquisition” means an acquisition under this Act of any common property (and no other land) comprised in a strata title plan;”;

(d) by deleting the full-stop at the end of the definition of “person interested” in subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

““strata title plan” and “subsidiary proprietor” have the same respective meanings as in the Land Titles (Strata) Act.”;

(e) by deleting the word “and” at the end of subsection (2)(a);

(f) by inserting, immediately after paragraph (a) of subsection (2), the following paragraph: 5

“(b) the management corporation for a strata title plan shall be deemed the person entitled to act for, and the person authorised to receive service within Singapore on behalf of, every subsidiary proprietor of every lot comprised in the strata title plan with reference only to any non-lot acquisition relating to that strata title plan; and”; 10  
and

(g) by inserting, immediately after subsection (2), the following subsection: 15

“(3) Notwithstanding subsection (2)(iv) and sections 34 and 35 of the Building Maintenance and Strata Management Act (Cap. 30C), a management corporation for a strata title plan is deemed for the purposes of this Act, competent to receive the compensation money payable under this Act for any non-lot acquisition relating to that strata title plan.”. 20

### **Amendment of section 8**

3. Section 8 of the principal Act is amended — 25

(a) by deleting the words “or by any person authorised in writing in that behalf” in subsection (3)(b)(i) and substituting the words “, or by the person entitled to act for the person interested or any other person authorised in writing in that behalf,”; and 30

(b) by inserting, immediately after subsection (4), the following subsection:

“(5) In a non-lot acquisition relating to a strata title plan, only the management corporation constituted for

that strata title plan, and no other person, is entitled to make a claim for compensation pursuant to a notice published under subsection (1) or served under subsection (2) in relation to the non-lot acquisition, and it shall be lawful for the Collector to reject any claim for compensation as a result of that non-lot acquisition made by —

(a) any subsidiary proprietor constituting the management corporation; or

(b) any mortgagee, chargee or other person with an estate and interest in any lot comprised in the strata title plan.”.

#### **Amendment of section 9**

4. Section 9(1) of the principal Act is amended by inserting, immediately after the words “the date of the statement”, the words “and, where any claim to compensation is made by a management corporation, the resolution required under section 85A(2) of the Building Maintenance and Strata Management Act to authorise the management corporation to make that claim and any special resolution referred to in section 85A(4) of that Act”.

#### **Amendment of section 10**

5. Section 10 of the principal Act is amended by inserting, immediately after subsection (1), the following subsections:

“(1A) Despite subsection (1)(c), the compensation awarded for a non-lot acquisition relating to any strata title plan under this Act shall not be apportioned among the subsidiary proprietors constituting the management corporation for that strata title plan but must be awarded to the management corporation unless subsection (1B) applies.

(1B) Where the subsidiary proprietors constituting the management corporation for a strata title plan so agree by a special resolution referred to in section 85A(4) of the Building Maintenance and Strata Management Act, the compensation

awarded under subsection (1) for a non-lot acquisition relating to that strata title plan shall be apportioned —

- (a) among the persons who, on the date the Collector takes possession under section 16 of the land acquired, are subsidiary proprietors constituting the management corporation; and
- (b) in shares proportional to the share values of those persons’ respective lots.”.

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**Amendment of section 14**

6. The principal Act is amended by renumbering section 14 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

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“(2) The Collector shall, in particular, have power to compel the production of any resolution by the subsidiary proprietors constituting the management corporation for a strata title plan where that is relevant to the making of any award of compensation for the acquisition under this Act of any property comprised in the strata title plan.”.

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**Repeal and re-enactment of section 16**

7. Section 16 of the principal Act is repealed and the following section substituted therefor:

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**“Power to take possession**

16. When a Collector has made an award under section 10, the Collector may take possession of the land by serving, in accordance with section 45, a copy of an appropriate notice of taking possession on every person interested in the land or any person known or believed to be entitled to act for a person so interested.”.

