

(7 October 2016 – to date)

SECTIONAL TITLES ACT 95 OF 1986

(Government Notice 1943 in Government Gazette 10440 dated 17 September 1986. Commencement date: 1 June 1988 [Proc. No. 62, Gazette No. 11240 dated 8 April 1988])

REGULATIONS

Government Notice R664 in Government Gazette 11245 dated 8 April 1988. Commencement date (same as the date on which the Act commenced): 1 June 1988 [Proc. No. 62, Gazette No. 11240 dated 8 April 1988]

As amended by:

Government Notice R991 in Government Gazette 11318 (Correction notice). Commencement date: 27 May 1988.

Government Notice R1791 in Government Gazette 12670. Commencement date: 3 August 1990.

Government Notice R2345 in Government Gazette 12767. Commencement date: 5 October 1990.

Government Notice R2542 in Government Gazette 12816 (Correction notice). Commencement date: 2 November 1990.

Government Notice R2653 in Government Gazette 13612. Commencement date: 1 January 1992.

Government Notice R2868 in Government Gazette 13658 (Correction notice). Commencement date: 6 December 1991.

Government Notice R1562 in Government Gazette 14024. Commencement date: 12 June 1992.

Government Notice R60 in Government Gazette 14526. Commencement date: 1 April 1993.

Government Notice R1659 in Government Gazette 15990. Commencement date: 30 September 1994.

Government Notice R1422 in Government Gazette 18387. Commencement date: 31 October 1997.

Government Notice 1357 in Government Gazette 20619. Commencement date: 19 November 1999.

Government Notice 830 in Government Gazette 21483. Commencement date: 25 August 2000.

Government Notice R438 in Government Gazette 27561. Commencement date: 13 May 2005.

Prepared by:

Government Notice R1109 in Government Gazette 28217. Commencement date: 18 November 2005.

Government Notice R1264 in Government Gazette 31626. Commencement date: 28 November 2008.

Government Notice R291 in Government Gazette 33111. Commencement date: 16 April 2010.

Government Notice R820 in Government Gazette 34639. Commencement date: 28 October 2011.

(Note: Published as Government Notice R805 and corrected to Government Notice R820 by Government Gazette 34652 dated 7 October 2011)

Government Notice R196 in Government Gazette 36241. Commencement date: 14 April 2013.

*Government Notice R548 in Government Gazette 38923 dated 30 June 2015. Commencement date:
30 July 2015.*

*Government Notice R1231 in Government Gazette 40335 dated 7 October 2016. Commencement date:
7 October 2016.*

I, Jacob Albertus van Wyk, Deputy Minister of Land Affairs, acting in terms of section 55 of the Sectional Titles Act, 1986 (Act 95 of 1986), after consultation with the Sectional Titles Regulation Board hereby make the regulations contained in the Schedule hereby. The regulations come into effect on the date on which the Act comes into operation.

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SCHEDULE

SECTIONAL TITLES REGULATIONS

1. Definitions

In these regulations a word or expression to which a meaning has been assigned in the Act, bears that meaning, and, unless the context otherwise indicates-

"the Act" means the Sectional Titles Act, 1986 (Act 95 of 1986);

"main file"

(Definition of "main file" deleted by Regulation 2 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

"professional engineer" means a professional engineer as defined in the Professional Engineers' Act, 1968 (Act 81 of 1968);

"section [sic] title file" means the file referred to in regulation 13;

(Definition of "section title file" inserted by Regulation 2 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

"subfile"

(Definition of "subfile" deleted by Regulation 2 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

"taxing master"

(Definition of "taxing master" deleted by Regulation 2 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

"under his direction"

(Definition of "under his direction" deleted by Regulation 2 of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

2.

(Regulation 2(3) substituted by Regulation 2 of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Regulation 2 repealed by Regulation 3 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

3.

(Regulation 3 repealed by Regulation 4 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

4. Certificate in Respect of Leased Buildings

The certificate contemplated in section 4 (3) (a) (ii) of the Act shall contain the following particulars:

(a) The name of the scheme;

(Regulation 4(a) substituted by Regulation 3(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(b) the description and extent of the land upon which the building or buildings comprising the proposed scheme are situated, as reflected in the title deed of such land;

(Regulation 4(b) substituted by Regulation 3(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(c) the full name and address of the developer;

(d) the number of the title deed in respect of the land concerned;

(e) the number and description of every separate category of units in the buildings comprised in the scheme;

(f) the number of garages and the number of parking places which are provided in the scheme;

(g) any facilities available as common property under the scheme;

(h) a copy of a report by an architect or a professional engineer in respect of the common property relating to the general physical condition of the building or buildings comprised in the scheme, with specific reference to any defects in the buildings and the services and facilities relating thereto;

(i) a specified estimate by the developer or his agent of the annual expenditure in respect of-

(i) the repair, upkeep, control, management and administration of the common property;

(ii) the payment of rates and taxes and other local authority charges in respect of the building or buildings and land concerned;

(iii) the charges for the supply of electricity, gas, water, fuel and sanitary and other services to the building or buildings and land concerned;

- (iv) insurance premiums; and
- (v) all other costs in respect of the common property which are normally recovered from the owners of units as contemplated in section 37 (1) (a) of the Act.

5. Draft sectional plans

(1) A draft sectional plan intended to be approved by Surveyor-General and registered in a deeds registry shall comply with the following requirements:

- (a) It shall be prepared in black print of good quality on a good, durable drawing material of any of the following sizes: 297 x 210 mm; 297 x 420 mm or 297 x 841 mm.

(Regulation 5(1)(a) substituted by Regulation 2(a) of Government Notice 830 in Government Gazette dated 25 August 2000)

- (b) Only one side of the sheet shall be used.

- (c)

(Regulation 5(1)(c) deleted by Regulation 2(b) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (d) Margins 40 mm wide along the 297 mm side of the sheets and 10 mm wide along the other sides, shall be provided and such margins shall, subject to the provisions of paragraph (h), be left free of any writing or drawing.

(Regulation 5(1)(d) substituted by Regulation 2(c) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (e) All linear measurements recorded on such plan shall be in metres to two decimal places.

- (f) If angles or angles of direction are required to be shown on such a plan they shall be expressed to the nearest 10 seconds.

(Regulation 5(1)(f) amended by Regulation 2(d) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (g) Any drawing on such plan shall be plotted to a standard scale: Provided that-

(Words in Regulation 5(1)(g) preceding Regulation 5(1)(g)(i) amended by Regulation 2(e) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (i) the size of the figure shall be sufficiently large to show all the required details; and

- (ii) if necessary, block plans, floor plans and cross-sections of a building may be shown on more than one sheet.

(Regulation 5(1)(g) corrected by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

(Regulation 5(1)(g) substituted by Regulation 3(a) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

- (h) Any addition, alteration or interlineation on a draft sectional plan shall be initialled by the responsible land surveyor or architect and for this purpose, the margin on the right hand side of the sheet opposite such addition, alteration or interlineation shall be used.

(Regulation 5(1)(h) amended by Regulation 2(f) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (i) A Surveyor-General may refuse to approve a draft sectional plan should he or she be of the opinion that such plan is dilapidated or has been prepared in a careless manner or that the appearance thereof is spoilt by additions, alterations or interlineations.

(Regulation 5(1)(i) amended by Regulation 2(g) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (j)

(Regulation 5(1)(j) deleted by Regulation 2(h) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (k) All buildings, sections and exclusive use areas, shall be uniquely numbered.

(Regulation 5(1)(k) amended by Regulation 3(b) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(Regulation 5(1)(k) substituted by Regulation 2(i) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (l) If boundaries of a section or of a part thereof cannot be defined by reference to its floor, walls and ceiling, such boundaries shall be defined in a manner acceptable to the Surveyor-General.

- (m) The common boundary between an exclusive use area created in terms of section 25(9), 27(1), 27(2) or 60(3) of the Act and a section or common property is, in the case of physical features, the median line of the dividing floor, wall, ceiling, fence or other similar feature, unless boundaries have been described in a different manner on the sectional plan; otherwise a boundary which is not a physical feature, shall be described in a manner acceptable to the Surveyor-General or in terms of beacons determined in accordance with the provisions of the Land Survey Act, 1997 (Act No. 8 of 1997), which beacons shall be described, and sufficient data given on such plan to define the area and to determine the location thereof in relation to the building, section or boundaries of the land.

(Regulation 5(1)(m) substituted by Regulation 3(a) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Regulation 5(1)(m) corrected by the Regulations under Government Notice R2542 in Government Gazette 12816 dated 2 November 1990)

(Regulation 5(1)(m) amended by Regulation 2(j) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

(Regulation 5(1)(m) substituted by Regulation 2 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

(n) Each sheet shall contain the following:

- (i) The title of the sheet;
- (ii) the sheet number and an indication of the number of sheets of which the draft sectional plan consist;
- (iii) the name and address of the architect or land surveyor concerned or, if he or she is practising with a firm of architects or land surveyors, his or her name and the name and address of the firm, the signature of the architect or land surveyor, and his or her professional designation;
- (iv) the date on which the architect or land surveyor signed the sheet;
- (v) a space which shall be provided for the approval certificate of the Surveyor-General,

provided that any departure from these requirements shall require the prior approval of the Surveyor-General.

(Regulation 5(1)(n) amended by Regulation 3(c) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(Regulation 5(1)(n) substituted by Regulation 2(k) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (2) A draft sectional plan shall consist of the following sheets which, subject to the provisions of the Act and subregulation (3), shall contain the particulars prescribed by this subregulation: Provided that if such a plan is intended for the purposes of a subdivision, consolidation or extension of a section or sections, or for the extension of a scheme or common property, or in the circumstances referred to in section 27 (2) of the Act, or for the amendment of a scheme due to the destruction of or damage to a building or buildings, or for the amendment of a sectional plan in terms of section 14 (1) of the Act, it need only comprise such sheets as are affected by such amendments, and the heading of such plan shall be styled as an amending sectional plan:

(Words preceding paragraph (a) of Regulation 5(2) substituted by Regulation 4(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Part before the first proviso in Regulation 5(2) substituted by Regulation 3(d) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(a) A first sheet which shall be substantially in the form of Form AC in Annexure 1 and which shall contain, in addition to the particulars mentioned in subregulation (1) (n), the following:

(i) The name of the scheme;

(Regulation 5(2)(a)(i) substituted by Regulation 4(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(ii) the description of the land as reflected on the relevant approved general plan or approved diagram;

(iii) the number of the relevant approved general plan or of the approved diagram of the land;

(iv) the number of the section or part of a section that is found in every building: Provided that if a building consists only of common property, it shall be described as such;

(Regulation 5(2)(a)(iv) substituted by Regulation 3(e) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(v) the nature of any encroachment on the land to which the scheme relates;

(vi) a certificate signed by the architect or land surveyor that the draft sectional plan has been prepared from actual measurements taken by him or her or under his or her direction: Provided that where the responsibility for the preparation of the draft sectional plan is carried by more than one person, each of such architects or land surveyors shall affix a certificate to this sheet, and such certificate shall disclose to what extent he or she accepts responsibility for the preparation of the draft sectional plan;

(Regulation 5(2)(a)(vi) amended by Regulation 2(l) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

(vii) a caveat, if a developer should reserve the right under section 25 of the Act to erect a further building or buildings to horizontally or vertically extend an existing building;

(Regulation 5(2)(a)(vii) amended by Regulation 2(l) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

(viii) the name of the local authority;

(Regulation 5(2)(a)(viii) substituted by Regulation 3(f) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(ix)

(Regulation 5(2)(a)(ix) inserted by Regulation 3(g) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(Regulation 5(2)(a)(ix) deleted by Regulation 5 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (x) the sheet number on which every exclusive use area is found;

(Regulation 5(2)(a)(x) inserted by Regulation 3(g) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

- (xi) space for-

- (aa) the signature of the registrar and his or her reference number; and

- (bb) the signature of the Surveyor-General and his or her reference numbers.

(Regulation 5(2)(a)(xi) inserted by Regulation 3(g) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(Regulation 5(2)(a)(xi) amended by Regulation 2(l) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000) – Note: This amendment inserted the expression “or her” after the expression “he”.

This has been interpreted as applying to the expression “his”, which appears in the relevant subparagraph.

(Regulation 5(2)(a) substituted by Regulation 3(b) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

- (b) a sheet or sheets on which a block plan is prepared which shall, in addition to complying with the provisions of section 5 (3) (a) of the act and subregulation (1) (n), contain or indicate the following:

- (i) a description of contiguous land, and the names of contiguous streets, if any;

- (ii)

- (aa) the position at ground level of the external surfaces of the walls of all buildings shown by a solid line, together with the horizontal distances between each rectilinear cadastral boundary and the buildings nearest to such boundary: Provided that where such external surfaces of any walls are interrupted at ground level by features such as archways, doorways or similar openings, such external surfaces shall likewise be shown by a solid line;

- (bb) the greatest extent to which the external surfaces, excluding roof overhangs, unless any such overhang encroaches over the cadastral boundary, protrude beyond the external surfaces of the building at ground level shown by distinctive broken lines, together with the horizontal distance between each rectilinear cadastral boundary and the nearest protrusion to such boundary: Provided that if a basement area determined by the internal surfaces of the walls projects beyond the external surface

of the building at ground level, such projection shall likewise be shown separately by a distinctive broken line: Provided further that a brief description shall be given of all parts of the building indicated by a distinctive broken line;

(Regulation 5(2)(b)(ii) substituted by Regulation 3(h) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

- (iii) any encroachment on the land to which the scheme relates;
- (iv) any servitude burdening the land reflected on the relevant approved diagram or general plan;
- (v) a sign indicating the true north directions;
- (vi) an exclusive use area as referred to in subregulation (1) (m) which shall be delineated by means of distinctive broken lines and shall express the area to the nearest square metre: Provided that if details cannot clearly be shown on the sheet such details may be shown in an inset or on an additional sheet as contemplated in paragraph (f);

(Regulation 5(2)(b)(vi) amended by Regulation 2(l) of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

- (c) a sheet or sheets on which the diagrammatic floor plan in respect of each storey in the building or buildings referred to in section 5 (3) (c) and (d) of the Act are shown and which shall contain, in addition to the particulars mentioned in subregulation (1) (n), the following:

- (i) The boundaries of the sections shown in a solid line;
- (ii) the common property areas by means of distinctive broken lines;
- (iii) an indication of the position of the diagrammatic cross-sections required in terms of subregulation (3);

(Regulation 5(2)(c)(iii) substituted by Regulation 3(i) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

- (iv) the number of each section or part of such section;

- (v)

(Regulation 5(2)(c)(v) deleted by Regulation 3(c) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

- (vi) a sign indicating the true north direction;
- (vii) such other information as may be necessary to define each section;

- (viii) an exclusive use area as referred to in subregulation (1) (m), which shall be delineated by means of distinctive broken lines and shall express the area to the nearest square metre: Provided that if details cannot clearly be shown on the sheet, such details may be shown in an inset or on an additional sheet as contemplated in paragraph (f);

(d)

(Regulation 5(2)(d) deleted by Regulation 3(j) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(e) a sheet or sheets containing in numerical sequence -

- (i) the floor areas of the sections as referred to in section 5 (3) (e) of the Act; and
- (ii) the participation quotas in respect of the sections in the Annexure as referred to in section 5 (3) (g) of the Act: Provided that the participation quotas of the separate sections shall be made up in such a way that the total participation quota is equal to 100,0000;

(Regulation 5(2)(e) substituted by Regulation 3(d) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(f) a sheet or sheets containing the insets referred to in paragraph (b) (vi) and (c) (viii).

