

## PROPOSED AMENDMENT OF SECTIONAL PROPERTIES ACT NO. 21 OF 1987

Sr. no	PART	SECTION	PROPOSED AMENDMENT	JUSTIFICATION	REMARKS
<b>PART I: PRELIMINARY</b>					
1.	<b>PART I</b>	Local Authority	<p>Delete “<i>Local Authority</i>” and Replace with “<i>County Government</i>”.</p> <p>County Government to be defined as follows:</p> <p><i>“Means County Government provided for under article 176 of the Constitution”</i></p>	To align it with the Constitution 2010	
2.		Management agreement	<p>Retain the definition as it is but Delete the word “<i>Residential</i>” in (a) &amp; (b).</p>	The Act to be applied to all types of units both commercial or residential	
3.		Minister	<p>Replace “<i>Minister</i>” with “<i>Cabinet Secretary</i>”</p> <p>Definition to read as: <i>“means the Cabinet Secretary responsible for matters relating to land ”</i></p>	To align it with the Constitution 2010	

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4.		Owner	Replace the interpretation of “owner” with the following: <i>“Means a person who is registered as the proprietor of a unit in a freehold or leasehold interest.”</i>	For clarity as per Section 24,25,26 of Land Registration Act 2012	Refer to S24,25,26 of LRA Act
5.		Proprietor	Amend (b) to read as: <i>“In relation to any unit the person or persons for the time being registered as proprietors’ of a unit”.</i>	To provide consistency with interpretation as per the Land Registration Act 2012.	Retain interpretation of proprietor in (a)
6.		Register (New)	Introduce a new interpretation of Register to mean “ <i>“Register of a unit maintained under Section 51(b) of this Act”</i>	To provide clarity as per Section 54 of Land Registration Act	Refer to S54 of LRA Act
7.		Residential Unit	<i>Delete the interpretation of residential unit and remove it from the list of definitions</i>	The units could be for various uses other than residential.  The interpretation of “unit” to apply for both commercial and residential units	

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8.		Sectional Plan	Amend the interpretation to read: <i>“As defined in Section 2 of the Land Registration Act 2012”</i>	To align it with the Land Registration Act 2012	Refer to Section 2 of Land Registration Act 2012
9.		Title document	Delete <i>“Title document”</i> and replace with <i>certificate of title</i> and <i>certificate of lease</i> .	The term title document is not used in the sectional Property Act.	Refer to Section 5(1) c of the Land Registration Act
10.		<i>Certificate of title (New)</i>	Means <i>“a certificate of title in the prescribed form issued under section 5(1) c of the Act”</i> .	To harmonize with interpretation in the Land Registration Act 2012	Refer to Section 5(1) c of Act
11.		<i>Certificate of lease (New)</i>	Means <i>“a certificate of lease in the prescribed form issued under section 5(1) c of the Act”</i> .	To harmonize with interpretation in the Land Registration Act 2012	Refer to Section 5(1) c of the Act
12.		<i>Surveyor</i>	<i>Means a surveyor as defined in the Survey Act Cap 299</i>	Removing the definition in the body and taking it to the interpretation	This term has been widely used in the Act and thus the need for definition
13.		<i>Dispute Resolution Committee (New)</i>	<i>Replace “tribunal” with Dispute Resolution Committee</i> <i>Define to mean:</i> <i>“ Means a committee provided for</i>	<i>The tribunal initially envisaged in the act has no jurisdiction under the Act establishing</i>	<i>Introduction of Dispute Resolution Committee will help resolve</i>

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			<i>under Section 30 of this Act”</i>	it.	internal disputes
14.		Unit	Amend the definition by adding the following words at the end to read..... <i>“Means space that is situated within a building and described in a sectional plan by reference to floors, walls and ceilings within a building and shall include its proportionate share in the common property.”</i>	To clarify that the title held by the proprietor of the unit comprises share of the common property	
15.		User (New)	Insert as new interpretation to read as <i>“The purpose for which the building or unit is erected and for which development permission has been granted by the relevant planning authority.”</i>	-It has been introduced in Section 9 and mentioned Section 16 (1) of the Act  -To clarify that the units can be used for residential, commercial or any other use as may be permitted  -In issuing the title the registrar needs to capture the use of the unit.	