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### **Amendment of section 23**

**8.** Section 23 of the principal Act is amended —

(a) by deleting the words “within 14 days of” in subsection (1)(a), (b) and (c) and substituting in each case the words “within 28 days after”; and

(b) by inserting, immediately after subsection (1), the following subsection:

“(1A) Notwithstanding anything in this section, in a non-lot acquisition relating to a strata title plan, only the management corporation constituted for the strata title plan is entitled to lodge with the Registrar a notice of appeal or petition of appeal in accordance with subsection (1) in respect of that non-lot acquisition, and there shall be no such appeal by —

(a) any of the subsidiary proprietors constituting the management corporation for the strata title plan; and

(b) any mortgagee, chargee or other person with an estate and interest in any lot comprised in the strata title plan.”.

### **Amendment of section 24**

**9.** Section 24 of the principal Act is amended by inserting, immediately after the words “is not lodged” in paragraph (b), the words “, by the person permitted by section 23 to do so,”.

### **Amendment of section 29**

**10.** Section 29 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(2A) Notwithstanding subsection (2), in a non-lot acquisition relating to a strata title plan, only the management corporation constituted for the strata title plan is entitled to make an appeal to the Court of Appeal under subsection (2) in respect of that non-lot acquisition, and there shall be no such appeal by —

- (a) any of the subsidiary proprietors constituting the management corporation for the strata title plan; and
- (b) any mortgagee, chargee or other person with an estate and interest in any lot comprised in the strata title plan.”.

## **Amendment of section 32**

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### **11. Section 32 of the principal Act is amended —**

- (a) by inserting, immediately after subsection (3), the following subsections:

“(3A) In relation to any proceedings before it, the Board may order a vexatious third party —

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- (a) to personally pay the whole or part of the costs of the proceedings; or
- (b) if any party is the client of the vexatious third party, to repay to his client costs which the client has been ordered to pay to any other party to the proceedings.

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(3B) No order under subsection (3A) shall be made against any person unless that person has been given a reasonable opportunity to appear before the Board and show cause why the order should not be made.

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(3C) In subsection (3A), “vexatious third party”, in relation to any proceedings before the Board, means a person —

- (a) who is not a party to the proceedings; and
- (b) who the Board considers to be responsible for anything done or not done by or on behalf of any party that unnecessarily or unreasonably protracts, or adds to the costs or complexity of, those proceedings or puts any party to unnecessary expense in relation to those proceedings.”; and

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- (b) by deleting the words “or the Collector” in subsection (6) and substituting the words “, the Collector or person who is not a party”.

### **Amendment of section 33**

5 **12.** Section 33 of the principal Act is amended —

- (a) by inserting, immediately after the words “any increase in the value of any other land” in subsection (1)(b), the words “(such as contiguous or adjacent land)”; and

10 (b) by inserting, immediately after subsection (1), the following subsection:

“*(2)* If the value of any other land of the person interested likely to accrue from the use to which the land acquired will be put is increased, the increase is to be set-off only against the amount of compensation that would otherwise be payable under subsection (1)(c) or *(d)* or both, where applicable.”.

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### **Amendment of section 40**

**13.** Section 40 of the principal Act is amended —

20 (a) by inserting, immediately after the words “subsection (2)” in subsection (1), the words “or subsection (1A) applies”; and

(b) by inserting, immediately after subsection (1), the following subsection:

“(1A) If —

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(a) an award is made under section 10 with respect to a non-lot acquisition relating to a strata title plan; and

(b) within 28 days after that award is made, the subsidiary proprietors constituting the management corporation for the strata title plan serve on the Collector a copy of a special resolution referred to in section 85A(4) of the

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Building Maintenance and Strata Management  
Act with respect to that non-lot acquisition,

the Collector need not make a written offer of the  
compensation awarded in accordance with  
subsection (1) but must instead —

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- (i) inform the management corporation for the  
strata title plan that the compensation awarded  
is to be paid to the persons in section 10(1B)(a);  
and
- (ii) pay that compensation according to  
section 10(1B) unless prevented by one or  
more of the contingencies mentioned in  
subsection (2).”.