- (3) A draft sectional plan shall, when uncertainty or ambiguity about the boundaries of a section, as defined in the Act, may exist, contain an additional sheet or sheets that contain diagrammatic cross-sections of the building or buildings of every floor in the building or buildings, detailed sufficiently to indicate the boundaries of every section, and that contain, in addition to the particulars mentioned in subregulation (1) (n), the following:

(a) The number of the building and the name or number of every floor;

(b) such other information as may be necessary to define every section

(Regulation 5(3) inserted by Regulation 3(k) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

6. Submission of Draft Sectional Plan to Surveyor-General

The submission of a draft sectional plan to the Surveyor-General in terms of section 7 of the Act for approval, must be accompanied by-

- (a) a certificate from the land surveyor concerned that the scheme is not in conflict with any building line restriction appearing in the relevant title deed;

- (b) an affidavit issued by an architect or a land surveyor stating that the boundaries of the sections and common property are physically defined as contemplated in section 5(4) and (5) of the Act; *(Regulation 6(b) substituted by Regulation 3 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)*
- (c) the field book or field plan which must contain the original record of all measurements made in the field, the name of the person who made the measurements and the date on which the measurements were taken;
- (d) a list of co-ordinates of at least two corners or identified permanent features of each building: Provided that the distances between such corners or features shall be adequate to provide an accurate determination of the position of each building: Provided further that the co-ordinates maybe listed on the copy of the plan mentioned in subregulation (e);
- (e) a plan on which the corners or identified permanent features are indicated and described;
- (f) the median dimension plan which must indicate the boundaries and the final dimensions of each section as derived from the field measurements and the consistency adjustments.

(Regulation 6 amended by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

(Regulation 6 amended by Regulation 4 of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Regulation 6 amended by Regulation 6 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Regulation 6 substituted by Regulation 3 of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

7. Field measurements

- (1) Measurements by a land surveyor or architect for the preparation of a draft sectional plan shall be made in the field to two decimal places of a metre and recorded, at the time of the measurement in the field, in the field book or on the field plan.
- (2) Sufficient measurements shall be made to enable all median dimensions to be calculated and checked, so as to be consistent with the dimensions of the building as a whole, and the sections and other details on the draft sectional plan to be correctly depicted.
- (3) The provisions of the Land Survey Act, 1997 (Act No. 8 of 1997), and the regulations made thereunder, shall apply to the manner in which and the accuracy to which the survey of buildings and exclusive use areas of which the boundaries are not represented by physical features of permanent nature, shall be performed and to the manner and the form in which the records of such surveys shall be prepared and lodged with the Surveyor-General.

(Regulation 7(3) substituted by Regulation 5 of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Regulation 7(3) amended by Regulation 4 of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

8. Accuracy and correctness of a draft sectional plan or sectional plan

(Heading substituted by Regulation 4(a) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

- (1) The Surveyor-General may at any time check in the field the accuracy or correctness of a draft sectional plan, sectional plan or any measurement recorded by a land surveyor or architect.

(Regulation 8(1) substituted by Regulation 4(b) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

- (2) If the Surveyor-General finds a draft sectional plan, sectional plan, or measurement to be incorrect, he may take such action as he may deem fit in terms of the Act

(Regulation 8(2) substituted by Regulation 4(c) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

9.

(Regulation 9 repealed by Regulation 7 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

10. Application for opening of sectional title register

- (1) An application for the opening of a sectional title register in terms of section 11 (1) of the Act, shall be in the form of form B in Annexure 1.

- (2) The application referred to in subregulation (1) shall be accompanied by –

- (a) the title deed to any registered real right, if the land is subject to such a right, excluding rights to minerals, which title deed shall be suitably endorsed to indicate that the land described therein is subject to a development scheme and is registered in the sectional title register: Provided that where a certificate has been submitted by a conveyancer to the effect that the title deed to such real right is not available, the registrar shall endorse the registry duplicate of such title deed, and, if the original title deed is at any time lodged with the registrar for any purpose, he shall make a similar endorsement thereon; and

- (b)

(Regulation 10(2)(b) substituted by Regulation 5 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Regulation 10(2)(b) deleted by Regulation 5(a) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(Regulation 10(2) substituted by Regulation 6 of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

- (3) The schedule contemplated in section 11 (3) (b) of the Act shall, in addition to the particulars prescribed in the section, contain the following:
- (i) The name of the scheme.
 - (ii) The full name and address of the developer.
 - (iii) The number of the title deed of the land concerned.
 - (iv) In the event of land defined on an approved diagram, the number of the title deed with which the diagram is filed.

(Regulation 10(3) inserted by Regulation 5(b) of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

- (4) An application and consent for the substitution of the land under a mortgage bond in terms of section 11 (3)(d) of the Act, shall be in the form of Form AL or Form AM in Annexure 1 where applicable.

(Regulation 10(4) added by Regulation 4 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

11. Certificates of registered sectional title

- (1) A certificate of registered sectional title referred to in section 11 (3) (f) of the Act, shall be in the form of Form C in Annexure 1, shall be signed and dated by the registrar and shall be sealed with his seal of office.

- (2)

(Regulation 11(2) deleted by Regulation 6(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (3)

(Regulation 11(3) deleted by Regulation 6(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (4)

(Regulation 11(4) deleted by Regulation 6(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (5) Certificates of registered sectional title shall be on paper of durable and good quality of the size known as A4 standard paper and shall be written, typed or printed in size not less than 2 mm, with black ink of a good quality only.
- (6) A certificate of registered sectional title which does not comply with the requirements of subregulation (5), shall be rejected by the registrar.
- (7)
 - (a) Subject to the provisions of paragraph (b) a certificate of registered sectional title shall be lodged in duplicate with the registrar.
 - (b) Where a procedure is followed in a deeds registry of reproducing deeds and documents and of keeping such reproduction in stead *[sic]* of such deed or document, it shall, notwithstanding anything to the contrary in these Regulations, not be necessary to lodge a duplicate original of such deed or document for filing in the deeds registry, and upon registration such deed or document shall be deemed to be the copy filed in the deeds registry until such time as the reproduction of the deed or document is filed in lieu thereof: Provided that the provisions of this paragraph shall not be applied in a deeds registry until the Chief Registrar of Deeds has instructed the registrar of the office concerned in writing.

(Regulation 11(7) substituted by Regulation 6(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (8) The provisions of this regulation shall apply *mutatis mutandis* with reference to any certificate of registered sectional title or sectional title deed issued under any other provision of the Act.

12. Registration of sectional plans

- (1) The distinctive number allotted to a sectional plan in terms of section 12 (1) (a) of the Act, shall be a consecutive number, starting each year with the figure “1” and shall be followed by an oblique line and the year in which the sectional plan is registered.
- (2)

(Regulation 12(2) deleted by Regulation 7 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (3) A registrar may refuse to register a sectional plan should he be of the opinion that such plan is dilapidated.

13. Sectional title registers

- (1) The sectional title register as contemplated *[sic]* in section 12 (1) (b) of the Act, shall be opened by means of a sectional title file as set out in Form D in Annexure 1.

(Regulation 13(1) substituted by Regulation 8(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (2) The file number allotted to the sectional title file, shall be the same as the number allotted to the sectional plan.

(Regulation 13(2) substituted by Regulation 8(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (3)

(Regulation 13(3) deleted by Regulation 8(c) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (4) In the sectional title file shall be filed-

(Words preceding paragraph (a) of Regulation 13(4) substituted by Regulation 8(d) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (a) the documents referred to in section 11(3) of the Act, with the exception of the certificates of registered sectional title, the owner's copy of the title deed of the land, the bond, the title deed of any real right registered over the land and the certificates of real rights contemplated by sections 11(3) (fB) and 11(3)(fC);

(Regulation 13(4)(a) substituted by Regulation 8(e) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Regulation 13(4)(a) substituted by regulation 2(a) of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

- (b) the copy of any notice to the Surveyor-General and the local authority of the registration or cancellation of the registration of a sectional plan or of the reversion of land to the land register;

- (c) correspondence relating to the scheme concerned as a whole;

(Regulation 13(4)(c) substituted by Regulation 8(f) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (d)

(Regulation 13(4)(d) deleted by Regulation 8(g) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (4A) The documents, notices and correspondence referred to in subregulation (4)(a) and (c), as well as any certificates, plans, schedules, rules and other documents relating to the scheme as a whole and which must be filed in a sectional title file, must be endorsed with a deeds registry date endorsement upon the lodgement thereof.

(Regulation 13(4A) inserted by Regulation 2 of Government Notice R291 in Government Gazette 33111 dated 16 April 2010)

(Regulation 13(4A) substituted by regulation 2(b) of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

(5)

(Regulation 13(5) deleted by Regulation 8(h) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(6) Where a procedure is followed in a deeds registry of reproducing documents and of keeping such reproduction instead of such document and of maintaining a register as referred to in section 12 (1) (c), the sectional title file referred to in subregulation (4) may be substituted by such reproductions and register: Provided that the sectional title file shall be maintained for certain documents should the Chief Registrar of Deeds so determine.

(Regulation 13(6) substituted by Regulation 8(i) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

13A. Replacement schedule for lost or destroyed schedule of servitudes and conditions referred to in section 11(3)(b)

- (1) A registrar of deeds must, if a schedule referred to in section 11(3)(b) of the Act has been lost or destroyed, on written application by the body corporate or if a body corporate has not been established, on written application by the developer, accompanied by a replacement schedule, arrange for such replacement schedule to be filed in the relevant sectional title file.
- (2) The registrar of deeds must, before filing of the replacement schedule in the relevant sectional title file, at the expense of his or her deeds registry, publish in the prescribed form in two consecutive ordinary issues of the *Gazette* and in two consecutive issues of a newspaper circulating in the area of jurisdiction of the deeds registry in which the scheme is registered, a notice of the intention for a replacement schedule to be filed in the relevant sectional title file.
- (3) A draft of the replacement schedule accompanying the application, shall be open for inspection in the deeds registry free of charge by any interested person, for a period of six weeks after the date of the first publication of the notice in the *Gazette*, during which period any person interested may object to the filing of such replacement schedule in the relevant sectional title file.
- (4) Any person who has lodged with the registrar an objection to the filing of the replacement schedule in the relevant sectional title file may, in default of any arrangement between him or her and the applicant, apply to the court within one month after the last day upon which an objection may be lodged, for an order prohibiting the registrar from filing the replacement schedule in the relevant sectional title file, and the court may make such order on the application as it may deem fit.
- (5) A replacement schedule shall be as nearly as possible a reflection of the lost or destroyed schedule and shall take the place of the lost or destroyed schedule and shall embody or refer to every

condition, servitude, lease or other encumbrance which according to the records of the registry was embodied or referred to in the lost or destroyed schedule or in any endorsement thereon.

- (6) A replacement schedule must be endorsed with a deeds registry date endorsement upon the filing thereof in the relevant sectional title file.
- (7) In the event of a schedule referred to in section 11(3)(b) of the Act, in lieu of which a copy has been issued under the provisions of this regulation, being subsequently found and produced to the registrar, he or she shall endorse thereon that it has become void.

(Regulation 13A inserted by Regulation 5 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

14. Certificates of real rights

- (1) The certificate of real right referred to in section 12 (1) (e) of the Act, shall be in the form of Form F in Annexure 1.
- (2) The certificate of real right referred to in section 25 (6) of the act, shall be in the form of Form R in Annexure 1, and shall be accompanied by the written consent of all the members of the body corporate and of every holder of a bond over a unit in the scheme.
- (3) The certificate of real right referred to in section 12 (1) (f) of the Act, shall be in the form of Form G in Annexure 1.

15. Alteration, amendment, substitution or cancellation of registered sectional plan

- (1)

(Regulation 15(1) deleted by Regulation 8 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (2) The provisions of regulation 5 shall apply *mutatis mutandis* to a draft sectional plan which is to be substituted for a registered sectional plan.
- (3) The registrar shall forward a copy of a sectional plan which is substituted for a registered sectional plan to the local authority concerned.
- (4) The registrar must, on the lodgement of an application by the body corporate or developer, amend the relative sectional title deed as required by section 14(5) of the Act, and endorse thereon that the amendment has been effected in accordance with an alteration, amendment or substitution of the registered sectional plan.

(Regulation 15(4) substituted by Regulation 2 of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

- (5) Whenever the registration of a sectional plan is cancelled on the application of the developer in terms of section 14 (6) of the Act, the registrar shall make the necessary endorsement on-
- (a) each of the relevant sectional title deeds;
 - (b) the titles to any real rights, with the exclusion of mineral rights; and
 - (c) on the schedule referred to in section 11 (3) (b).

(Regulation 15(5) substituted by Regulation 9 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (6)
- (a) Whenever the registration of the sectional plan is cancelled, the registrar shall make the alterations, amendments, endorsements and entries in the relevant land register and records which are necessary to effect the reversion of the land to the land register.
 - (b) Any entry referred to in paragraph (a) shall contain a reference to the number of the relevant sectional plan.