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16.		S3 (2) Easement	Separate and define Easement and as defined in Land Act to read <i>“Easement” has the meaning ascribed to it by the Land Act 2012’</i>	To align it to the Land Act	Reference made to Land Act 2012
17.		<b>Cadastral Plan, Cadastral Map, Registry, Court, Geo-reference, Registrar, Sectional Plan</b>	Insert new terms and combine with all the existing terms in SPA which are in Land Registration Act 2012 to read as follows:  <i>“has the meaning as defined in the Land Registration Act, 2012”</i>	To harmonize with interpretation and align them with Land Registration Act 2012	Refer to Land Registration Act 2012
<b>PART II: REGISTRATION OF SECTIONAL PLANS AND UNITS</b>					
18.	<b>PART II</b>	S4(2)	Introduce sub-clause (c) to read <i>“Rent in respect of each respective unit is determined by the relevant authority, where applicable”</i>	-It is easier for the individual unit owners to meet their statutory obligations of paying rent and rates instead of the corporate arrangement  -It’s a requirement under Section 38 & 39 of LRA Act	Refer to Section 38 of Land Registration Act

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19.		S4(3)	<p><i>Insert a new subsection between Subsection 2 &amp; 3 to read as follows:</i></p> <p><i>“The Sectional Plan shall be accompanied by an application for the registration of the corporation and a list of the persons who are the owners of the units in the parcel which shall be updated from time to time on need basis”</i></p>	<p>-The Act as it is not clear on registration of the corporation</p> <p>-The amendment provides for registration of the corporation</p>	
20.		S4 (4)	<p><i>Delete Registration of Land Act and replace with it Land Registration Act of 2012 to read as follows:</i></p> <p><i>“For the purposes of the Land Registration Act 2012, a sectional plan shall be deemed on registration to be embodied in the register”</i></p>	Registered Land Act is repealed	
21.		S5 (1)c	<p>Amend Subsection 5 (1) c to read</p> <p><i>“shall on payment of the prescribed fee, issue a certificate of title if the property is freehold or certificate of lease if the property is leasehold for sectional property in respect of each unit and shall include its proportionate share in the common</i></p>	To provide clarity	

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			<i>property”</i>		
22.		S5(5)	Delete <i>“Registration of Land Act”</i> and replace with <i>“Land Registration Act 2012”</i>	Registration of Land Act is repealed	
23.		S5(6)	Delete the subsection 6 and replace with; <i>“After the register for a unit is opened pursuant to subsection 1 all dealings and dispositions in regard to the unit shall be done in accordance with the Land Registration Act of 2012.”</i>	<i>To harmonize the registration process with Land Registration ACT</i>	
24.		S6(3)	Delete the subsection 6(3)	It has been addressed by the expanded definition of the Unit as provided in the Act	
25.		S9 (1) b	-Substitute sub-clause 1(b) with the statement: <i>“(b.) Shall be Geo-Referenced”</i>  -Merge “b & e” to read as above	To align it with the Land Registration Act 2012	

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26.		<i>S9 (1) (i)</i>	Add a new sub-clause(i) after (h) to read <i>“signed and sealed by the office or authority responsible for surveys”</i>	For authenticity of the document	
27.		<i>9(1)(j)</i>	Introduce a Sub-Clause between (i) and (j) to read <i>“Clearly indicate “the user of the unit”</i>	To ensure clarity on the user of the unit on what is permitted	
28.		9(2)	Delete the subsection	Has been taken care of by the amended Section 9(1)(b)	
29.		9(3)	Delete the word <i>“local authority”</i> and replace it with <i>“County government”</i>	To align it to the devolved structure of governance	
30.		11 (1) (b)	Delete the word <i>“local authority”</i> and replace it with <i>“County government”</i>	To align it to the devolved structure of governance	
31.		11 (1)  11(1) (a) and (b)	-Delete the words <i>“with or accompanied”</i> in subsection 1  -Delete the words <i>“a certificate of”</i>  -Add sub-clause (c) to read <i>“A registered architect as defined under Cap. 525 certifying the sectional plan is a true representation of the building on the particular parcel”</i>	To provide clarity	



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32.		11(2)	<p>-Amend the 3<sup>rd</sup> part of paragraph by substituting the words <i>“.the sectional plan shall be endorsed with or accompanied by a certificate of a surveyor... ”</i> with the words <i>“...the sectional plan shall be endorsed by a surveyor ”</i></p> <p>-Delete the words “in the sentence starting from <i>“as defined under the survey Act (Cap 299) or such other person as shall be approved by the Director of Survey”</i>”</p>	<p>To provide clarity</p> <p>To eliminate unqualified persons who are not surveyors and are not approved to endorse the plan</p>	
33.		S11 (3)	Substitute the term “local Authority” with the term <b>“respective County Government”</b>	To align it to the devolved structure of governance as per Constitution 2010	
34.		S11 (4)	Delete <i>“the Land Planning Act (Cap. 303) and Town Planning Act (Cap.134 of 1948)”</i> and replace it with <b>“the Physical Planning Act (Cap 286) and other land use planning laws.....”</b>	Land Planning Act (Cap. 303) and Town Planning Act (Cap.134 of 1948)were repealed by the Physical Planning Act	