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**Amendment of section 49**

**14.** Section 49 of the principal Act is amended by inserting,  
immediately after subsection (3), the following subsection:

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“(4) A management corporation for a strata title plan may  
express any desire under subsection (1) for the whole of the land  
comprised in the strata title plan to be acquired under this Act,  
but only if the subsidiary proprietors constituting the  
management corporation for the strata title plan so agree to the  
acquisition of the whole of the land by a resolution by consensus  
referred to in section 85A(5) of the Building Maintenance and  
Strata Management Act.”.

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**Savings and transitional provisions**

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**15.—**(1) Subject to subsection (2), this Act shall not apply to or in  
relation to any land the date of acquisition of which is before the  
appointed date; and that land shall be dealt with in accordance with the  
principal Act as if this Act had not been enacted.

(2) Section 12 shall not apply to or in relation to any land the date of  
acquisition of which is before 7th July 2014; and that land shall be  
dealt with in accordance with the principal Act as if this Act had not  
been enacted.

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(3) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of that provision as the Minister may consider  
5 necessary or expedient.

(4) In this section —

“appointed date” means the date of commencement of this Act except section 12;

10 “date of acquisition”, in relation to any land, means the date of the publication of the notification under section 5(1) of the principal Act declaring that the land is needed for a purpose specified in the declaration.

(5) Nothing in this section shall prejudice section 16 of the Interpretation Act (Cap. 1).

### 15 **Related amendments to Building Maintenance and Strata Management Act**

**16.**—(1) The provisions of the Building Maintenance and Strata Management Act (Cap. 30C) are amended in the manner set out in the Schedule.

20 (2) This section and the Schedule shall not apply to or in relation to any land which is the subject of a notification under section 5(1) of the principal Act declaring that the land is needed for a purpose specified in the declaration, the publication in the *Gazette* of which is before the date of commencement of this section; and that land shall be dealt with  
25 in accordance with the Building Maintenance and Strata Management Act as if this Act had not been enacted.

## THE SCHEDULE

Section 16

### RELATED AMENDMENTS TO BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

#### **Amendment of section 2**

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1. Section 2(1) of the Building Maintenance and Strata Management Act (referred to in this Schedule as BMSMA) is amended by inserting, immediately after the definition of “mediation”, the following definitions:

“non-lot acquisition” means any acquisition under the Land Acquisition Act (Cap. 152) of any common property (and no other land) comprised in a strata title plan;

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“non-lot acquisition related expenses”, in relation to any management corporation for a strata title plan, means —

(a) any legal costs, valuation and other professional fees reasonably incurred by the management corporation in relation to the preparation and filing of a claim for compensation under the Land Acquisition Act, or any appeal under that Act, in respect of any non-lot acquisition affecting the strata title plan; and

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(b) any other financial costs reasonably incurred by the management corporation in convening and conducting meetings for or in connection with the preparation and filing of a claim for compensation under the Land Acquisition Act, or any appeal under that Act, in respect of any non-lot acquisition relating to its strata title plan;”.

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#### **Amendment of section 38**

2. Section 38(2) of the BMSMA is amended by inserting, immediately after paragraph (b), the following paragraph:

“(ba) all moneys received by it from the Collector of Land Revenue as an award of compensation under the Land Acquisition Act for any non-lot acquisition relating to its strata title plan;”.

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#### **Amendment of section 39**

3. Section 39(2) of the BMSMA is amended —

(a) by deleting the word “and” at the end of paragraph (d); and

THE SCHEDULE — *continued*

(b) by inserting, immediately after paragraph (d), the following paragraph:

“(da) any non-lot acquisition related expenses of the management corporation; and”.

5 **Amendment of section 47**

4. Section 47(1) of the BMSMA is amended —

(a) by deleting the word “and” at the end of paragraph (b)(vi);

(b) by deleting sub-paragraph (vii) of paragraph (b) and substituting the following sub-paragraphs:

10 “(vii) any notice under section 3, 8 or 16 of the Land Acquisition Act, or any copy of an award under section 10 of that Act, received by the management corporation for any non-lot acquisition relating to the strata title plan for which the management corporation is constituted; and

15 (viii) any other record or document in the custody or under the control of the management corporation,”;

(c) by deleting the word “and” at the end of paragraph (c)(v); and

(d) by deleting the full-stop at the end of sub-paragraph (vi) of paragraph (c) and substituting the word “; and”, and by inserting immediately thereafter the following sub-paragraph:

20 “(vii) whether the management corporation has received any notice under section 3, 8 or 16 of the Land Acquisition Act, or any copy of an award under section 10 of that Act, for any non-lot acquisition relating to the strata title plan for which the management corporation is constituted.”.