- (7) Whenever the registration of a sectional plan is cancelled, the registrar shall, if a certificate of registered title referred to in section 14 (7) of the Act is not issued by him, revive the developer's title deed of the land referred to in section 11 (3) (c) of the Act by making an appropriate endorsement on the title deed under his signature and date.

- (8) The provisions of subregulations (5) to (7) shall apply with the necessary changes whenever the registration of a sectional plan is cancelled by an order of the Court in terms of section 14(8) of the Act.
- (Regulation 15(8) added by Regulation 6 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)*

16. Registration of transfer of ownership and registration of other rights in respect of parts of buildings

- (1)
- (a) Simultaneously with the establishment of a body corporate in terms of section 36 (1) of the Act the registrar shall issue a certificate in the form of Form W in Annexure 1: Provided that the registrar may, on application being made by a body corporate in respect of which such certificate has not been issued prior to 1 June 1981, issue such certificate after the date of establishment of such body corporate.

- (b)

- (i) A draft certificate in the form prescribed in paragraph (a) shall be prepared by a conveyancer and lodged in duplicate with the registrar.
- (ii) The original certificate shall be filed in the sectional title file and the duplicate thereof shall be delivered to the conveyancer.

(Regulation 16(1)(b) substituted by Regulation 10(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (c) Once a certificate has been issued in terms of paragraph (a), no further such certificate shall be issued in respect of the building concerned, but if required the registrar may issue a certified copy of the original certificate or a certificate of replacement as contemplated in paragraph (d).

(Regulation 16(1)(c) substituted by Regulation 7(a) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

(d)

- (i) A certificate of replacement in the form of Form AO in Annexure 1 shall be prepared by a conveyancer and lodged in duplicate with the registrar in instances where the original certificate referred to in subregulation (1)(b)(ii) has been lost or destroyed.
- (ii) The original certificate of replacement shall replace the original certificate that has been lost or destroyed and must be endorsed with a deeds registry date endorsement upon filing thereof in the sectional title file, whereas the duplicate certificate of replacement must be delivered to the conveyancer.

(Regulation 16(1)(d) added by Regulation 7(b) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

- (2) The deed of transfer referred to in section 15B (1) of the Act, shall be in the form of Form H in Annexure 1.

(Regulation 16(2) substituted by Regulation 10(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (3) Where consent to which reference is made in regulation 30 (2) is required, it shall be lodged with the deed of transfer.

(Regulation 16(3) substituted by Regulation 10(c) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (4) An application referred to in section 15B (5) of the Act, shall be in the form of Form I in Annexure 1.

(Regulation 16(4) substituted by Regulation 10(d) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (5) A certificate of registered sectional title referred to in section 15B(5) and (5A) of the Act, shall be in the form of Form J in Annexure 1.

(Regulation 16(5) substituted by Regulation 10(e) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Regulation 16(5) substituted by Regulation 7(c) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

16A.

- (1) Every deed of transfer, certificate of title, certificate [sic] of registration or sectional mortgage bond shall be prepared by a conveyancer or other person empowered thereto by any act who shall make and sign a certificate in the upper right hand corner on the first page of the document concerned.
- (2) A conveyancer or other person empowered thereto by any act, who prepares a deed of transfer, certificate or sectional mortgage bond referred to in subregulation (1), shall initial all alterations or interlineations in such deed of transfer, certificate or sectional mortgage bond and also every page thereof not requiring a signature and no such deed of transfer, certificate or sectional mortgage bond shall be accepted for execution or registration if it does not bear such certificate and is not so initialled: Provided that in the case of such deed of transfer, certificate or sectional mortgage bond where an alteration or interlineation is not so initialled, and in the opinion of the registrar, such initialling by the conveyancer who prepared such deed of transfer, certificate or sectional mortgage bond is not required, such alteration or interlineation may be initialled by the conveyancer executing such deed of transfer.

(Regulation 16A inserted by Regulation 11 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

16B.

- (1) Subject to the provisions of subregulation (3) and (4) a power of attorney, application or consent required for the performance of an act of registration in a deeds registry, and tendered for registration or filing of record in a deeds registry, shall be prepared by a practising attorney, not necessarily practising in the province in which such deeds registry is situate, notary conveyancer or other person empowered thereto by any act, who shall make and sign a certificate in the undermentioned form in the upper right hand corner on the first page of the document concerned:

"Prepared by me

.....
 ATTORNEY/NOTARY/CONVEYANCER/AUTHORISATION
 OF OTHER PERSON
 (Use whichever is applicable)

.....
 (State full name and surname in block letters)

(Regulation 16B(1) substituted by Regulation 3(a) of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

- (2) Subject to the provisions of subregulation (3), any alteration or interlineation in a document referred to subregulation (1) shall be initialled by the person who prepared such document.
- (3) A registrar may waive compliance with the provisions of subregulations (1) and (2) in respect of a power of attorney, application or consent executed outside the Republic or in respect of a power of attorney, application or consent not provided for by the Act or the Regulations.
- (4) The provisions of subregulation (1) shall not prevent an attorney, notary or conveyancer in the employ of the State from preparing in the course of his employment, any document mentioned in such subregulation.
- (5) When a certificate referred to in subregulation (1) is signed by an attorney or notary, the fact that the signatory is a practising attorney or notary shall be confirmed by a practising conveyancer, who shall countersign the certificate by making and signing the following certificate thereon:

Countersigned by me

.....

CONVEYANCER

.....

(State full name and surname in block letters)

(Regulation 16B(5) substituted by Regulation 3(b) of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

(Regulation 16B inserted by Regulation 12 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

16C.

The person who signs a preparation certificate contemplated in regulations 16A(1) or 16B(1) accepts responsibility for the correctness of the undermentioned facts stated in the deeds or documents concerned or which are relevant in connection with the registration or filing thereof, namely -

- (a) that all copies of the deeds or documents intended for execution or registration are identical at the date of lodgment;

- (b) that, in the case of a deed of transfer, certificate of title or certificate of registration, all the applicable conditions of title have been correctly brought forward in that deed of transfer, certificate of title or certificate of registration;
- (c) that, in the case of a document referred to in regulation 16B(1) signed by a person in his or her capacity as executor, trustee, tutor, curator, liquidator, judicial manager or a person in a representative capacity, from perusal of documents evidencing such appointment exhibited to him or her, such person has in fact been appointed in that capacity and acts in accordance with the powers granted to him or her and that any security required has been furnished to the Master of the High Court;
- (d) that, to the best of his or her knowledge and belief and after due enquiry, including but not limited to the examination of supporting documents, has been made-
 - (i) the names, identity number or date of birth and marital status of any natural person being a party to a deed or document, are correctly disclosed in such deed or document and in the case of any other person, its name and registered number, if any, are correctly disclosed in that deed or document;
 - (ii) in the case of a document referred to in regulation 16B(1)-
 - (aa) that the necessary authority has been obtained for the signing of such document in a representative capacity on behalf of a natural person, company, close corporation, church, association, society, trust, other body of persons or an institution, whether created by statute or otherwise;
(Regulation 16C(d)(ii)(aa) substituted by Regulation 4 of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)
(Regulation 16C(d)(ii)(aa) substituted by regulation 3 of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)
 - (bb) that the transaction as disclosed therein, is authorized by and in accordance with the constitution, regulations, founding statement or trust instrument of a trust, as the case may be, of any church, association, close corporation, society, trust, other body of persons or any other institution, created by statute or otherwise, other than a company, except a share block company as defined in the Share Blocks Control Act, 1980 (Act 59 of 1980), being a party to such document;
 - (cc) the person, entity, body of persons, whether created by statute or otherwise, is entitled to and contractually capable of concluding the transaction disclosed in the deed or document lodged for registration; and

- (e) that, in the case where a person signs the preparation certificate on a deed of transfer, certificate of title, certificate of registration, other deed conveying ownership in land or a sectional mortgage bond, he or she accepts responsibility that the particulars in the deed mentioned in paragraph (d)(i), have been brought forward correctly from the special power of attorney or application relating thereto.

(Regulation 16C inserted by Regulation 13 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Regulation 16C corrected by Government Notice R2868 in Government Gazette 13658 dated 6 December 1991)

(Regulation 16C amended by Regulation 9 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Regulation 16C substituted by Regulation 2 of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

17. Alienation and letting of common property

(Heading substituted by Regulation 2 of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

(1)

(Regulation 17(1) deleted by Regulation 14(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (2) Simultaneously with the registration of a transfer referred to in section 17 (3) (a) or 19 (3) of the Act, the registrar shall make an endorsement under his signature on the schedule of conditions referred to in section 11 (3) (b) of the Act.

(Regulation 17(2) substituted by Regulation 14(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (3) Any sectional title deed registered pursuant to section 17 (3) or 19 (3) of the Act shall simultaneously be re-registered as a deed of transfer under the Deeds Registries Act, 1937 (Act 47 of 1937).

(Regulation 17(3) substituted by Regulation 14(c) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (4) The registrar shall register a cession of a servitude or other real right in terms of section 19 of the Act by virtue of a deed of cession in the form of Form M in Annexure 1.

18. Draft Section Plan of Subdivision

(Heading of Regulation 18 substituted by Regulation 10(a) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(1)

(Regulation 18(1) deleted by Regulation 10(b) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (2) The provisions of regulation 5 shall apply *mutatis mutandis* to a draft sectional plan of subdivision.

(Regulation 18(2) substituted by Regulation 10(c) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

19. Registration of subdivision of a section

(1)

- (a) Application for registration of a sectional plan of subdivision shall be in the form of Form O in Annexure 1.

- (b) When registering such a sectional plan under section 22 (3) of the Act, the registrar shall allot a distinctive number thereto.

(Regulation 19(1) substituted by Regulation 15 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (2) A certificate of registered sectional title referred to in section 22 (5) of the Act, shall be in the form of Form P in Annexure 1.

- (3) Whenever the registrar has issued a sectional title deed under section 22 (5) of the Act in lieu of the sectional title deed referred to in section 22 (2) (b) of the Act, he shall cancel the last-mentioned sectional title deed.

- (4) The registrar shall furnish the local authority concerned with a copy of the registered sectional plan of subdivision.

20. Draft Sectional Plan of Consolidation

(Heading of Regulation 20 substituted by Regulation 11(a) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(1)

(Regulation 20(1) deleted by Regulation 11(b) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (2) The provisions of regulations 2, 3 and 5 shall apply *mutatis mutandis* to a draft sectional plan of consolidation and an application referred to in subregulation (1).

(Regulation 20(2) substituted by Regulation 11(c) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

21. Registration of consolidation of sections

Prepared by:

- (1)
- (a) Application for registration of a sectional plan of consolidation shall be in the form of Form O in Annexure 1.
 - (b) When registering such a sectional plan under section 23 (3) of the Act, the registrar shall allot a distinctive number thereto.

(Regulation 21(1) substituted by Regulation 16 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (2) The certificate of registered sectional title referred to in section 23 (5) of the Act, shall be in the form of Form Q in Annexure 1.
- (3) Whenever the registrar has issued a sectional title deed under section 23 (5) of the Act in lieu of the sectional title deeds referred to in section 23 (2) (b) of the Act, he shall cancel the last-mentioned sectional title deeds.
- (4) The registrar shall furnish the local authority concerned with a copy of the registered sectional plan of consolidation.

22. Draft Sectional Plan for Extension of a Section

(Heading of Regulation 22 substituted by Regulation 12(a) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (1)
- (Regulation 22(1) substituted by Regulation 17 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)*
- (Regulation 22(1) deleted by Regulation 12(b) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)*
- (2) The provisions of regulation 5 shall *mutatis mutandis* apply to a draft sectional plan of extension of a section.

(Regulation 22(2) substituted by Regulation 12(c) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

23. Registration of extensions of sections

- (1)
- (a) Application for registration of a sectional plan of extension of a section shall be in the form of Form O in Annexure 1.

- (b) When registering such a sectional plan under section 24 (7) of the Act the registrar shall allot a distinctive number thereto.

(Regulation 23(1) substituted by Regulation 18 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (2) The registrar shall furnish the local authority concerned with a copy of the registered sectional plan of extension.

24. Draft Sectional Plan for Extension of a Scheme

(Heading of Regulation 24 substituted by Regulation 13(a) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (1)

(Regulation 24(1) deleted by Regulation 13(b) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (2) The provisions of regulation 5 shall apply *mutatis mutandis* to a draft sectional plan of extension of a scheme.

(Regulation 24(2) substituted by Regulation 13(c) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

25. Registration of extension of a scheme

- (1)

- (a) The application for registration of a sectional plan of extension of a scheme shall be in the form of Form O in Annexure 1.

- (b) When registering such a sectional plan under section 25 (11) of the Act, the registrar shall allot a distinctive number thereto.

(Regulation 25(1) substituted by Regulation 19 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (2) The certificate of registered sectional title referred to in section 25 (10) (d) of the Act, shall be in the form of Form C in Annexure 1.

- (2A) The certificate of real right referred to in section 25(10)(d) of the Act, shall be in the form of Form G in Annexure 1.

(Regulation 25(2A) inserted by Regulation 8 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

- (3) The registrar shall furnish the local authority concerned with a copy of the registered sectional plan of extension.

25A. Replacement of documentation referred to in section 25(2)

- (1) A registrar of deeds must, if any of the documentation referred to in section 25(2)(a), (b), (c), (d) or (g) of the Act have been lost or destroyed, on written application by the body corporate or if a body corporate has not been established, on written application by the developer, accompanied by replacement documentation, arrange for such replacement documentation to be filed in the relevant sectional title file.
- (2) The registrar of deeds must, before filing of the replacement documentation in the relevant sectional title file, at the expense of his or her deeds registry, publish in the prescribed form a notice in two consecutive ordinary issues of the *Gazette* and in two consecutive issues of a newspaper circulating in the area of jurisdiction of the deeds registry in which the scheme is registered, of the intention for replacement documentation to be filed in the relevant sectional title file.
- (3) A draft of the replacement documentation accompanying the application, shall be open for inspection in the deeds registry free of charge by any interested person, for a period of six weeks after the date of the first publication of the notice in the *Gazette*, during which period any person interested may object to the filing of replacement documentation in the relevant sectional title file.
- (4) Any person who has lodged with the registrar an objection to the filing of the replacement documentation in the relevant sectional title file may, in default of any arrangement between him and the applicant, apply to the court within one month after the last day upon which an objection may be lodged, for an order prohibiting the registrar from filing the replacement documentation in the relevant sectional title file, and the court may make such order on the application as it may deem fit.
- (5) The replacement documentation shall be as nearly as possible a reflection of the lost or destroyed documentation and shall take the place of the lost or destroyed documentation.
- (6) The replacement documentation must be endorsed with a deeds registry date endorsement upon the filing thereof in the relevant sectional title file.
- (7) In the event of any of the documentation referred to in section 25(2)(a), (b), (c), (d) or (g) of the Act, in lieu of which a copy has been issued under the provisions of this regulation, being subsequently found and produced to the registrar, he or she shall endorse thereon that it has become void.