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35.		S13	Introduce a new sub-section 2 to read as follows as follows: i. <i>The long term sub-leases that are intended to confer ownership of apartments, flats, maisonettes, town houses or offices and are already registered without being in conformity with section 54(5) of the Land Registration Act shall be reviewed to conform to the Act.</i>	To provide a window for regularization of sub-leases which have already been registered to allow the owners of the properties to secure their rights to property	Refer to Section 54(5) of Land Registration Act 2012
<b>PART III: ESTABLISHMENT OF THE CORPORATION</b>					
36.	<b>PART III</b>	S17	i. Rename Subsection 1 to 1(a) ii. Insert new Sub-section 17(1)(b) to read as follows:- <i>“The Registrar shall Issue a certificate of registration of the corporation”</i>	It will be necessary for the corporation to have a certificate to enable it carry out its functions as per this Act	

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37		S20	<p>i. Delete in Sub-section 1 (f) <i>“any competent local authority”</i> and replace it with <i>“the County Government”</i></p> <p>ii. Sub-section 2 (a) Delete <i>“Rent”</i></p>	<p>-To reflect the provisions of the Constitution 2010</p> <p>To be paid individually by the owners of the unit</p>	
38		S22	<p>i. Review the marginal note in Section 22 to read:</p> <p><b><i>Disposition &amp; dealings affecting the common property</i></b></p> <p>ii. Re-word subsection 22(1) to read as follows:</p> <p><i>“Any disposition and dealings affecting common property or land that is to become part of the common property shall be executed in accordance with Land Registration Act of 2012 and approved by a unanimous resolution from the corporation.</i></p> <p>iii. Introduce a new Sub-section 22(3) to read as follows:</p> <p><i>“There shall be no disposition and dealings until the Meeting of the</i></p>	<p>To align with S36 of the LRA</p> <p>To protect the interests of buyers of the units in regard to common property</p> <p>To protect the interests of the all unit owners in the corporation</p>	

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			<i>corporation is held as provided for in Section 27 of the Act.</i>		
39		S29	i. Delete section 29  ii. Transfer " <i>Section 50</i> " to replace the deleted Section 29 with marginal title amended to read as follows; <i>"management agreement"</i>	-The duties stipulated in Section 29 are entirely duties for the corporation to perform and should not be delegated to another institution  -Deletion to allow for proper sequencing of the Act	
40		S30 (1)	Insert at the end of Subsection 1 the following words ..." <i>and to provide for establishment of a dispute resolution committee.</i> "	The tribunal envisaged under section 31 does not have jurisdiction. Secondly, to provide for internal dispute resolution mechanism before matters is taken before a court.	Establishment of the dispute resolution committee is established to be under the bylaws

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41		S31	<p>i. Delete Subsection 1 and replace to read as follows  <i>“If the owner contravenes the by-laws the corporation or an aggrieved owner may refer the matter to the committee established Provided for under section 30 (1)”</i></p>	To provide for internal dispute resolution	<p><b>NB:</b>  <i>-The Tribunal proposed deals with commercial properties, hotels and catering establishments.  -To be included in the by-laws on the owners or their agents, tenants  -Define the by-laws to be referred by the committee</i></p>
			<p>ii. Delete Subsection 2 and replace to read as follows:  <i>“In referring the matter to the committee under subsection (1) the corporation shall specify the by-laws that were contravened by the owner .....</i>”</p>	To provide internal dispute resolution mechanism	
			<p>iii. Delete Subsection 3 and replace it to read as follows  <i>“On hearing the matter the committee shall determine the dispute and make a finding and</i></p>	To provide for Internal Dispute Resolution mechanism	

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			<i>order which shall be in writing and signed by the committee members.</i>		
			iv. Delete subsection 5	The committee already understands the by-laws of the corporation	
			v. Delete Subsection 6 and replace to read as follows: <i>“The referral of the dispute to the committee under this section does not restrict or derogate from a remedy that an owner or the corporation may have against person.</i>	To provide for an internal dispute resolution mechanism	
			vi. Subsection 7 delete and replace “tribunal” with “committee”	The tribunal already replaced by a dispute resolution committee	
			vii. Delete in Subsection 7 the word “resident magistrate and rephrase the subsection to read as follows : <i>“In the event of non-</i>	To align with interpretation of the court as per the Act	

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			<p><i>compliance with the order of a committee the aggrieved party may apply to the court to enforce the order of the committee”</i></p>		
			<p><i>viii.</i> Delete subsection 8 and replace to read as follows  <i>“If a party is dissatisfied with the findings of the committee they may appeal to the court”.</i></p>	<p>You cannot take the one’s right to go to court because the right is anchored under the Constitution</p>	
42		32	Delete section 32	Already provided for under section 20 of the Act	
43		33	<p>i. Amend section 1 to read and add the following after the word corporation.....  <i>“in execution of its duties as stipulated in section 20”</i></p> <p>ii. Delete subsection 1 paragraph (a) &amp; (b)</p>	<p>This are functions of the corporation as stipulated in S20 of the Act.</p> <p>Already covered in amended statement</p>	