25 **New section 47A**

5. The BMSMA is amended by inserting, immediately after section 47, the following section:

“**Display of award of compensation for acquisition, etc.**

30 **47A.—**(1) If the management corporation is required by its by-laws to maintain a notice board, its council must —

(a) within 7 days after the management corporation receives any notice under section 3, 8, 16 or any other provision under the Land Acquisition Act, or any award under section 10 of that Act, for any non-lot acquisition relating to the strata title plan for which the

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THE SCHEDULE — *continued*

management corporation is constituted, cause a copy of every such notice or award to be displayed on the notice board; and

(b) for not less than 14 days keep displayed on that notice board the copy of that notice or award. 5

(2) If there is no notice board, the council concerned must give, within the period delimited by paragraph (a) of subsection (1), each subsidiary proprietor who then constitutes the management corporation a copy of the notice or award referred to in that paragraph.”

**New section 85A** 10

6. The BMSMA is amended by inserting, immediately after section 85, the following section:

**“Limited right to representation by management corporation in non-lot acquisition**

**85A.**—(1) Notwithstanding anything in section 85, the management corporation for a strata title plan — 15

(a) may start any proceedings before the Appeals Board under the Land Acquisition Act for any non-lot acquisition relating to the strata title plan and represent every subsidiary proprietor of every lot comprised in the strata title plan in those proceedings; and 20

(b) may lodge any appeal to the Court of Appeal from the decision of the Appeals Board under the Land Acquisition Act for any non-lot acquisition relating to the strata title plan and represent every subsidiary proprietor of every lot comprised in the strata title plan in that appeal, 25

if, and only if, the proceedings and appeal, respectively, are each authorised by an ordinary resolution of the subsidiary proprietors constituting the management corporation.

(2) Unless authorised by ordinary resolution, a management corporation for a strata title plan shall not make a claim for compensation under the Land Acquisition Act for any non-lot acquisition relating to its strata title plan. 30

(3) Unless otherwise agreed by special resolution under subsection (4), the amount of compensation awarded under the Land Acquisition Act for any non-lot acquisition relating to a strata title plan shall be paid into the management fund of the management corporation for that strata title plan. 35

THE SCHEDULE — *continued*

(4) The subsidiary proprietors constituting the management corporation for a strata title plan may, by special resolution, agree that the compensation for any non-lot acquisition relating to the strata title plan be distributed among themselves; in which event that compensation must be distributed among the subsidiary proprietors in shares proportionate to their respective share values of their lots as on the date possession is taken under section 16 of the Land Acquisition Act of the land acquired under the non-lot acquisition.

(5) Unless authorised by a resolution by consensus, a management corporation for a strata title plan shall not express any desire under section 49(1) of the Land Acquisition Act for the whole of the land comprised in its strata title plan to be acquired under that Act.”.

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 EXPLANATORY STATEMENT

This Bill seeks to amend the Land Acquisition Act (Cap. 152) —

- (a) to provide for a special procedure for claims to compensation where only the common property of a strata development is compulsorily acquired (defined as a “non-lot acquisition”);
- (b) to provide that where the value of any remaining land of a claimant for compensation is increased because of the use to which the land acquired will be put, that increase may be set-off only against the amount of compensation that would otherwise be payable for severing the claimant’s land or for injurious affection, or both; and
- (c) to introduce amendments of a housekeeping nature so as to streamline certain processes connected with land acquisition.

Related to the amendments on non-lot acquisitions, the Bill contains related amendments to the Building Maintenance and Strata Management Act (Cap. 30C) to define a management corporation’s right to representation in connection with such claims to compensation and to allow the use of the sinking fund to meet non-lot acquisition related expenses.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2(1) to introduce the new definition of “non-lot acquisition”, which is relevant only in the case of strata developments.