(Regulation 25A inserted by Regulation 9 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

26. Draft Sectional Plan for Extension of the Common Property

(Heading of Regulation 26 substituted by Regulation 14(a) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (1)
(Regulation 26(1) deleted by Regulation 14(b) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)
- (2) The provisions of regulation 5 shall apply *mutatis mutandis* to a draft sectional plan of extension of the Common Property.
(Regulation 26(2) substituted by Regulation 14(c) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

27. Registration of plan of extension of the common property

- (1)
- (a) an application for registration of a sectional plan of extension of the common property shall be in the form of Form O in Annexure 1.
- (b) When registering such a sectional plan under section 26 (5) of the Act, the registrar shall allot a distinctive number thereto.

(Regulation 27(1) substituted by Regulation 20 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (2) The registrar shall furnish the local authority concerned with a copy of the registered sectional plan of extension.
- (3) The application contemplated in subregulation (1)(a) must be accompanied by a substituted schedule as contemplated in section 11(3)(b) of the Act, where the land to be incorporated into the communal scheme concerned is subject to conditions which are different from the conditions registered at the opening of the sectional title register.

(Regulation 27(3) added by Regulation 3 of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

(Regulation 27(3) substituted by Regulation 5(a) of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

- (4)
- (a) The substituted schedule referred to in subregulation (3) must contain all the conditions and endorsements appearing in the section 11(3)(b)-schedule already filed in the sectional title register (existing schedule), as well as the conditions and endorsements appearing in the title deed of the land that is to be incorporated into the communal scheme.
- (b) The existing and substituted schedules must both be kept in the sectional title register and the existing schedule must be endorsed to the effect that it has been replaced by the substituted schedule.

(Regulation 27(4) added by Regulation 5(b) of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

28. Exclusive use areas

- (1) The exclusive use areas referred to in section 5(3)(f) of the Act shall, where there is more than one area, be numbered and described in separate paragraphs in the certificate of real rights of exclusive use areas issued under any provision of the Act.

(Regulation 28(1) substituted by Regulation 10(a) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

(Regulation 28(1) substituted by regulation 4(a) of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

- (2) Simultaneously with the transfer of a right to an exclusive use area referred to in sections 25(1), 27(3) and 60(3) of the Act, the Registrar shall make an endorsement under his or her signature:

- (a) the certificate of real right issued in terms of section 25(2)(f), if such transfer is as a result of a reservation to extend a scheme in terms of section 25(1) of the Act; or
- (b) the schedule of conditions referred to in section 11(3)(b), if such transfer is effected in terms of section 27(3) of the Act; or
- (c) annexure A if the exclusive use area has been granted under the Sectional Titles Act, 1971,

and the Registrar shall notify the Surveyor-General in respect of the endorsing of the said schedule of conditions, or annexure A, as the case may be.

(Regulation 28(2) substituted by Regulation 21 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Regulation 28(2) substituted by Regulation 10(b) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

(Regulation 28(2) substituted by Regulation 6 of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

(Regulation 28(2) substituted by regulation 4(b) of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

- (3) The provisions of subregulation (1) shall apply *mutatis mutandis* to a transfer, cancellation or mortgage of any exclusive use area.

(4)

- (a) Whenever any real right to an exclusive use area vests in the body corporate as contemplated in section 27(1)(c) or section 27(4)(b) of the Act, the registrar shall upon lodgment of an application

by the body corporate, nearly as practicable in the form AG in Annexure 1, issue a certificate of real right in favour of the body corporate in the form AH of Annexure 1.

- (b) If the real right to such exclusive use area is hypothecated, the registrar shall endorse the fact of the issuing of such certificate on the registry duplicate of the bond and, if the original bond is at any time lodged with the registrar's office for any purpose except cancellation, the registrar shall make a similar endorsement thereon: Provided that the issuing of such certificate shall not prejudice any claim to compensation which any person may have as a result of the vesting of such right.
- (c) The body corporate shall produce the title deed of the real right to such exclusive use area to the registrar, together with the certificate of real right, and the registrar shall thereupon endorse the fact of the issuing of such certificate on such title deed.
- (d) If the body corporate does not produce the title deed of the real right to such exclusive use area, it must submit to the registrar an affidavit stating the reasons why it has been unable to produce the title deed and the registrar shall if he or she is satisfied with the reasons, endorse the fact of the issuing of the certificate on the registry duplicate of such title deed, and if the original title deed is at any time lodged with his or her office for any purpose, the registrar shall make a similar endorsement thereon.
- (e) The registrar shall not issue the said certificate unless a certificate has been furnished by the body corporate to the effect that the provisions of section 27 of the Act in connection with the vesting of such right have been complied with.

(Regulation 28(4) added by Regulation 4 of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

- (5)
 - (a) A separate title deed as contemplated in section 27(7) of the Act may be obtained by the registered holder from the registrar upon written application accompanied by the title deed of the right to the exclusive use area concerned and such title deed must be issued, nearly as practicable, in the form AI in Annexure 1.
 - (b) If the right to the exclusive use area concerned is subject to a registered mortgage bond, that bond shall be produced to the registrar by the holder thereof, upon the request by and at the expense of the applicant.
 - (c) Before issuing such title deed the registrar shall cause to be made upon the title deed to the exclusive use area concerned and upon the mortgage bond an endorsement to the effect that a separate title deed as contemplated in section 27(7) of the Act, has been substituted for the one title deed in respect of the right to the exclusive use area concerned and the registrar shall further

make the necessary entries in the registers of the issue of the separate title deed and shall, if the right to the exclusive use area is mortgaged, endorse that fact upon the title deed so issued.

- (d) Any separate title deed, when issued, shall in respect of the right to the exclusive use area described therein, take the place of the title deed or deeds by which such right was previously held and the issue of such title deed shall not in any manner affect any right or obligation in connection with such right to the exclusive use area concerned.

(Regulation 28(5) added by Regulation 4 of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

29.

A registrar shall not issue a certificate of real right contemplated in section 25 (6A) or section 27(1A) of the Act, unless a conveyance certifies-

- (a) that no unit in the scheme has been sold, donated or exchanged; or
- (b) if an unit was so alienated, the developer had disclosed in writing to the acquirer thereof that application is to be made for the issuing of a certificate of real right in terms of section 25(6A) or section 27 (1A) of the Act.

(Regulation 29 deleted by Regulation 22 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Regulation 29 inserted by Regulation 15 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Regulation 29 substituted by Regulation 5 of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

30. Rules

- (1) Subject to subregulations (2) and (3), the management rules as contemplated in section 35(2)(a) of the Act, shall be those rules as set out in Annexure 8 of the Regulations, for which, except in the case of rules 1 to 6 inclusive, rules 10 to 13, inclusive, rule 15(3) and (4), rules 16 to 26, inclusive, rules 28 to 30 and 32 to 45, inclusive, rule 46(1), rules 47 to 56, inclusive, rule 57(1) and rules 59 to 70, inclusive, other rules may be substituted, added to, amended or withdrawn by the developer when submitting an application for the opening of a sectional title register.

(Regulation 30(1) substituted by Regulation 6 of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(Regulation 30(1) substituted by Regulation 3 of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

- (2) If the schedule referred to in section 11 (3) (b) of the Act contains a condition restricting transfer of a unit without the consent of an association whose constitution stipulates that-

- (a) all members of the body corporate of the development scheme of which the unit forms part, shall be members of that association, and
- (b) the functions and powers of the body corporate shall be assigned to that association,

the developer may, when submitting an application for the opening of a sectional title register, substitute any management rule contained in Annexure 8.

- (3) If at the commencement of the Act the members of a body corporate are all members of an association whose constitution binds its members to assign the functions and powers of the body corporate to that association, the management rules contained in Annexure 8 shall not apply.
- (4) The management rules set out in Annexure 8 may be added to, amended or repealed by unanimous resolution of the body corporate: Provided that no such addition, amendment or repeal shall be made until such time as there are owners, other than the developer, of at least 30 per cent of the units in the scheme save in the case of a body corporate which is established in a scheme which was approved in terms of the Sectional Titles Act, 1971.

(Regulation 30(4) substituted by Regulation 11 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

- (5) The conduct rules as contemplated in section 35 (2) (b) of the Act shall be those rules set out in Annexure 9.
- (6) The notification referred to in section 35 (5) of the Act shall be in the form set out in Form V in Annexure 1.
- (7) The body corporate shall notify the Registrar of any addition to, amendment of or repeal of conduct rules as contemplated in section 35 (2) (b) of the Act in the form set out in Form V of Annexure 1.

31. Destruction of or damage to building and transfer of interest

- (1) Whenever a building or buildings are damaged or deemed to be destroyed as contemplated in section 48 and a scheme has been authorised as provided for in section 48 (3) (a) of the Act, the body corporate shall notify the registrar. The notification shall be in the form of Form X of Annexure 1.
- (2) The notification to the registrar pursuant to subregulation (1) shall be accompanied by-
 - (a) a sectional plan which shall exclude reference to any section or part of a section which has been destroyed; and

- (b) the affected title of the owner of the unit or holder of any real rights together with the consent of the holder of any mortgage bond or holder of any real rights for disposal thereof.

(Regulation 31(2) substituted by Regulation 7 of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

- (3) The registrar shall give effect to the requirements as contemplated by section 48 (3) (a) (ii) of the Act, by making an appropriate endorsement on the relevant deeds.
- (4) The registrar shall advise the Surveyor-General and the local authority of any registration pursuant to section 48 of the Act, which advice shall be accompanied by a copy of the schedule referred to in subregulation (2), in the case of the local authority, and by the original, in the case of the Surveyor-General.
- (5) On receipt of the notification pursuant to subregulation (4), the Surveyor-General shall make the required amendments and endorsements on the sectional plan and the deeds registry copy thereof.

(Regulation 31(5) substituted by Regulation 23 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

32. Notification of destruction of building

The notification referred to in section 49 (1) of the Act, shall be in the form of Form Y in Annexure 1.

33.

(Regulation 33 repealed by Regulation 7 of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

34. Sectional mortgage bonds

- (1) A sectional mortgage bond hypothecating a unit held under a sectional title deed or an exclusive use area or the right to extend a scheme held under a certificate of real right, shall be substantially in the form of Form Z in Annexure 1, and shall be prepared by a conveyancer and be signed by the mortgagor, or his or her duly authorised agent, in the presence of a conveyancer, and the said form shall be suitable adapted when hypothecating land held under a sectional title deed or a registered notarial lease or sublease or other registered real right.
- (2) A collateral sectional mortgage bond must be substantially in the form of Form AJ in Annexure 1.
- (3) A surety bond must be substantially in the form of Form AK in Annexure 1.

(Regulation 34 substituted by Regulation 12 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

35. Fees of office

Prepared by:

- (1) The fees of office to be charged in respect of any act, matter, or thing required, or permitted, to be done in or in relation to a deeds registry shall be those as specified in the schedule of fees of office, published in terms of regulation 84 of the Regulations in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), (Government Notice No. R. 474 of 29 March 1963).

(Regulation 35(1) substituted by Regulation 2 of Government Notice R1659 in Government Gazette 15990 dated 30 September 1994)

- (2) The fees of office to be charged in respect of any act, matter or thing required or permitted to be done in or in relation to an office of the Surveyor-General, shall be those fees as is determined in accordance with section 9 of the Land Survey Act, 1997 (Act No. 8 of 1997).

(Regulation 35(2) substituted by Regulation 16(a) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (3) The fees of office referred to in subregulation (1) and (2) shall be paid in cash, by postal order, cheque or in such other manner determined by the Chief Registrar of Deeds or Chief Surveyor-General.

(Regulation 35(3) substituted by Regulation 16(b) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

36.

(Regulation 36 repealed by Regulation 3 of Government Notice R1659 in Government Gazette 15990 dated 30 September 1994)

37.

(Regulation 37 repealed by Regulation 4 of Government Notice R1659 in Government Gazette 15990 dated 30 September 1994)

38. Endorsement or entries on registered deeds or other documents or in registers

Endorsements or entries required by these Regulations to be made on registered deeds or other documents or in registers may be made thereon or therein by means of rubber stamp or handwriting or typewriting, and shall be signed and dated by the registrar who shall below his signature state the office held by him, and who shall initial any alteration or interlineation to an endorsement or entry.

39. Arbitration proceedings

The provisions of the Arbitration Act, 1965 (Act 42 of 1965), shall, in so far as those provisions can be applied, apply *mutatis mutandis* with reference to arbitration proceedings under the Act.

40. Conveyancers' files

- (1) Every conveyancer shall keep in his or her file the respective documents set out in Annexure 6 to these Regulations in respect of the following transactions:
 - (a) Transfers of ownership in terms of section 15B (1) (a) of the Act;
 - (b) transfers of ownership in terms of sections 17 (3), 19 (3) and 34 (4) of the Act; and
 - (c) sectional mortgage bonds referred to in section 15B (1) (c) of the Act in respect of which he or she has signed the bond as preparer.
- (2) The conveyancer who has prepared the documents contemplated in subregulation (1), shall retain his or her file, with such documents as is prescribed relating to the transaction in question, for a period of at least six years after the date of registration of such document.
- (3) Every conveyancer shall take such reasonable precautions for the safe custody of his or her file as may be necessary.

(Regulation 40(1) corrected by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

(Regulation 40(1) substituted by Regulation 24 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Regulation 40 substituted by Regulation 17 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

41.

(Regulation 41 repealed by Regulation 18 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

42. Certified copies

A certified copy of an approved sectional plan shall only be issued by a Surveyor-General and shall not be issued prior to the registration thereof, unless the written consent of the architect and the land surveyor concerned, or any person legally entitled to act on his behalf, is produced to the Surveyor-General: Provided that such consent shall not be required if the Surveyor-General has been supplied with evidence that such architect or land surveyor has unreasonably withheld his consent or has failed to respond in a reasonable time to a notice requesting authorisation for the issue of a certified copy.