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			iii. Under Subsection 6 replace Registration Land Act with Land Registration Act 2012  iv. Delete Subsection 8	above.  Registration of Land Act is repealed  This is a function of the corporation	
44		S35	Delete the cross reference to Section 51 (3)	Subsection 51(3) deleted	
45		S38	i. Subsection 1 & 2 –Substitute Institutional manager with <i>“corporation”</i>  ii. Subsection 3 -Substitute tribunal with <i>“committee”</i>  iii. Delete S38(1) (b)iii and replace with <i>“The committee may award a penalty against the corporation as may be prescribed in the bylaws”</i>  iv. In Subsection 39(5) - Delete the word <i>“tribunal”</i> and replace with <i>“committee”</i> and	Institutional manager deleted  Tribunal replaced with committee  To enable the owners of the units to regulate penalty in their bye laws  The right to go to court is a constitutional right	



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			delete the words “there shall be no”		
46		S39	Delete the marginal note “ <i>documents required</i> ” and reword it to read “ <i>Handing over of documents</i> ”	To provide for the original owner of the parcel or property to hand over to the corporation	
47		S40	<ul style="list-style-type: none"> <li data-bbox="792 580 1330 767">i. Subsection 1 (a) and (b) Delete the words “<i>place insurance</i>” and replace with “<i>shall insure and may insure respectively</i>”</li> <li data-bbox="792 807 1330 916">ii. Subsection 2(a) Delete the words “<i>shall place insurance</i>” and replace w with “<i>insure</i>”</li> <li data-bbox="792 959 1173 991">iii. <i>Delete subsection 4</i></li> <li data-bbox="792 1110 1173 1142">iv. <i>Delete Subsection 5</i></li> </ul>	<p data-bbox="1361 580 1532 612">For clarity</p> <p data-bbox="1361 807 1659 879">This role is vested on the corporation</p> <p data-bbox="1361 959 1659 1066">This should be provided for in the insurance policy</p> <p data-bbox="1361 1110 1599 1142">Same as above</p>	
48		S41	Delete the words “ <i>institutional manager where such a person has been appointed</i> ”	Institutional manager deleted from the Act	

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49		S42	Delete section 42	The contents are already covered in Section 22 & 23	
50		S43	Delete section 43	Covered in Section 22 & 23	
51		S45	<ul style="list-style-type: none"> <li data-bbox="779 655 1326 842">i. Subsection 4 insert the word <i>“been”</i> between has and endorsed , further delete the words <i>“on it , or”</i> and replace with <i>“and”</i></li> <li data-bbox="779 847 1326 1129">ii. Delete section 6 and replace to read as follows:’ The instruments granting easement or covenants under this section shall be registered <i>in accordance with Land Registration Act (2012)</i></li> <li data-bbox="779 1166 1173 1201">iii. Delete subsection 5</li> <li data-bbox="779 1246 1326 1385">iv. Subsection 6...insert..... <i>“Instrument granting the easement or covenant in accordance with Land</i></li> </ul>	<p data-bbox="1361 655 1675 762">To conform to Land Registration Act 2012</p> <p data-bbox="1361 847 1675 954">To conform to Land Registration Act 2012</p> <p data-bbox="1361 1262 1570 1329">Covered in Subsection 4</p>	

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			<i>registration Act</i> ".		
<b>PART IV: PROVISIONS RELATING TO UNITS</b>					
52		46 Sale of residential units	<ul style="list-style-type: none"> <li>i. Delete the word <i>“residential”</i> unit in the title</li> <li>ii. Subsection 1 replace “he” with the word <i>“the developer”</i></li> <li>iii. Section 46 1(c) and (d) delete any and Insert <i>“If any at the end of the sentence”</i></li> <li>iv. Section 46(1) (e) Delete Subsection and replace with <i>“The lease or Title of the parcel on which the unit is located or the sectional property Title in respect of the unit.”</i></li> <li>v. Delete subsection 46 (3-5)</li> </ul>	<p>To cover for all units</p> <p>To cover for all persons</p> <p>To provide clarity</p> <p>To provide clarity of the sub-Section</p> <p>-Parties will prescribe the term in the purchase agreement.</p> <p>-The contents can be captured in the sale agreement</p>	
53		47	Delete section 47	-Too prescriptive	

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				-Parties will prescribe the terms in the purchase agreement.	
54		48	Delete section 48	This issues to be taken care of in the sale agreement	
55		49	Delete section 49	This can be handled under tenancy agreement and needs not to be under this Act	
56		50	<p>i. Move <b>Section 50</b> to Section 29 and the heading retain the heading as <b>“Management agreement”</b></p> <p>ii. Delete Subsection 1 and replace with...<i>“The management agreement may be entered by the corporation at the time when its board was comprised of persons who were elected to the board while the majority of units were owned by the developer”</i>.</p>	<p>To provide for a good flow of the sections in the Act</p> <p>To provide clarity in the subsection</p>	-Refer to interpretation on management agreement on pg. 6 under definitions