The shortened expression “non-lot acquisition” means any compulsory acquisition under the Act where no specific lot belonging to a subsidiary

proprietor is being taken under the Act. These are cases where only common property comprised in a strata title plan is compulsorily acquired.

The other new expressions “common property”, “lot”, “strata title plan” and “subsidiary proprietor” are assigned the same meanings as in the Land Titles (Strata) Act (Cap. 158).

Clause 2 also amends the definition of “land” in section 2(1) to make it clear that it includes foreshores.

Clause 2 also amends section 2(2) to deem the management corporation constituted for a strata title plan to be the person entitled to act for, and the person authorised to receive service within Singapore on behalf of, every subsidiary proprietor of every lot comprised in the strata title plan with respect to any non-lot acquisition relating to the strata title plan. This will allow a Collector of Land Revenue (Collector) to serve notices and deal with the management corporation instead of every subsidiary proprietor, where no specific lot belonging to a subsidiary proprietor is being taken under the Act. This also facilitates representation of subsidiary proprietors by a management corporation in such cases of compulsory acquisition.

Finally, clause 2 introduces a new subsection (3) to section 2 so as to ensure that a management corporation constituted for a strata title plan is not disqualified under section 2(2)(i) or 40(2) but is competent to receive any compensation awarded for any non-lot acquisition relating to its strata title plan. This is because any common property in a strata development is owned not by the management corporation but is owned jointly by the subsidiary proprietors as tenants-in-common, and there are provisions in the Building Maintenance and Strata Management Act which require particular resolutions to be first passed before a management corporation can alienate and sell any common property that is comprised in the strata title plan. The new section 2(3) deems the management corporation competent to alienate the common property so acquired.

Clause 3 amends section 8 for 2 purposes. Firstly, section 8(3)(b)(i) is amended to make it clear that a Collector’s notice of intended acquisition can require a person entitled to act for a person interested to appear before the Collector at the requisite inquiry following the publication in the *Gazette* of the compulsory acquisition of the land.

The second amendment to section 8 makes it clear that in the case of any non-lot acquisition relating to a strata title plan, only the management corporation for the strata title plan can make a claim for compensation in respect of any non-lot acquisition relating to the strata title plan. The Collector can therefore reject any claim for compensation as a result of the non-lot acquisition if the claim is made by a subsidiary proprietor constituting the management corporation, or a mortgagee, chargee or other person with an estate and interest in any lot comprised in the strata title plan.

Clause 4 amends section 9(1) to expressly empower a Collector to require documentation pertinent to claims to compensation made by management corporations. These documents are the ordinary resolution required under section 85A(2) of the Building Maintenance and Strata Management Act to authorise the management corporation to make that claim and any special resolution referred to in section 85A(4) of that Act on the distribution of the compensation among the subsidiary proprietors. This will supplement the Collector's existing power to require a statement containing the name of every person possessing any interest in the land or any part thereof as co-owner, mortgagee, lessee, sub-lessee, tenant or otherwise, and of the nature of that interest, etc.

Clause 5 amends section 10 (which deals with the awards of compensation by a Collector) to state the general rule that any amount of compensation awarded for any non-lot acquisition relating to a strata title plan will not be apportioned among the subsidiary proprietors owning lots in that strata title plan but be awarded to the management corporation. The exception is where the subsidiary proprietors constituting the management corporation agree by a special resolution referred to in section 85A(4) of the Building Maintenance and Strata Management Act.

If such a special resolution under section 85A(4) of the Building Maintenance and Strata Management Act is passed, the amount of compensation awarded for a non-lot acquisition is to be apportioned among the subsidiary proprietors in shares proportional to the share values of their respective lots. As the compulsory acquisition process can span some time, during which it is not uncommon for ownership in lots comprised in the affected strata title plan to change, the new section 10(1B) fixes the distribution among persons who, on the date possession is taken under section 16 of the acquired land, are the subsidiary proprietors constituting the management corporation.