43. Examination in connection with the preparation of draft sectional plans

- (1) The syllabus for the examination that has to be set for a land surveyor or architect, who has been required by the Chief Surveyor-General to sit for an examination in connection with the preparation of a draft sectional plan in terms of section 5 (2) of the Act, shall consist of-

- (a) comprehensive knowledge of all matters covered by the Act and the Regulations;
- (b) knowledge of all matters relating to the registration or cancellation of real rights in land in respect of as grants, transfers, leases, subdivisions, consolidations, servitudes, bonds, mineral and surface rights, national building regulations as made under the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and town planning schemes; and

(Regulation 43(1)(b) amended by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

- (c) comprehensive knowledge of all matters relating to the duties, responsibilities and professional conduct of land surveyors and architects as covered by their respective professional Acts.

(Regulation 43(1) amended by Regulation 19 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (2) There is hereby established a committee to be known as the Sectional Titles Examination Committee which shall consist of the following members appointed by the Director-general, namely;

- (a) The Chief Surveyor-General who shall be Chairman of the Committee;

(Regulation 43(2)(a) amended by Regulation 19 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (b) one person nominated by the South African Council for Professional Land Surveyors and Technical Surveyors; and

- (c) one person nominated by the South African Council for Architects.

- (3) All the meetings of the Sectional Titles Examination Committee shall be held at such time and place as the Chairman of the Committee may determine.

- (4) Two members of the Sectional Titles Examination Committee shall form a quorum for any meeting thereof.

- (5) The Sectional Titles Examination Committee may determine the procedure at its meetings.

- (6) A resolution of the Sectional Titles Examination Committee contained in writing and signed by at least two of the members of the committee shall be valid although no meeting was held to pass the resolution.

- (7) The functions of the Sectional Titles Examination Committee in respect of the examination shall be to-

- (a) appoint an examiner and a moderator;

- (b) make arrangements with the South African Council for Professional Land Surveyors and Technical Surveyors and the South African Council for Architects regarding date, time, place, fees and other matters incidental to conducting such examination; and
 - (c) determine pass mark and duration of paper.
- (8) The examiner and the moderator appointed in terms of subregulation (7) (a) shall make the examination results available to the Chief Surveyor-General, and the names of the land surveyors and architects who were successful in the examination shall be placed on a register, to be maintained by the Chief Surveyor-General, comprising the names of those persons entitled to undertake sectional title work: Provided that in the event of the examiner and the moderator disagreeing with regard to the examination questions or the marking of the papers, the final decision will rest with the Chief Surveyor-General.

(Regulation 43(8) amended by Regulation 19 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

44.

(Regulation 44 inserted Government Notice 1357 in Government Gazette 20619. Commencement date: 19 November 1999.

(Regulation 44 deleted by Regulation 4 of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

**ANNEXURE 1
FORMS**

(Annexure 1 contains numerous official forms. These forms are available upon request. See our contact details on the website.)

(Form H amended by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

(Forms AB and AC substituted by Regulation 8 of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Forms B, C, D, F, H, I, J, L, M, N, O, P, Q, R, Z, AB and AC substituted by Regulation 25(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Forms E, K and U deleted by Regulation 25(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Forms S, T, V, W, X, Y, and AC substituted by Regulation 7 of Government Notice R60 in Government Gazette 14526 dated 15 January 1993 with effect from 1 April 1993)

(Forms A, N, S and T deleted and Forms B, F, G, H, AD, AE and AF substituted by Regulation 20 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Form V amended, Form W substituted and Form AB deleted by Regulation 6 of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

(Forms G, H and O substituted and Forms AG, AH and AI added by Regulation 5 of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

(Form G substituted by Regulation 2 of Government Notice R1109 in Government Gazette 28217 dated 18 November 2005)

(Form V substituted by Regulation 5 of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

(Form Z substituted and Forms AJ and AK added by Regulation 3 of Government Notice R291 in Government Gazette 33111 dated 16 April 2010)

(Form F amended, Forms I, J, O and AK substituted and Forms AL, AM, AN and AO added by Regulation 13 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

(Forms B, C, F, G, J, L, M, O, P, Q, R, W, Z, AG, AH, AI, AJ, AK, AL, AM and AO amended and Forms H and I substituted by Regulation 8 of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

(Forms C, J, P and Q amended and Forms F, G, I, O, R, AI substituted by regulation 5 of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

ANNEXURE 2

(Annexure 2 repealed by Regulation 5 of Government Notice R1659 in Government Gazette 15990 dated 30 September 1994)

ANNEXURE 3

(Annexure 3(1), (2), (3) and (4) substituted by Regulation 26 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Annexure 3 repealed by Regulation 21 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

ANNEXURE 4

(Annexure 4 corrected by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

(Annexure 4 substituted by Government Notice R1562 in Government Gazette 14024 dated 12 June 1992)

(Annexure 4 repealed by Regulation 5 of Government Notice R1659 in Government Gazette 15990 dated 30 September 1994)

ANNEXURE 5

(Annexure 5 Section VI substituted by Regulation 27(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Annexure 5 Section VII deleted by Regulation 27(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Annexure 5, substituted by the Regulation 2 of Government Notice R1791 in Government Gazette 12670 dated 3 August 1990)

(Annexure 5 repealed by Regulation 5 of Government Notice R1659 in Government Gazette 15990 dated 30 September 1994)

ANNEXURE 6

DOCUMENTS TO BE KEPT IN CONVEYANCER'S FILES IN TERMS OF REGULATION 40

(Heading of Annexure 6 substituted by Regulation 28(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Heading of Annexure 6 substituted by Regulation 7 of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

A Transfer of ownership or alienation in terms of section 15B of the Act

- (1) The original or duplicate original of the conveyancer's certificate under section 15B (3) of the Act.
- (2) Where applicable, the power of attorney conferring authority to act in respect of the transaction.
- (3) The clearance of other certificate issued by the body corporate to the effect that on date of registration of the relevant transfer all monies due to the body corporate, have been paid or that provision has been made to the satisfaction of the body corporate for the payment thereof.

(Annexure 6 paragraph A(3) substituted by Regulation 22(a) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (4) The conveyancer may keep any other documents relating to the status, authority or capacity of the transferor or the transferee deemed necessary by him in the file.

(Annexure 6 paragraph A substituted by Regulation 28(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

B Sectional Mortgage Bond

- (1) Power of attorney conferring authority on the conveyance to act in respect of the transaction, unless such authority is contained in the bond.
- (2) Any other documents, including powers of attorney, deemed necessary by the conveyancer and relating to the status, authority or capacity of the mortgagor or his or her agent or of the mortgagee or his or her agent or of the conveyancer.

(Annexure 6 paragraph B(2) substituted by Regulation 22(b) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (3) Any consent granted in terms of section 15(2) of the Matrimonial Property Act, 1984 (Act No. 88 of 1984).

(Annexure 6 paragraph B(3) inserted by Regulation 22(c) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

ANNEXURE 7

(Annexure 7 repealed by Regulation 23 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

ANNEXURE 8 MANAGEMENT RULES

PART 1 INTRODUCTORY

1. Heading

Management rules prescribed in terms of section 10(2)(a) of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011).

2. Interpretation

- (1) In the interpretation of these rules, unless the context indicates otherwise —
- (a) "**adjudicator**" means an adjudicator acting in terms of the Community Schemes Ombud Service Act, 2011 (Act No. 9 of 2011);
 - (b) "**administrator**" means an administrator appointed in terms of section 16 of the Act;
 - (c) "**auditor**" means a person accredited to perform an audit in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005);
 - (d) "**Community Schemes Ombud Service**" means the service established in terms of the Community Scheme Ombud Service Act, 2011 (Act No. 9 of 2011);
 - (e) "**estimated cost**", for the purposes of rule 22, means the estimated cost to maintain, repair or replace a major capital item;
 - (f) "**expected life**", for the purposes of rule 22, means the estimated number of years before it is expected that the cost of maintenance, repair or replacement of a major capital item will be incurred;
 - (g) "**executive managing agent**" means a managing agent appointed to carry out all the functions and powers of the trustees in terms of rule 28;

- (h) "**future development right**" means a right to extend the scheme in terms of section 25 of the Sectional Titles Act;
- (i) "**major capital item**", for the purposes of rule 22, means wiring, lighting and electrical systems, plumbing, drainage and storm-water systems, heating and cooling systems, any lifts, any carpeting and furnishings, roofing, interior and exterior painting and waterproofing, communication and service supply systems, parking facilities, roadways and paved areas, security systems and facilities and any other community and recreational facilities;
- (j) "**managing agent**" means any person who provides scheme management services to a body corporate for reward, whether monetary or otherwise, including any person who is employed to render such services;
- (k) "**member**" means a member of the body corporate;
- (l) "**past contribution**", for the purposes of rule 22, means the funds in the reserve fund of the body corporate in respect of the estimated cost;
- (m) "**primary section**" means a section designed to be used for human occupation as a residence, office, shop, factory or for any other type of use allowed in terms of local municipal by-laws, not being a utility section;
- (n) "**registered auditor**" means a person as defined in terms of the Auditing Professions Act, 20015((Act No. 26 of 2005);
- (o) "**registered bondholder**" means the holder of a mortgage bond of whom the body corporate has been notified in terms of section 13(1)(f) of the Act;
- (p) "**reserve funds**" means an amount set aside by the body corporate to meet the unexpected costs that may arise in future, including future cost of maintenance;
- (q) "**Sectional Titles Act**" means the Sectional Titles Act, 1986, (Act No. 95 of 1986), as amended;
- (r) "**service address**" means the service address of a member or the body corporate in terms of rule 4; and
- (s) "**the Act**" means the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011);
- (t) "**utility section**" means a section which, in terms of local municipality bylaws, is designed to be used as an accessory to a primary section, such as a bathroom, toilet, storeroom, workshop, shed, servant's quarters, parking garage, parking bay or other utility area, not being a primary section.

- (2) In the interpretation of these rules —
- (a) words and expressions to which a meaning has been assigned in the Act or its regulations, bear those meanings;
 - (b) words importing—
 - (i) the singular must be interpreted to include the plural, and the plural to include the singular; and
 - (ii) any one gender must be interpreted to include all other genders; and
 - (c) the headings of rules must not be taken into account.

3. Amendment and binding nature

- (1) The body corporate may substitute, amend, repeal, or add to the management rules subject to and in accordance with the provisions of section 10 of the Act.
- (2) A member must take all reasonable steps to ensure compliance with the conduct rules in force in terms of section 10(2)(b) of the Act by any tenant or other occupant of any section or exclusive use area, including the member's employees, guests, visitors and family members.

4. Service addresses

- (1) The body corporate must, from time to time, determine the address that is its *domicilium citandi et executandi* in terms of section 3(1)(o) of the Act; provided that such service address must be—
 - (a) the physical address of a section in the scheme;
 - (b) the physical address of a duly appointed managing agent or administrator; or
 - (c) another physical address within the magisterial district in which the scheme is located.
- (2) The trustees may designate a fax, email or other address as an alternate body corporate service address.
- (3) A change of a body corporate service address is effective when written notice of that address is lodged with the Community Schemes Ombud Service in the prescribed form.

- (4) The trustees must, when they give the Community Schemes Ombud Service notice of a change of the body corporate service address in terms of section 3(1)(o) of the Act, simultaneously give such written notice to all members and other occupiers of sections and to all registered bondholders.
- (5) The service address for any legal process or delivery of any other document to a member is the address of the primary section registered in that member's name; provided that a member is entitled by written notice to the body corporate to change that address for purposes as contemplated in subsections 6(3)(c) and 6(4) of the Act to another physical address, postal address or fax in the Republic of South Africa or to an email address, and that the change in the service address of the member is effective when the body corporate receives notice of such a change.
- (6) The service address for any legal process or delivery of any other document to an occupier of a section, who is not a member, is the physical address of that section.

PART 2 TRUSTEES

- 5.(1) All the members are trustees from the establishment of the body corporate until the end of the first general meeting.
- (2) Subject to rules 6(4) and 28(1), if a body corporate consists of less than 4 members who are owners of primary sections, each member or his or her representative recognised by law is considered to be a trustee without election to office.
- (3) If a body corporate consists of more than 4 members who are owners of primary sections, they must from time to time determine the number of trustees to be elected in terms of these rules.

6. Requirements for office and disqualification

- (1) A trustee need not be a member or the legally recognised representative of a member who is a juristic person.
- (2) A person who is the managing agent or an employee of the managing agent or the body corporate may not be a trustee unless that person is a member.
- (3) A trustee who has any direct or indirect personal interest in any matter to be considered by the trustees must not be present at or play any part in the consideration or decision of the matter concerned.
- (4) A trustee ceases to hold office if that trustee—
 - (a) by written notice to the body corporate, resigns from office;

- (b) is declared by a court to be of unsound mind;
- (c) is or becomes insolvent and the insolvency results in the sequestration of that trustee's estate;
- (d) is convicted, or has been convicted in the Republic or elsewhere, of theft, fraud, forgery, perjury or any other offence involving dishonesty;
- (e) is sentenced to imprisonment without the option of a fine;
- (f) is removed from an office of trust on account of misconduct in respect of fraud or the misappropriation of money;
- (g) is removed from office by ordinary resolution of a general meeting; provided the intention to vote on the proposed removal was specified in the notice convening the meeting;
- (h) is or becomes disqualified to hold office as a director of a company in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
- (i) fails or refuses to pay the body corporate any amount due by that trustee after a court or adjudicator has given a judgment or order for payment of that amount.

7. Nomination, election and replacement

- (1) A member may nominate any person for the office of trustee.
- (2) The nomination of a trustee must be in writing, accompanied by the written consent of the person nominated and delivered to the body corporate service address at least 48 hours before the annual general meeting is due to start.
- (3) If an insufficient number of nominations are received in terms of sub-rule (2), further nominations may be called for at the annual general meeting with the consent of the persons nominated.
- (4) Save for the provisions of rules 5(1) and (2), trustees must be elected at the first general meeting of the body corporate and then at each subsequent annual general meeting.
- (5) If a trustee ceases to hold office —
 - (a) the remaining trustees; or
 - (b) the members in general meeting,may appoint a replacement trustee.