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			<p>iii. <i>Subsection 2 to read “Subject to subsection (3) a corporation may notwithstanding anything contained in subsection (1) terminate the management agreement entered by the corporation at any time after its board is comprised of persons who were elected to the board after the majority of the units were owned by persons other than a developer.”</i></p> <p>iv. <i>In Subsection 3 Delete the word “developers”</i></p>	<p>To provide clarity in the subsection</p> <p>Developers management agreement deleted and replace with management agreement</p>	
57		S51	<p>i. <i>Delete the marginal title to and replace with “<b>Renting of units</b>”</i></p> <p>ii. <i>Delete the words “residential” in subsection 1</i></p> <p>iii. <i>Delete subsection 1b</i></p>	<p>The Act covers both residential and commercial units</p> <p>Same as above</p> <p>There is no need to compel the owner of</p>	=

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			<p>iv. Delete subsection 2 and replace with <i>“The owner of the unit shall give an undertaking to the corporation to be liable for any damage caused by the tenant.”</i></p> <p>v. Subsection 51 delete subsection (3), (4)</p> <p>vi. Delete the word <i>“residential”</i> subsection 5 &amp; 6</p> <p>vii. Delete section 7</p>	<p>a unit to disclose the rental values</p> <p>The owner has given an undertaking on amended subsection 2</p> <p>Provision on provision of deposit already deleted.</p> <p>The Act covers both residential and commercial units</p> <p>Subsection 3 &amp; 4 which covers issues of deposits deleted</p>	
58		S52	<p>i. Delete Subsection (i) and replace with <i>“If the tenant occupying the unit causes or contravene the bylaw the corporation shall give notice to the owner of the unit to take necessary action immediately.”</i></p>	<p>-To allow the owner to remedy the situation before the corporation can intervene.</p> <p>-The tenancy agreement is</p>	

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			<p>ii. <i>Delete Subsection 2 and replace with “If the owner fails to take necessary action within time specified in the notice the corporation shall give the tenant a notice to vacate the premises.</i></p> <p>iii. <i>Delete subsection 3 and replace to read as follows “If the tenant refuses to vacate the corporation shall take necessary action against the tenant.</i></p>	<p>between the owner and the tenant</p> <p>To give the owner the first opportunity to resolve the matter with the tenant</p> <p>To reinforce the decision of the corporation</p>	
59		S53	<i>Delete section 53</i>	Covered in subsection 3 as amended above.	
<b>PART V: MISCELLENOUS PROVISIONS</b>					
60	V	S54	Delete section 54	Insurance policy take will precedence in the case of damage to building	

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61		S55	i. Delete Subsection 55(1) and replace with <i>“The sectional status of a building may be terminated by :</i> <i>a. Unanimous resolution</i> <i>b. Substantial or total damage to the building</i> <i>c. Compulsory acquisition</i>  ii. Delete Subsection 55 (2,3,4,5)	-To allows the owners with powers to terminate sectional property  -To align it with LRA and to ensure the changes are effected in the register  The chargee and owners have other options to dispose their interests To be dealt with under insurance policy	
62		S57	i. Amend the marginal title to read <i>“ sale of sectional property”</i>  ii. Amend Subsection 2 to read <i>“When the board is satisfied that the unanimous resolution was properly</i>	To provide clarity  To legally empower the corporation to undertake the duties in respect of	



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			<p><i>passed the transfer shall be executed in accordance to Land Registration Act 2012.”</i></p> <p>Delete subsection 3</p> <p>iii. Include a new subsection 57 (4)( i) (a)....to read as <i>“Unless an amended cadastral map and plan of the parcel is submitted”</i></p> <p>iv. Move subsection 4(a) to 4(b). and amend to read <i>“Unless the transfer is endorsed and accompanied by a certificate under the seal of the corporation that the unanimous resolution was properly passed and that all necessary consents were given; and”</i></p> <p>v. Amend Section 4(b) to read (b) <i>“until the notification required by Section 56 has been made on the sectional</i></p>	<p>executing the sale</p> <p>To align with Land Registration Act</p> <p>Already covered in S4</p> <p>Provide for a smooth transfer process</p>	

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			<p><i>plan”</i></p> <p>vi. Delete subsection 5</p> <p>vii. Delete sub-section 6 and replace it with <i>sub-section 4(ii)</i> to read as follows:</p> <p>a. <i>The registrar shall close the registers relating to the units and open a new register.</i></p> <p>b. <i>Shall register the transfer in accordance with Land Registration Act, 2012</i></p>		
63		S58	<p>Delete S58 and replace it to read as follows</p> <p><i>“Upon transfer of the sectional property as provided in Sectional 57 the corporation shall stand dissolved”</i></p>	For clarity since the sectional plan registration provides life to the corporation	
64		S59	Delete Section 59	Already provided for in Section 9(3) and Section 60	
65		S60	Introduce Sub-section <i>60 (i) and (ii)</i> as follows:	This section is	