Clause 6 makes an amendment to section 14 to confer power on a Collector to compel the production of any resolution by the subsidiary proprietors constituting the management corporation for a strata title plan which is relevant to the making of any award of compensation for the acquisition under the Act.

Clause 7 repeals and re-enacts section 16 so that notice of taking possession of acquired land may be served in other ways other than posting notices on the acquired land. The Collector may instead notify directly the persons interested or persons entitled to act by serving on them the appropriate notice of taking possession. The modes of service are currently set out in section 45. For example, where service on a person interested is not practicable because the person's whereabouts are unknown, a Collector can still take possession of the acquired land provided the Collector advertises that fact in one or more daily newspapers as is appropriate and necessary to bring the matter to the attention of the person or management corporation concerned.

Clause 8 amends section 23 firstly, to extend the time for claimants to lodge notices of appeal and petitions of appeal against awards, and to make the requisite deposit for such an appeal, to the Appeals Board. As the related amendments to the Building Maintenance and Strata Management Act (see clause 16 and the Schedule) will require an ordinary resolution before a management corporation can lodge any appeal to the Appeals Board, the time for making appeals has to be extended to accommodate the minimum notice period statutorily prescribed by that Act for the holding of a general meeting of a management corporation.

The second amendment to section 23 provides that, in the case of any non-lot acquisition relating to a strata title plan, no subsidiary proprietor constituting the management corporation for the strata title plan, and no mortgagee, chargee or other person with an estate and interest in any lot comprised in the strata title plan, will be entitled to lodge any appeal or petition of appeal to the Appeals Board against the award of compensation by a Collector for the non-lot acquisition relating to the strata title plan. Only the management corporation constituted for the strata title plan is entitled to lodge any notice of appeal or petition of appeal in respect of the same non-lot acquisition. The management corporation must, before doing so, secure the ordinary resolution required under section 85A(1) of the Building Maintenance and Strata Management Act.

Clause 9 amends section 24(b) as a consequence of the amendment in clause 8. An appeal will still be deemed withdrawn if the petition of appeal in connection with a non-lot acquisition is lodged by a person who is disqualified under the amended section 23 from doing so.

Clause 10 amends section 29 to provide that any subsidiary proprietor constituting the management corporation for a strata title plan, and any mortgagee, chargee or other person with an estate and interest in any lot comprised in the strata title plan, will not be entitled to appeal to the Court of Appeal with respect to any non-lot acquisition relating to the strata title plan. After this amendment, only the management corporation constituted for that strata title plan will be entitled to make an appeal to the Court of Appeal in respect of the same non-lot acquisition, if the management corporation secures the ordinary resolution required under section 85A(1) of the Building Maintenance and Strata Management Act to make such an appeal.

Clause 11 amends section 32 (relating to costs on appeal to the Appeals Board) to empower the Appeals Board to order costs against persons who are not parties to the appeal, for example, valuers and solicitors who advise parties to an appeal. In proceedings in an appeal, it may appear to the Appeals Board that something has been done or not done by or on behalf of any party thereby unnecessarily or unreasonably protracting, or adding to the costs or complexity of, those proceedings, or putting any party to any unnecessary expense in relation to those proceedings. In this case, the amendment to section 32 empowers the Appeals Board to order the person who is not a party whom it considers to be

responsible (whether personally or through an employee or agent) to repay to his client costs which the client has been ordered to pay to any other party to the proceedings or to personally pay the whole or part of the costs of the proceedings. The amendment also ensures that the person who is not a party to an appeal has an opportunity to be heard before such an order to pay costs is made.

Clause 12 amends section 33 to provide that where the value of any remaining land of a claimant for compensation is increased because of the use to which the land acquired will be put, that increase may be set-off only against the amount of compensation that would otherwise be payable for severing the claimant's land under section 33(1)(c), or for injurious affection under section 33(1)(d), or both, wherever applicable. The amendment will prevent setting-off against the other heads of compensation under section 33(1).

Clause 13 amends section 40 (relating to payment of compensation) to provide the circumstances where a Collector may apportion payment of compensation of any non-lot acquisition relating to a strata title plan between the management corporation for the strata title plan and the subsidiary proprietors, instead of paying to the management corporation. Apportionment is permitted if, within 28 days after an award is made, the Collector receives a special resolution by the subsidiary proprietors referred to in section 85A(4) of the Building Maintenance and Strata Management Act.