- (6) An elected or replacement trustee holds office until the end of the next annual general meeting and is eligible for re-election, if properly nominated.
- (7) The trustees may appoint, for a specified period, a person qualified to serve as a trustee as a replacement for any trustee who is absent or otherwise unable to perform the duties of that office.

8. Payment and indemnity

- (1) The body corporate must reimburse trustees for all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers.
- (2) Unless so determined by special resolution, trustees who are members are not entitled to any reward, whether monetary or otherwise, for their services as such.
- (3) Trustees who are not members may be rewarded for their services as such; provided that any reward, whether monetary or otherwise, must be approved by a resolution of the body corporate as part of the budget for the scheme's administrative fund.
- (4) The body corporate must indemnify a trustee who is not a managing agent against all costs, losses and expenses arising as a result of any official act that is not in breach of the trustee's fiduciary obligations to the body corporate.

PART 3 TRUSTEE MEETINGS AND DECISIONS

9. General powers and duties

The trustees must—

- (a) meet to carry out the body corporate's business, adjourn and otherwise regulate their meetings as they think fit, subject to the provisions of the Act, these rules and the common law of meetings;
- (b) exercise the body corporate's powers and functions assigned and delegated to them in terms of section 7(1) of the Act in accordance with resolutions taken at general meetings and at meetings of trustees;
- (c) apply the body corporate's funds in accordance with budgets approved by members in general meeting;
- (d) appoint any agent or employee in terms of section 4(a) of the Act in terms of a duly signed written contract; and

- (e) compile minutes of each trustee and general meeting in accordance with rule 27(2)(a) and distribute these to the persons entitled to notice of the meeting concerned as soon as reasonably possible, but not later than 7 days after the date of the meeting.

10. Validity of actions

- (1) No document signed on behalf of the body corporate is valid and binding unless it is signed on the authority of a trustee resolution by –
 - (a) two trustees or the managing agent, in the case of a clearance certificate issued by the body corporate in terms of section 15B(3)(i)(aa) of the Sectional Titles Act; and
 - (b) two trustees or one trustee and the managing agent, in the case of any other document.
- (2) A resolution adopted or other act performed by the trustees remains valid and effective notwithstanding the later discovery of some defect in the appointment of a trustee or the disqualification of a trustee.

11. Calling and attendance at meetings

- (1) A trustee may at any time call a meeting of trustees by giving all other trustees not less than seven days written notice of the time and place of the meeting and by setting out an agenda for the meeting: Provided that —
 - (a) in cases of urgency a trustee may give such shorter notice as is reasonable in the circumstances; and
 - (b) notice need not be given to any trustee who is absent from the Republic unless the meeting is one referred to in sub-rule (5), but notice must be given to any replacement trustee appointed for that trustee.
- (2) The trustees may by written resolution set the dates of and a standard agenda for their future meetings and delivery of a copy of this resolution is considered adequate notice of all such future meetings.
- (3) Members, registered bondholders, holders of future development rights and the managing agent may attend trustee meetings and may speak on any matter on the agenda, but they are not entitled to propose any motion or to vote; provided that such persons are not entitled to attend those parts of trustee meetings that deal with —
 - (a) discussions of contraventions of the Act or rules; or

- (b) any other matters in respect of which the trustees resolve that the presence of any such persons would unreasonably interfere with the interests of the body corporate or any person's privacy.
- (4) If a member, a registered mortgagee or the holder of a future development right in writing requests notice of trustee meetings, the trustees must deliver to that person a copy of a notice of a meeting referred to in sub-rule (1), a resolution referred to in sub-rule (2) and a notice of any adjournment of such a meeting; provided that the body corporate may recover from the person concerned the costs of delivery of such documents.
- (5) The trustees may make arrangements for attendance at a trustee meeting by telephone or any other method, if the method —
 - (a) is accessible to all trustees and other persons entitled to attend the meeting;
 - (b) permits all persons participating in the meeting to communicate with each other during the meeting; and
 - (c) permits the chairperson to confirm, with reasonable certainty, the identity of the participants.
- (6) A person who attends a meeting as provided under sub-rule (5) is considered present in person at the meeting.

12. Chairperson

- (1) If a body corporate consists of only two members, the provisions in these rules in regard to the election and functions of a chairperson do not apply.
- (2) From the establishment of the body corporate until the end of the first general meeting, the developer or the developer's nominee is the chairperson of the trustees.
- (3) At the commencement of the first meeting of trustees after an annual general meeting at which trustees have been elected and whenever else necessary, the trustees must by majority vote elect a chairperson from among their number.
- (4) The chairperson of the trustees holds office as such until the end of the next annual general meeting.
- (5) The trustees at a trustees' meeting or the members at a general meeting may remove the chairperson from office if notice of the meeting contains a clear statement of the proposed removal; provided that such removal does not automatically remove the chairperson from the office of trustee.

- (6) If a chairperson is removed from office as such or ceases to hold office as a trustee, the remaining trustees must elect a replacement chairperson from among their number who holds office as chairperson for the remainder of the period of office of his or her predecessor and has the same voting rights.
- (7) If the elected chairperson vacates the chair during the course of a trustee meeting, is not present or is for any other reason unable or unwilling to preside, the trustees present must choose another chairperson from among their number and that replacement chairperson has all the powers and functions of the chairperson while acting as such.

13. Quorum

- (1) At a trustee meeting, 50 per cent of the trustees by number, but not less than two, form a quorum.
- (2) If the number of trustees falls below the number necessary to form a quorum, the remaining trustee or trustees may continue to act, but only to—
 - (a) appoint replacement trustees to make up a quorum; or
 - (b) call a general meeting.
- (3) If at any trustee meeting a quorum is not present within 30 minutes of the appointed time for the meeting, the trustees present, but not less than two, must adopt interim resolutions in respect of each item on the agenda.
- (4) An interim resolution adopted by trustees in terms of sub-rule (3) does not take effect unless it is confirmed—
 - (a) at the next trustee meeting at which a quorum is present; or
 - (b) by written resolution signed by all the trustees.

14. Voting

- (1) A motion at a trustee meeting —
 - (a) does not have to be seconded; and
 - (b) must be determined by resolution adopted by the majority of the trustees present and voting.
- (2) Each trustee is entitled to one vote; provided that if the deliberative votes of the trustees, including that of the chairperson, are tied, the chairperson has a casting vote, unless there are only two trustees.

- (3) A trustee is disqualified from voting in respect of —
- (a) any proposed or current contract or dispute with the body corporate to which the trustee is a party; and
 - (b) any other matter in which the trustee has any direct or indirect personal interest.
- (4) Trustees must adopt decisions by resolutions adopted by majority vote: Provided that resolutions may be put to the vote —
- (a) at trustee meetings; or
 - (b) by a notice sent to each trustee which contains the text of any proposed resolutions and instructs the trustees to indicate their agreement to the resolution by their signature, which signatures must be received by the body corporate before expiry of the closing date specified in the notice.

PART 4 OWNER MEETINGS

15. Notice

- (1) Subject to sub-rule (7), at least 14 days' written notice of a general meeting specifying the place, date and hour of the meeting must be given to—
- (a) all members;
 - (b) all registered bondholders;
 - (c) all holders of future development rights; and
 - (d) the managing agent.
- (2) A person who has a right to be notified under this rule may waive that right by notice in writing delivered to the body corporate and may, at any time and in the same way, revoke that waiver; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to notice and any of them may revoke that waiver.
- (3) The notice of a general meeting must be accompanied by at least—
- (a) an agenda, as required in terms of these rules;

- (b) a copy or comprehensive summary of any document that is to be considered or approved by members at the meeting; and
 - (c) a proxy appointment form in the prescribed format.
- (4) A general meeting must be held in the local municipal area where the scheme is situated unless the members have by special resolution decided otherwise.
- (5) Registered bondholders, holders of future development rights and the managing agent may attend general meetings and may speak on any matter on the agenda, but they are not, in those capacities, entitled to propose any motion or to vote; provided that such persons are not entitled to attend any part of a general meeting if the members resolve that their presence would unreasonably interfere with the interests of the body corporate or any person's privacy.
- (6) Notice of a general meeting must be delivered to—
- (a) members at their service addresses in terms of rule 4(5), and
 - (b) other persons at the most recent physical, postal, fax or email address of which they have notified the body corporate in writing.
- (7) A general meeting may be called—
- (a) on 7 days' notice if the trustees have resolved that short notice is necessary due to the urgency of the matter and set out their reasons for this resolution; provided that the trustees must not take such a resolution in regard to a meeting referred to in rule 29(2) or (4);
 - (b) on less than 14 days notice, if this is agreed to in writing by all persons entitled to attend.
- (8) Failure to give proper notice of a general meeting to a person entitled to receive notice does not invalidate a vote taken at the meeting, as long as the body corporate made a reasonable attempt to give the notice.
- (9) Voting at a general meeting may proceed despite the lack of Notice as required by this rule, if all persons entitled to receive notice in writing waive their right to notice.

16. First general meeting

- (1) The developer must include with the notice of the first general meeting held in terms of section 2(8) of the Act —
- (a) an agenda in accordance with sub-rule (2);

- (b) the documents referred to in sub-rule (2); and
 - (c) a comprehensive summary of the rights and obligations of the body corporate under the policies and contracts referred to in sub-rule (2)(d).
- (2) The agenda for the first general meeting of members must include at least the following —
- (a) a motion to confirm or vary the terms of the policies of insurance effected by the developer or the body corporate;
 - (b) a motion to confirm or vary an itemised estimate of the body corporate's anticipated income and expenses for its first financial year;
 - (c) a motion to approve, with or without amendment, the developer's —
 - (i) evidence of revenue and expenditure concerning the management of the scheme from the date of the first occupation of any unit until the date of the establishment of the body corporate, as required in terms of section 2(8)(c)(iii) of the Act; and
 - (ii) financial statements relating to the management and administration of the scheme from the date of establishment of the body corporate to the date of notice of the first general meeting referred to in sub-rule (1);
 - (d) subject to section 15(2) of the Act, a motion to ratify or not to ratify the terms of any contract entered into by the developer on behalf of the body corporate;
 - (e) a motion confirming that the developer has —
 - (i) furnished the meeting with copies of the documents referred to in section 2(8) of the Act and in this rule; and
 - (ii) paid over any residue referred to in section 2(9) of the Act;
 - (f) a motion appointing an auditor to audit the evidence and financial statements referred to in sub-rule (2)(c);
 - (g) motions determining the number of trustees and electing trustees;
 - (h) a motion detailing any restrictions to be imposed or directions to be given in terms of section 7(1) of the Act or confirming that there are no such restrictions or directions.

- (3) For the purposes of voting on the items of business referred to in sub-rule (2)(c), (d) and (e), any vote held or controlled by the developer is suspended.
- (4) In addition to the documents referred to in section 2(8) of the Act, the developer must at or before the first general meeting furnish the body corporate with copies of —
 - (a) all building plans approved by the local municipality;
 - (b) any encroachment permit or other document issued by the local municipality in regard to the improvements in the scheme;
 - (c) plans showing the location of all pipes, wires, cables and ducts referred to in section (3)(1)(r) of the Act;
 - (d) names and addresses of all contractors, subcontractors and any other persons whom the developer has employed to render services or supply materials relating to the development of the scheme;
 - (e) all warranties, manuals, schematic drawings, operating instructions, service guides, documentation from manufacturers and other similar information in respect of the construction, installation, operation, maintenance, repair and servicing of any common property or body corporate assets, occupation certificate, including any guarantee or warranty provided to the developer by a person referred to in sub-rule (4) (d); and
 - (f) all records the body corporate is required to prepare or retain in terms of rule 27.
- (5) If the developer fails to provide the body corporate with any document referred to in section 2(8) of the Act or in this rule, the body corporate must do all things reasonably necessary to obtain or have the specific document prepared and may recover the reasonable costs incurred in doing so from the developer.
- (6) If the developer fails to call the first general meeting in compliance with the requirements of section 2(8) of the Act, any member or the body corporate may do so and the body corporate must recover from the developer all costs reasonably incurred in ensuring compliance with the developer's obligations.

17. Annual and special general meetings

- (1) Subject to sub-rule (2), the body corporate must hold an annual general meeting within four months of the end of each financial year.
- (2) The body corporate is not obliged to hold an annual general meeting if, before or within one month of the end of a financial year, all members in writing waive the right to the meeting and consent in writing

to motions that deal with all the items of business that must be transacted at the annual general meeting; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to the meeting and consent to the resolutions in writing.

- (3) All general meetings other than the annual general meeting are special general meetings.
- (4) The trustees may by resolution call a general meeting whenever they think fit and must do so if either—
 - (a) members entitled to 25 per cent of the total quotas of all sections; or
 - (b) the holder of mortgage bonds over not less than 25 per cent in number of all the primary sections,deliver to the body corporate a written and signed request for a special general meeting; provided that if the trustees fail to call a meeting thus requested within 14 days of delivery of the request, the members or bondholder concerned are entitled to call the meeting.
- (5) Members or a bondholder who request a meeting in terms of sub-rule (4) must include one or more motions or matters for discussion with their request and these motions or matters must be included, without amendment, in the agenda for the meeting.
- (6) The order of business at general meetings is as follows:
 - (a) confirm proxies, nominees and other persons representing members and issue voting cards;
 - (b) determine that there is a quorum;
 - (c) elect a person to chair the meeting, if necessary;
 - (d) present to the meeting proof of notice of the meeting or waivers of notice;
 - (e) approve the agenda;
 - (f) approve minutes from the previous general meeting, if any;
 - (g) deal with unfinished business, if any;
 - (h) deal with any business referred to in sub-rule (5);
 - (i) if the meeting is the first general meeting referred to in section 2(8) of the Act, deal with the business set out in rule 16(2);
 - (j) if the meeting is an annual general meeting —

- (i) receive reports of the activities and decisions of trustees since the previous general meeting, including reports of committees;
 - (ii) approve the schedules of insurance replacement values referred to in rule 23(3), with or without amendment;
 - (iii) determine the extent of the insurance cover by the body corporate in terms of rules 23(6), (7) and (8);
 - (iv) approve the budgets for the administrative and reserve funds for the next financial year;
 - (v) consider the annual financial statements;
 - (vi) appoint an auditor to audit the annual financial statements, unless all the sections in the scheme are registered in the name of one person;
 - (vii) if the body corporate has more than four members who are owners of primary sections and is not managed by an executive managing agent in terms of rule 28, determine the number of trustees to be elected to serve during the next financial year; and
 - (viii) elect the trustees;
 - (k) report on the lodgment of any amendments to the scheme's rules adopted by the body corporate under section 10 of the Act and, if applicable, table a consolidated set of scheme rules;
 - (l) deal with any new or further business;
 - (m) give directions or impose restrictions referred to in section 7(1) of the Act; and
 - (n) dissolve the meeting.
- (7) Subject to sub-rules (5) and (6), the trustees determine the agenda for an annual or special general meeting; provided that the agenda must contain—
- (a) a description of the general nature of all business, and
 - (b) a description of the matters that will be voted on at the meeting, including the proposed wording of any special or unanimous resolution.
- (8) If any of the items of business that require member approval are not approved at an annual general meeting or any adjournment of the meeting; the resolution not to approve the relevant document must

include the reasons for non-approval and the body corporate must have the document revised and submitted to another general meeting for approval as soon as reasonably possible, until it is approved.