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			Subsection to read as follows: <i>i. "The rating authority shall assess rates, charges and taxes in relation to the parcel or a part of it."</i> <i>ii. Subsection 2 Include the rest in section 60 as subsection ii</i>	already covered in section 9 (3) and 60	
67		S62	Delete section 62	-The Act has provided on how parties should approaching the court.  -Approaching the court is a constitutional right.  - we should not prescribe how parties should go to court	
68		S63	Replace "local authority" with "County Government"	To align with the Constitution 2010	
69		S64	Amend Subsection 1 to read <i>"Service of documents and notices shall be effected through:"</i> <i>(a) Physically delivering it to a</i>	To provide clarity	

<b>Sr. no</b>	<b>PART</b>	<b>SECTION</b>	<b>PROPOSED AMENDMENT</b>	<b>JUSTIFICATION</b>	<b>REMARKS</b>
			<i>registered office or by sending it by registered post; or, (b) By personal service on a member of the board; or, (c) By Electronic transmission</i>		
<b>70</b>		S65	Delete S64	Covered in Section 52 and 64	
<b>71</b>		S68	Delete S68	Procedures provided on Land Registration Act 2012	
<b>72</b>		S69	Amend the penalties in the following sections to read as follows: <i>1. Subsection 1Kshs. 100,000/=</i> <i>2. Subsection 2 Kshs 250,000/=</i> <i>3. Subsection 3 Kshs 250,000/=</i>	-The ceiling are out-dated -To provide for adjusted for time value for money	
<b>73</b>		S70	Delete the word <i>“Residential ”</i>	To expand the coverage on both residential and commercial units	
<b>74</b>		S71	Delete <i>“Minister”</i> and replace with <i>“Cabinet Secretary”</i>	To align with governance structure of constitution 2010	

***END OF PROPOSED AMMENDMENTS TO THE SPA ACT***

Sr. no	PART	SECTION	PROPOSED AMENDMENT	JUSTIFICATION	REMARKS
<b>AMMENDEMENT TO SECTIONAL PROPERTY REGULATIONS</b>					
1		Regulation 2	<p>i. Insert new regulation 2 to read as follows:  <i>“Upon registration of a sectional plan, the owners shall make an application for the registration of the corporation in form SPA1 (a) and the registrar shall issue a registration certificate in the form SP1 (b) set out in these regulations.”</i></p> <p>ii. Regulation 2 moves to regulation 3</p> <p>iii. Amend regulation 3 to read as follows <i>“A sectional plans register shall be in form SP2 set out in these regulations while the Unit register for freehold and leasehold shall in Forms SP2(a) and SP2(b) respectively.</i></p>	<p>It is important to introduce certificate of the registration of the corporation</p> <p>For proper sequencing</p> <p>For clarity</p>	
2		Regulation 3	<p>Delete and replace Regulation 3 to read as follows:  <i>“A Certificate of Title and a certificate of lease for sectional</i></p>	<p>For conformity to the amendments in the Act and Land Registration Act</p>	

Sr. no	PART	SECTION	PROPOSED AMENDMENT	JUSTIFICATION	REMARKS
			<i>property unit shall be in the form SP3 and SP4 respectively.”</i>	2012	
3		Regulation 4	Delete R4 and replace to read as follows <i>“The forms used in the Land registration regulations made under the Land Registration Act of 2012 shall subject to Section 110 of the Act be used with necessary modifications.”</i>	The RLA is repealed	
4		Regulation 6	Delete the words “S109& 110 of the RLA” and replace with <i>“Section 44 &amp;45 of Land Registration Act of 2012”</i>	RLA is repealed	
5		Regulation7	Substitute RLA with LRA	RLA is repealed	
6		Regulation8	Substitute RLA with LRA	RLA is repealed	
7		Regulation 9 (3)	<i>Replace “Section 18(3) and (4) of the RLA” and reword to read as follows “Every sectional plan referred to in paragraph 2 shall be numbered in accordance with Form SP5 in these regulations. regulations”</i>	-RLA is repealed -For proper sequencing of the forms	
8		Regulation 10(c)(i) and (ii)	<p>i. Delete R10 (c) (i) and replace with t the first sheet on which are set out matters prescribed by Section 9 and 11 of the Act</p> <p>ii. Delete 10 c ii and replace with <i>“Further sheets containing such elevations, sections,</i></p>	<p>To incorporate proposed amendments under Section 9 of the Act</p> <p>To incorporate proposed</p>	