The compensation will be paid to those who are subsidiary proprietors on the date possession is taken of the acquired land and distributed among them according to the share values of their respective lots.

Clause 14 amends section 49 to provide that before a management corporation can request for the whole of the land comprised in its strata title plan to be acquired, it must first obtain the agreement of the subsidiary proprietors constituting the management corporation in the form of a resolution by consensus. Section 2(7) of the Building Maintenance and Strata Management Act defines a resolution by consensus to be one where the motion that is the subject of the resolution is considered at a duly convened general meeting of the management corporation of which at least 21 days' notice specifying the notice is given, and where, at the end of 12 weeks after that general meeting is convened, all the subsidiary proprietors constituting the management corporation support the motion in writing.

Clause 15 is a saving and transitional provision. The amendment to section 33 that is in clause 12 has a retrospective operative date of 7th July 2014. The amendment to section 33 will nevertheless not apply to land taken before 7th July 2014. All other amendments will not apply to or in relation to land taken before the operative date of these amendments.

Clause 16 read with the Schedule makes the following related amendments to the Building Maintenance and Strata Management Act (BMSMA).

Similar definitions of “non-lot acquisition related expenses” and “non-lot acquisition” are introduced to section 2(1) BMSMA. The expression “non-lot acquisition related expenses” is defined to refer to any legal costs, valuation and other professional fees reasonably incurred by a management corporation in relation to the preparation and filing of a claim for compensation under the Land Acquisition Act or an appeal under that Act, and any other financial costs reasonably incurred by the management corporation in convening and conducting meetings of its subsidiary proprietors for or in connection with the preparation and filing of such a claim for compensation or an appeal.

Section 38(2) BMSMA is amended to provide that all moneys received by a management corporation from a Collector as an award of compensation under the Land Acquisition Act for any non-lot acquisition relating to its strata title plan must be paid into its management fund.

Next, section 39(2) BMSMA is amended to provide that the sinking fund of a management corporation may be used to pay for its non-lot acquisition related expenses.

Section 47(1) BMSMA is amended to allow any subsidiary proprietor, mortgagee or prospective purchaser to request from a management corporation and inspect any notice under section 3, 8 or 16 of the Land Acquisition Act, or any copy of an award under section 10 of that Act, received by the management corporation for any non-lot acquisition relating to the strata title plan for which the management corporation is constituted. The amendment also requires the management corporation to certify whether it has received any such notice or award of compensation.

A new section 47A BMSMA is introduced to impose a duty on the council of a management corporation to display on its notice board a copy of every notice under section 3, 8, 16 or any other provision under the Land Acquisition Act, or any award of compensation under section 10 of that Act, received by the management corporation for any non-lot acquisition relating to the strata title plan for which the management corporation is constituted, within 7 days after receipt and to keep thereafter displayed for a period of at least 14 days. In the event that there is no notice board for any reason, the new section 47A BMSMA requires the council of the management corporation to give each of the then subsidiary proprietors a copy of the notice or award within that period of 7 days.

A new section 85A BMSMA is introduced to delimit a management corporation’s capacity to represent its subsidiary proprietors in respect of a non-lot acquisition relating to its strata title plan. The new section 85A(1) will require a management corporation to first obtain by ordinary resolution the agreement of its subsidiary proprietors before it can represent its subsidiary proprietors at any proceedings before the Appeals Board or Court of Appeal following any non-lot acquisition. A management corporation for a strata title plan also cannot make a claim for compensation for any non-lot acquisition relating to

its strata title plan unless authorised by ordinary resolution. Finally, the new section 85A(4) provides that the subsidiary proprietors constituting the management corporation for a strata title plan may, by special resolution, agree that the compensation for any non-lot acquisition relating to the strata title plan be distributed among themselves. In the event of such agreement, the compensation will be paid to the subsidiary proprietors in their respective shares after deducting, as is usual practice, for mortgages and charges in the order of their priorities.

## EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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