- (9) The body corporate does not have to hold a special general meeting to consider a resolution if all members waive the right to the meeting and consent to the resolution in writing; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to the meeting and consent to the resolution in writing.
- (10) A body corporate may make arrangements for attendance at an annual or special general meeting by telephone or any other method, if the method—
 - (a) is accessible to all members and other persons entitled to attend the meeting;
 - (b) permits all persons participating in the meeting to communicate with each other during the meeting; and
 - (c) permits the chairperson to confirm, with reasonable certainty, the identity of the participants.
- (11) A person who attends a meeting as provided under sub-rule (10) is considered present in person at the meeting.

18. Chairperson

- (1) The chairperson of the trustees must preside as chairperson at every general meeting of the body corporate, unless otherwise resolved by members at the meeting.
- (2) If there is no chairperson or the chairperson of the trustees is not present within 15 minutes after the time appointed for the meeting, or is unwilling or unable to act as chairperson, the members present must elect a chairperson for such meeting.
- (3) A chairperson must—
 - (a) maintain order, regulate the orderly expression of views and guide the members and other participants through the business of the meeting in accordance with the common law of meetings;
 - (b) ensure that all motions and amendments proposed are within the scope of the notice and powers of the meeting;
 - (c) ensure that the scheme's rules, the minute books and any other documents relevant to the items of business on the agenda are available at the meeting;
 - (d) act fairly, impartially and courteously to all members and others entitled to attend the meeting;

- (e) ensure that all members and other persons entitled to speak are able to express their views without unnecessary disturbance or interruption;
 - (f) adjourn the meeting, when it is not able to complete or continue with its business;
 - (g) make decisions on points of procedure;
 - (h) settle disputes by giving rulings on points of order; and
 - (i) surrender the chair to a temporary chairperson elected by the members for any period during which the chairperson wishes to engage in the debate of any item of business.
- (4) A chairperson at a general meeting must not—
- (a) from the chair, attempt to influence members' views on any item of business; or
 - (b) disclose in advance of a vote how the chairperson intends to vote on any item of business.

19. Quorum

- (1) Business must not be transacted at any general meeting unless a quorum is present or represented.
- (2) A quorum for a general meeting is constituted—
- (a) for a scheme with less than 4 primary sections or a body corporate with less than four members, by members entitled to vote and holding two thirds of the total votes of members in value;
 - (b) for any other scheme, by members entitled to vote and holding one third of the total votes of members in value,

provided that at least two persons must be present unless all the sections in the scheme are registered in the name of one person, and provided further that in calculating the value of votes required to constitute a quorum, the value of votes of the developer must not be taken into account.

- (3) For the purpose of establishing a quorum and for the purposes of section 6 of the Act, the value of votes of any sections registered in the name of the body corporate must not be taken into account and the body corporate must not be considered to be a member.
- (4) If within 30 minutes from the time appointed for a general meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time; provided that if on the day to which the meeting is adjourned a quorum as described in sub-rule (2) is not present within 30

minutes from the time appointed for the meeting, the members entitled to vote and present in person or by proxy constitute a quorum.

20. Voting and representatives

- (1) A motion at a general meeting —
 - (a) does not need to be seconded; and
 - (b) except for a special or unanimous resolution, must be adopted by resolution of the majority of the votes, calculated in value, of the members present and voting.
- (2) Except for special and unanimous resolutions, a member is not entitled to vote if—
 - (a) a member fails or refuses to pay the body corporate any amount due by that member after a court or adjudicator has given a judgment or order for payment of that amount; or
 - (b) that member persists in the breach of any of the conduct rules of the scheme referred to in section 10(2)(b) of the Act after a court or an adjudicator has ordered that member to refrain from breaching such rule.
- (3) For the purposes of any vote, the values of votes of any sections registered in the name of the body corporate are considered abstentions.
- (4) Where a member is as such a trustee for a beneficiary, that member exercises voting rights to the exclusion of persons beneficially interested in the trust and such persons are not entitled to vote.
- (5) A member's appointment of a proxy in terms of section 6(5) of the Act and the proxy's acceptance of the mandate must, except in the case of an appointment in a mortgage bond, be substantially in the prescribed form and must be—
 - (a) delivered to the body corporate 48 hours before the time of the meeting; or
 - (b) handed to the chairperson before or at the start of the meeting.
- (6) A proxy need not be a member, but must not be the managing agent or an employee of the managing agent or the body corporate.
- (7) When two or more persons are entitled to exercise one vote jointly, that vote may be exercised only by one person, who may or may not be one of them, jointly appointed by them as their proxy.

- (8) The outcome of each vote, including the number of votes for and against the resolution, must be announced by the chairperson and recorded in the minutes of the meeting.
- (9) If a special resolution is passed at a general meeting by members holding less than 50 per cent of the total value of all members' votes—
- (a) the body corporate must not take any action to implement that resolution for one week after the meeting, unless the trustees resolve that there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage to the scheme; and
 - (b) within seven days from a resolution referred to in sub-rule 9 (a), members holding at least 25 per cent of the total votes of all members in value may, by written and signed request delivered to the body corporate, require that the body corporate hold a special general meeting to reconsider the resolution.
- (10) If a demand referred to in sub-rule (9)(b) is delivered to the body corporate, the trustees must not implement the resolution unless—
- (a) it is again passed by special resolution; or
 - (b) a quorum is not present within 30 minutes of the time set for the meeting.

PART 5

FINANCIAL MANAGEMENT

21. Financial year, functions and powers

- (1) The financial year of a body corporate established after the Act comes into operation must run from the first day of October of each year to the last day of September of the following year unless otherwise resolved by the body corporate in general meeting.
- (2) The body corporate must not—
- (a) make loans from body corporate funds without the authority of a unanimous resolution;
 - (b) refund to any member a contribution lawfully levied and paid;
 - (c) distribute to a member or any other person any portion of the body corporate's profits or gains except—
 - (i) upon destruction or deemed destruction of the buildings, or

- (ii) where such profit or gain is of a capital nature.
- (3) The body corporate may, on the authority of a written trustee resolution—
- (a) levy members with a special contribution if additional income is required to meet a necessary expense that cannot reasonably be delayed until provided for in the budget for the next financial year;
 - (b) increase the contributions due by the members by a maximum of 10 per cent at the end of a financial year to take account of the anticipated increased liabilities of the body corporate, which increase will remain effective until members receive notice of the contributions due by them for the next financial year; provided that the trustees must give members notice of such increased contributions by notice in terms of rule 25, with such changes as are required by the context;
 - (c) charge interest on any overdue amount payable by an member to the body corporate; provided that the interest rate must not exceed the maximum rate of interest payable per annum under the National Credit Act (2005) Act No 34 of 2005), compounded monthly in arrear;
 - (d) invest any moneys in the reserve fund referred to in sections 3(1)(b) of the Act in a secure investment with any institution referred to in the definition of "financial institution" in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);
 - (e) enter into written and signed contracts in respect of its powers and duties under the Act and these rules;
 - (f) join organisations and subscribe to services to further its purposes under the Act and these rules;
 - (g) delegate to one or more of the trustees, to a member, agent or an employee such of their powers and duties as they deem fit, and at any time to revoke such delegation; provided that when they delegate any power or duty they must specify in writing—
 - (i) the power or duty concerned;
 - (ii) a maximum amount of the body corporate's funds that may be spent for a particular purpose; and
 - (iii) any conditions that may be applicable; and
 - (h) approach the Community Scheme Ombud Service for relief.
- (4) The body corporate must ensure that all money received by the body corporate is deposited to the credit of an interest-bearing bank account—

- (a) in the name of the body corporate; or
- (b) that is a trust account opened in terms of either the Estate Agency Affairs Act, 1976 (Act No. 112 of 1976), or the Attorneys Act, 1979 (Act No. 53 of 1979).

22. Maintenance, repair and replacement plan

- (1) A body corporate or trustees must prepare a written maintenance, repair and replacement plan for the common property, setting out—
 - (a) the major capital items expected to require maintenance, repair and replacement within the next 10 years;
 - (b) the present condition or state of repair of those items;
 - (c) the time when those items or components of those items will need to be maintained, repaired or replaced;
 - (d) the estimated cost of the maintenance, repair and replacement of those items or components;
 - (e) the expected life of those items or components once maintained, repaired or replaced; and
 - (f) any other information the body corporate considers relevant.
- (2) The annual contribution to the reserve fund for the maintenance, repair or replacement of each of the major capital items must be determined according to the following formula: [(estimated cost minus past contribution) divided by expected life].
- (3) A maintenance, repair and replacement plan takes effect on its approval by the members in general meeting; provided that on approval of such a plan, members may lay down conditions for the payment of money from the reserve fund.
- (4) The trustees must report the extent to which the approved maintenance, repair and replacement plan has been implemented to each annual general meeting.

23. Insurance

- (1) The insurance policies of the body corporate in terms of sections 3(1)(h) and (i) of the Act —
 - (a) must provide cover against —

- (i) risks referred to in regulation 3;
 - (ii) risks that members resolve must be covered by insurance; and
 - (iii) risks that holders of registered first mortgage bonds over not less than 25 per cent in number of the primary sections by written notice to the body corporate may require to be covered by insurance;
- (b) must specify a replacement value for each unit and exclusive use area, excluding the member's interest in the land included in the scheme; provided that any member may at any time by written notice to the body corporate require that the replacement value specified for that member's unit or exclusive use area be increased;
 - (c) must restrict the application of any "average" clause to individual units and exclusive use areas, so that no such clause applies to the buildings as a whole;
 - (d) must include a clause in terms of which the policy is valid and enforceable by any holder of a registered mortgage bond over a section or exclusive use area against the insurer notwithstanding any circumstances whatsoever which would otherwise entitle the insurer to refuse to make payment of the amount insured, unless and until the insurer terminates the insurance on at least 30 days' notice to the bondholder; and
 - (e) may include provision for "excess" amounts.
- (2) A member is responsible —
- (a) for payment of any additional premium payable on account of an increase in the replacement value referred to in sub-rule (1)(b);
 - (b) for any excess amount that relates to damage to any part of the buildings that member is obliged to repair and maintain in terms of the Act or these rules,
- and must furnish the body corporate with written proof from the insurer of payment of that amount within seven days of written request.
- (3) A body corporate must obtain a replacement valuation of all buildings and improvements that it must insure at least every three years and present such replacement valuation to the annual general meeting.
- (4) A body corporate must prepare for each annual general meeting schedules showing estimates of —
- (a) the replacement value of the buildings and all improvements to the common property; and

- (b) the replacement value of each unit, excluding the member's interest in the land included in the scheme, the total of such values of all units being equal to the value referred to in sub-rule 4(a).
- (5) On written request by any registered bondholder and the furnishing of satisfactory proof, the body corporate must record the cession to that bondholder of that member's interest in any of the proceeds of the insurance policies of the body corporate.
- (6) A body corporate must take out public liability insurance to cover the risk of any liability it may incur to pay compensation in respect of—
 - (a) any bodily injury to or death or illness of a person on or in connection with the common property; and
 - (b) any damage to or loss of property that is sustained as a result of an occurrence or happening in connection with the common property,

for an amount determined by members in general meeting, but not less than 10 million rand or any such higher amount as may be prescribed by the Minister in any one claim and in total for any one period of insurance.

- (7) A body corporate must take out insurance for an amount determined by members in general meeting to cover the risk of loss of funds belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by a trustee, managing agent, employee or other agent of the body corporate.
- (8) A body corporate, authorised by a special resolution of members, may insure any additional insurable interest the body corporate has —
 - (a) in the land and buildings included in the scheme; and
 - (b) relating to the performance of its functions,

for an amount determined in that resolution.

24. Administrative and reserve funds

- (1) The administrative fund referred to in section 3(1)(a) of the Act must be used to fund the operating expenses of the body corporate for a particular financial year.
- (2) The reserve fund maintained in terms of section 3(1)(b) of the Act must be used for the implementation of the maintenance, repair and replacement plan of the body corporate referred to in rule 22.

- (3) The following amounts must be paid into the reserve fund —
- (a) any part of the annual levies designated as being for the purpose of reserves or the maintenance, repair and replacement plan;
 - (b) any amounts received under an insurance policy in respect of damage or destruction of property for which the body corporate is responsible;
 - (c) any interest earned on the investment of the money in the reserve fund;
 - (d) any other amounts determined by the body corporate,
- and all other body corporate income must be paid into the administrative fund.
- (4) Money may be paid out of the administrative fund in accordance with trustee resolutions and the approved budget for the administrative fund.
- (5) Money may be paid out of the reserve fund —
- (a) at any time in accordance with trustee resolutions and the approved maintenance, repair and replacement plan; or
 - (b) if the trustees resolve that such a payment is necessary for the purpose of an urgent maintenance, repair or replacement expense, which purpose includes, without limitation —
 - (i) to comply with an order of a court or an adjudicator;
 - (ii) to repair, maintain or replace any property for which the body corporate is responsible where there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage to persons or property;
 - (iii) to repair any property for which the body corporate is responsible where the need for the repairs could not have been reasonably foreseen in preparing the maintenance, repair and replacement plan; or
 - (iv) to enable the body corporate to obtain adequate insurance for property that the body corporate is required to insure;
- provided that the trustees must report to the members on any such expenditure as soon as possible after it is made.