Sr. no	PART	SECTION	PROPOSED AMENDMENT	JUSTIFICATION	REMARKS
			<p><i>plans, diagrams and other information required under Section 9 of the Act.</i></p> <p>Delete (1) (d)</p>	amendments under Section 9 of the Act	
9		Regulation 11	<p>i. Delete R11a and replace with <i>“ a surveyor”</i></p> <p>ii. Delete 11b</p> <p>iii. 11c Delete the word “local authority” and replace with <i>“County Government”</i></p> <p>iv. 11d –Delete all the words after the word <i>“property”</i></p>	<p>To conform with S11 2</p> <p>The proposed amendments in S9 (1) of the act requires the plan to be signed and sealed by the office or authority responsible for survey</p> <p>Regulation 11 deals with the persons who should sign the plan</p>	
10		Regulation14 (1)	<p>i. Delete the words “relevant form in the third schedule” and replace with <i>“Form SP6 in these regulations”</i></p>	To specify the form	

Sr. no	PART	SECTION	PROPOSED AMENDMENT	JUSTIFICATION	REMARKS
		R 14 (2)	ii. Replace “relevant form in the third schedule” with <i>form SP7 in these regulations</i>	To specify the form	
11		Regulation 15	Delete the words “ <i>for registration as</i> ” and replace with “ <i>in support of</i> ”	A Site and building locational plans are not registrable but are supporting documents	
12		Regulation 16(1)  R161(b)  R 16(2)b	i. Delete the word ‘redivision’ and replace with “ <i>subdivision</i> ” ii. In 16 (1) b Delete the word “redivided” and replace with “ <i>subdivided</i> ”. iii. In 16 (2) b delete the word redivided and replace with “ <i>consolidated</i> ”	To conform to the Act  To conform to the Act  To conform to the Act	
13		Regulation 18 (New regulation)	Insert a new Regulation 18 to read as follows “ <i>i. Pursuant to S13 (2) of the Act the registered proprietor shall submit a sectional plan for registration to the registrar within 2 years from the date of these regulations</i>  <i>ii. The registrar shall register the</i>	To confer with amendment under section 13 of the act	



Sr. no	PART	SECTION	PROPOSED AMENDMENT	JUSTIFICATION	REMARKS
			<i>sectional plan and issue the owners of the unit with certificate of title/lease in accordance with S54 (5) of the LRA 2012.</i>		
<b>14</b>		Regulation 18	<p>i. Regulation 18 to be renamed Regulation 19</p> <p>ii. Delete the words “third schedule and replace with (“Form SP8”)</p>	<p>A new Regulation 18 has been proposed</p> <p>To specify the form</p>	
<b>15</b>		Regulation 19	Delete R19	The supporting Section 42 the Act was deleted	
<b>16</b>		Regulation 20	In R20(1)Delete “42” after the word “section”	The section has been deleted in the Act	
<b>17</b>		Regulation 21	Delete Regulation 21	The supporting sections 29 and 54 were deleted from the act	
<b>18</b>		Regulation 22	i. Under Subsection (1) Delete the words “the relevant form in the third schedule” and replace with “Form SP9”	To specify the form	

<b>Sr. no</b>	<b>PART</b>	<b>SECTION</b>	<b>PROPOSED AMENDMENT</b>	<b>JUSTIFICATION</b>	<b>REMARKS</b>
			ii. Delete from the form the following  <i>“a certified copy of the order made by the high court of Kenya pursuant to section 55(3) of the SPA 1987”</i>	High court Deleted from section 55 of the Act	
<b>19</b>		Regulation 23	i. Delete “ or 57(4)” ;  ii. Delete the words “third schedule” and replace with form SP10	Section 57(5) was deleted 5  To specify the form	
<b>20</b>		Regulation 25	i. Delete “59” and replace with “9”  ii. Delete the words <i>“relevant form in the third schedule”</i> and replace with <i>“SP11”</i>  iii. Delete in form SP 8 <i>“the seal of the owners”</i> and replace with <i>“Registrar”</i> and Substitute <i>‘members of the board’</i> with the <i>“Registrar”</i>	Contents of Section 59 covered in S9(3) and 60  To be more specific  It’s the registrar forwarding and not the members of the cooperation	
<b>21</b>		Regulation 26	Delete the words <i>“relevant form set out in the third schedule”</i> and replace <i>“with form SP12”</i>	To specify the relevant form	
<b>22</b>		Regulation 27	Delete the words” relevant form set	To specify the	

<b>Sr. no</b>	<b>PART</b>	<b>SECTION</b>	<b>PROPOSED AMENDMENT</b>	<b>JUSTIFICATION</b>	<b>REMARKS</b>
			out in the third schedule” and replace ‘with form <b>SP13</b>	relevant form	
<b>OTHER COMMENTS ON AMENDMENTS TO THE FORMS</b>					
<b>28</b>		Form SP7	Delete <i>“hereunder cited”</i>  <i>Delete 57(4) in the heading</i> <i>The certificate to read</i> <i>“This is to certify that the Owners, Sectional plan No.....has been duly registered on this day.....Month.....Year under my hand and seal.....”</i>		

**AMENDMENTS TO THE (BYLAWS OF THE CORPORATION) REGULATIONS, 1991**

<b>SR. NO</b>	<b>PART</b>	<b>CLAUSE</b>	<b>PROPOSED AMMENDMENT</b>	<b>JUSTIFICATION</b>	<b>REMARKS</b>
		2	Delete <i>“Local authority”</i> and replace with <i>“County Government”</i>		
		3(1) (d)	Delete d	The provision under Section 42 was deleted in the act	
		3(1)(g)	Delete (g) and replace to read as <i>“require the owner or other occupier of</i>	For clarity	

			<i>the unit to pay a refundable deposit for utilities”</i>		
		3 (1) (h)	Delete h and replace with <i>“Recover from owner or occupier of the unit who fails to pay any charges due for the supply of utilities to the unit from the refundable deposit paid in paragraph 3 (1) (g) above.</i>	For clarity	
		3 (1) (i)	Add at the end of the paragraph the following words <i>“in accordance with Section 22 of the Act”</i>	To conform to the Act	
		3 (2) (a)	Delete the words <i>“ with a saving bank or building society’</i> and replace with <i>“a bank to be determined by the corporation”</i>		
		3(2)(c)	Delete the words <i>“ electricity or water or gas”</i> and replace with <i>“utilities”</i>	For clarity	
		3(3)	Add the following new paragraph <i>“ The corporation shall establish a Dispute Resolution Committee comprised of atmost seven(7) members who are owners of the units and are not members of the board”</i>	Dispute resolution committee is provided for under Section 30 of the Act	
		4	Add the words <i>“in compliance with the 2/3 gender rule of the Constitution of Kenya 2010”</i>	to comply with the provisions of the Constitution of Kenya 2010	
		4(2)	Delete the words <i>“one or more</i>	For clarity	

			<i>individuals not exceeding three in number</i> and replace with <i>“not more than three members”</i>		
		5(1)	Delete the words <i>“does not need to”</i> and replace with <i>“must ”</i>	It’s important for decision makers to be the owners of the property	
		9	Add a new paragraph (g) to read <i>“dies”</i>	Not provided for in the current by laws	
		16(3)	Delete the words <i>“or to the institutional manager any or”</i>	Deleted in the Act	
		23(1)	Delete Paragraph and replace with <i>“ At an annual general meeting or at any other meeting a resolution shall be voted on by secret ballot and shall be deemed to be the resolution of the meeting”</i>	For democracy to be upheld	
		23(2)	Delete paragraph 2	Disqualified by adoption of secret ballot	
		23(3)	Delete paragraph 3	Disqualified by adoption of secret ballot	
		23(4)	Delete the words <i>“whether on a show of hands or a poll”</i>	Disqualified by adoption of secret ballot	
		24	<ul style="list-style-type: none"> <li>i. Delete paragraph 1</li> <li>ii. Delete in paragraph 2 the following words <i>“if a vote is taken by a poll”</i></li> </ul>	<p>Voting by show of hands deleted</p> <p>To ensure there is fairness in</p>	

				resolutions made	
		26	Delete <i>“on a show of hands or on a poll”</i>		
		29	<ul style="list-style-type: none"> <li>i. Delete (a) and ((b) and amend paragraph 1 by adding the following words <i>“are entitled to one vote between them in accordance with the procedure provided for in by-law 5(2) (a)”</i></li> <li>ii. Delete paragraph 2</li> </ul>	Voting is by secret ballot	
		30	<p>Introduce a new bylaw 30 to read as follows:</p> <p><b>Composition of Dispute resolution committee</b></p> <ul style="list-style-type: none"> <li>i. <i>The Dispute Resolution committee shall comprise of not less than three (3) and not more than seven (7) members.</i></li> <li>ii. <i>The committee shall regulate its own procedures.</i></li> </ul>		
		33	<ul style="list-style-type: none"> <li>i. Add the following words at the end of paragraph 1 to read <i>“and shall include a tenant”</i></li> <li>ii. Delete paragraph 1(b)</li> <li>iii. Delete “owner” in paragraph 2 and replace with <i>“Occupant”</i></li> </ul>	<p>The tenant does not have any right over the landlord.</p> <p>Occupant can be an owner or tenant</p>	

			<p>iv. Delete paragraph 3 (a)</p> <p>v. Move paragraph 33(3) (b) to Paragraph 33 (2) (o) and delete the words “take all reasonable steps to ensure that his visitors do not” and replace with <i>“not allow his visitors to behave....”</i></p> <p>vi. Move paragraph 33(3) (c) to Paragraph 33 (2) (p) and reword the sentence to read as follows’ <i>“allow his visitors to park their motor vehicles in a manner that contravenes the bylaws relating to the parking of the motor vehicles”</i>.</p>	Its covered under paragraph 2	
		First schedule	Delete first schedule	Deleted from the Act & Regulations	
		Second Schedule	Delete second schedule	Deleted from the Act & Regulations	