- (6) Expenditure under sub-rule (5)(b) —

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- (a) must not exceed—
 - (i) the amount necessary for the purpose for which it is expended; or
 - (ii) any limitation imposed by the body corporate on expenditure; and
- (b) must comply with any restrictions imposed or directions given by members.

25. Contributions and charges

- (1) The body corporate must, as soon as possible but not later than 14 days after the approval of the budgets referred to in rule 17(6)(j)(iv) by a general meeting, give each member written notice of the contributions and charges due and payable by that member to the body corporate, which notice must—
 - (a) state that the member has an obligation to pay the specified contributions and charges; and
 - (b) specify the due date for each payment; and
 - (c) if applicable, state that interest at a rate specified in the notice will be payable on any overdue contributions and charges; and
 - (d) include details of the dispute resolution process that applies in respect of disputed contributions and charges.
- (2) If money owing is not paid on the dates specified in the notice referred to in sub-rule (1), the body corporate must send a final notice to the member, which notice must state—
 - (a) that the member has an obligation to pay the overdue contributions and charges and any applicable interest immediately; and
 - (b) if applicable—
 - (i) the interest that is payable in respect of the overdue contributions and charges at the date of the final notice; and
 - (ii) the amount of interest that will accrue daily until the payment of the overdue contributions and charges; and
 - (c) that the body corporate intends to take action to recover the amount due if the overdue contributions and charges and interest owing are not paid within 14 days after the date the final notice is given.

- (3) Subject to rules 21(3) (a) and (b), after the expiry of a financial year and until they become liable for contributions in respect of the next financial year, members are liable for contributions in the same amounts and payable in the same installments as were due and payable by them during the past financial year.
- (4) A member is liable for and must pay to the body corporate all reasonable legal costs and disbursements, as taxed or agreed by the member, incurred by the body corporate in the collection of arrear contributions or any other arrear amounts due and owing by such member to the body corporate, or in enforcing compliance with these rules, the conduct rules or the Act.
- (5) The body corporate must not debit a member's account with any amount that is not a contribution or a charge levied in terms of the Act or these rules without the member's consent or the authority of a judgment or order by a judge, adjudicator or arbitrator.
- (6) The body corporate must in its annual financial statements account for all contributions and any other charges debited to members' accounts.
- (7) On request in writing by a member the body corporate must make available a full and detailed account of all amounts debited and credited to the member's account with the body corporate.

26. Financial records, budgets, reports and audit

- (1) A body corporate must—
 - (a) keep proper books of accounts that—
 - (i) record all its income, expenditure, assets and liabilities;
 - (ii) disclose all amounts recovered from members by the body corporate or any managing agent or other service provider acting on its behalf;
 - (iii) include individual accounts for each member; and
 - (iv) contain all other information necessary to allow members to assess the body corporate's financial situation and their financial situation in regard to the body corporate.
 - (b) keep separate books of account and bank accounts for its administrative and reserve funds referred to in sections 3(1)(a) and (b) of the Act;
 - (c) prepare annual financial statements for presentation at the annual general meeting, which statements must include analyses of the —

- (i) amounts due to the body corporate in respect of contributions, special contributions and other charges, classified by member and the periods for which such amounts were owed;
 - (ii) amounts due by the body corporate to its creditors generally and prominently disclosing amounts due to any public authority, local municipality or other entity for services including, without limitation, water, electricity, gas, sewerage and refuse removal, classified by creditor and the periods for which such amounts were owed;
 - (iii) amounts advanced to the body corporate by way of levy finance, a loan, in terms of a guarantee insurance policy or otherwise, setting out the actual or contingent liability of the body corporate and the amounts paid by the body corporate and by any member in terms of such arrangement;
 - (iv) amounts in the reserve fund showing the amount available for maintenance, repair and replacement of each major capital item as a percentage of the accrued estimated cost and the rand value of any shortfall;
 - (v) premiums and other amounts paid and payments received by the body corporate and any member in terms of the insurance policies of the body corporate and the expiry date of each policy; and
 - (vi) amounts due and payable to the Community Schemes Ombud Service.
- (d) prepare a maintenance, repair and replacement plan in accordance with rule 22 for presentation at the annual general meeting;
- (e) prepare budgets for the administrative and reserve funds comprising itemised estimates of the anticipated income and expenses during the next financial year for presentation at the annual general meeting; provided that such budgets may include discounts not exceeding 10 per cent of a members' annual contributions applicable if all those contributions are paid on or before the due dates;
- (f) prepare a report adopted by the trustees reviewing the affairs of the body corporate during the financial year for presentation at the annual general meeting.
- (2) On the application of any member, registered bondholder or of the managing agent, the body corporate must make all or any of the books of account and records available for inspection and copying.
- (3) The body corporate must ensure that all the body corporate's books of account and financial records are retained for a period of six years after completion of the transactions, acts or operations to which they relate.

- (4) Unless all the sections in the scheme are registered in the name of one person, the body corporate must present audited financial statements to a general meeting for consideration within four months after the end of the financial year.
- (5) The audit of a body corporate's annual financial statements—
 - (a) must be carried out by an independent auditor who has not participated in the preparation of the annual financial statements or advised on any aspect of the accounts of the body corporate during the period being reported on;
 - (b) need not be carried out in accordance with any recognized financial; reporting framework of guidelines for financial accounting;
 - (c) must include opinions as to whether or not—
 - (i) the annual financial statements accurately reflect the financial position of the body corporate for the financial year under review, with such qualifications and reservations as the auditor considers necessary;
 - (ii) the body corporate has complied with the accounting requirements set out in rules 21, 24 and this rule 26, with a specific description of any failure to comply with such requirements;
 - (iii) the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud; and
 - (iv) the financial affairs of the body corporate appear to be effectively managed;
 - (d) must be completed within four months of the end of the body corporate's financial year.

PART 6

ADMINISTRATIVE MANAGEMENT

27. Governance documents and records

- (1) The body corporate must—
 - (a) lodge a notification of an amendment to the scheme's rules referred to in section 10(5) of the Act as soon as reasonably possible, but not later than 10 days after the date of the relevant resolution of the body corporate; and
 - (b) compile and keep a complete set of all management and conduct rules including —

- (i) an index; and
 - (ii) a prominent reference to any rules that confer exclusive use rights, vary the effects of the participation quotas in regard to the value of votes or the liability for contributions, or impose either a financial or a maintenance obligation on members;
 - (c) prepare a consolidated set of rules whenever they are amended.
- (2) The body corporate must prepare and update the following records —
- (a) minutes of general and trustee meetings, including the following information—
 - (i) the date, time and place of the meeting;
 - (ii) the names and role of the persons present, including details of the authorisation of proxies or other representative;
 - (iii) the text of all resolutions; and
 - (iv) the results of the voting on all motions;
 - (b) lists of trustees, members and tenants with their—
 - (i) full names;
 - (ii) identity numbers or, in the case of non-South African citizens, their passport numbers; and
 - (iii) section addresses and mailing addresses, if different;
 - (iv) telephone numbers; and
 - (v) email or other electronic addresses, if any;
 - (c) lists of—
 - (i) sections shown on the sectional plan, indicating in each case whether it is a primary or a utility section, its participation quota and the name of the member in whose name it is registered;

- (ii) exclusive use areas with descriptions of purposes and numbers, if any, indicating whether the rights to each area are conferred in terms of section 27 of the Sectional Titles Act or in terms of a rule, and a reference to the relevant rule where applicable; and
 - (iii) registered bondholders with their names and addresses;
 - (d) details of all future development rights including —
 - (i) names and addresses of all registered holders of such rights; and
 - (ii) copies of all documentation prepared in terms of section 25(2) of the Sectional Titles Act for any such right; and
 - (e) any other records required by the regulations.
- (3) The body corporate may obtain and keep copies of all of the following:
- (a) The registered sectional plan and any registered amending sectional plan;
 - (b) the Act and the regulations;
 - (c) resolutions that deal with changes to the common property, including the conferring of exclusive use rights on members;
 - (d) consents and approvals given by the body corporate to members;
 - (e) waivers and consents given by members;
 - (f) written contracts to which the body corporate is a party;
 - (g) any decision of an adjudicator, arbitrator, magistrate or judge in a proceeding in which the body corporate is a party, and any legal opinions obtained by the body corporate;
 - (h) the budget and financial statement for the current year and previous years;
 - (i) income tax returns;
 - (j) insurance policies, endorsement and claim forms;
 - (k) correspondence sent or received by the body corporate and trustees; and
 - (l) any other records required by the regulations.

- (4) On receiving a written request, the body corporate must make the records and documents referred to in this rule available for inspection by, and provide copies of them to —
 - (a) a member;
 - (b) a registered bondholder; or
 - (c) a person authorised in writing by a member or registered bondholder.
- (5) The body corporate must comply with a request for inspection or copying under this rule within 10 days unless the request is in respect of the rules, in which case the body corporate must comply with the request within five days.
- (6) The body corporate may charge a fee for a copy of a record or document other than the rules, provided that the fee is not more than the reasonable cost associated with the process of making the copy, and the body corporate may refuse to supply the copy until the fee is paid.
- (7) If the body corporate terminates its contract with an employee or a managing agent, that person must within 10 days deliver to the body corporate all records referred to in this rule that are in the person's possession or under the person's control.
- (8) The records referred to in this rule must be in writing or in a form that can be easily converted to writing.

28. Executive Managing Agent and Managing Agents

- (1) The body corporate may, by special resolution, appoint an executive managing agent to perform the functions and exercise the powers that would otherwise be performed and exercised by the trustees.
- (2) Members entitled to 25 per cent of the total quotas of all sections may apply to the Community Scheme Ombud Service for the appointment of an executive managing agent.
- (3) An executive managing agent —
 - (a) is subject to all the duties and obligations of a trustee under the Act and the rules of the scheme;
 - (b) is obliged to manage the scheme with the required professional level of skill and care;
 - (c) is liable for any loss suffered by the body corporate as a result of not applying such skill and care;
 - (d) has a fiduciary obligation to every member of the body corporate;

- (e) must arrange for the inspection of the common property at least every six months; and
 - (f) must report at least every four months to every member of the body corporate on the administration of the scheme.
- (4) The reports of an executive managing agent referred to in sub-rule (3)(f) must include at least the following details —
- (a) proposed repairs to and maintenance of the common property and assets of the body corporate within the next four months;
 - (b) matters the executive managing agent considers relevant to the condition of the common property and the assets of the body corporate;
 - (c) the balance of each of the administrative and reserve funds of the body corporate on the date of the report and a reconciliation statement for each fund; and
 - (d) for the period since the appointment of the executive managing agent or from the date of the last report —
 - (i) the expenses of the body corporate, including repair, maintenance and replacement costs; and
 - (ii) a brief description of the date and nature of all decisions made by the executive managing agent.
- (5) The body corporate may, if trustees so resolve, and must if required by —
- (a) a registered mortgagee of 25 per cent in number of the primary sections; or
 - (b) a resolution of members,
- appoint a managing agent to perform specified financial, secretarial, administrative or other management services under the supervision of the trustees.
- (6) A management agreement for any managing agent must comply with the requirements as may be set out in the regulations.
- (7) A management agreement may not endure for a period longer than three years and may be cancelled, without liability or penalty, despite any provision of the management agreement or other agreement to the contrary —

- (a) by the body corporate on two months notice, if the cancellation is first approved by a special resolution passed at a general meeting, or
 - (b) by the managing agent on two months notice.
- (8) The body corporate or trustees may by ordinary resolution cancel the management agreement in accordance with its terms or refuse to renew the management agreement when it expires.

PART 7 PHYSICAL MANAGEMENT

29. Improvements to common property

- (1) The body corporate may on the authority of a unanimous resolution make alterations or improvements to the common property that is not reasonably necessary.
- (2) The body corporate may propose to make alterations or improvements to the common property that are reasonably necessary; provided that no such proposal may be implemented until all members are given at least 30 days written notice with details of —
 - (a) the estimated costs associated with the proposed alterations or improvements;
 - (b) details of how the body corporate intends to meet the costs, including details of any special contributions or loans by the body corporate that will be required for this purpose; and
 - (c) a motivation for the proposal including drawings of the proposed alterations or improvements showing their effect and a motivation of the need for them;

and if during this notice period any member in writing to the body corporate requests a general meeting to discuss the proposal, the proposal must not be implemented unless it is approved, with or without amendment, by a special resolution adopted at a general meeting.

- (3) A body corporate must, if so directed by a resolution of members —
 - (a) install and maintain separate meters to measure the supply of electricity, water, gas or the supply of any other service to each member's sections and exclusive use areas and to the common property; and
 - (b) recover from members the cost of such supplies to sections and exclusive use areas based on the metered supply.

- (4) A body corporate may on the authority of a special resolution install separate pre-payment meters on the common property to control the supply of water or electricity to a section or exclusive use area; provided that all members and occupiers of sections must be given at least 60 days notice of the proposed resolution with details of all costs associated with the installation of the pre-payment system and its estimated effect on the cost of the services over the next three years.
- (5) If a pre-payment system referred to in sub-rule (4) is installed —
 - (a) the body corporate is responsible to ensure that the system does not infringe on the constitutional rights of section occupiers to access basic services; and
 - (b) any member who leases a unit to a tenant is responsible to ensure that the system does not infringe the rights of the tenant in terms of the Rental Housing Act, 1999 (Act No. 50 of 1999), or any other law.

30. Use of sections and common property

The body corporate must take all reasonable steps to ensure that a member or any other occupier of a section or exclusive use area does not—

- (a) use the common property so as to unreasonably interfere with other persons lawfully on the premises, in breach of section 13(1)(d) of the Act;
- (b) use a section or exclusive use area so as to cause a nuisance, in breach of section 13(1)(e) of the Act;
- (c) contravene the provisions of any —
 - (i) law or by-law relating to the use of a section or an exclusive use area; or
 - (ii) conditions of a license relating to use of the building or the common property, or the carrying on of a business in the building; or
 - (iii) conditions of title applicable to sections or exclusive use areas;
- (d) make alterations to a section or an exclusive use area that are likely to impair the stability of the building or interfere with the use and enjoyment of other sections, the common property or any exclusive use area;
- (e) do anything to a section or exclusive use area that has a material negative affect on the value or utility of any other section or exclusive use area;

- (f) subject to the provisions of section 13(1)(g) of the Act, use a section or exclusive use area for a purpose other than for its intended use as —
 - (i) shown expressly or by implication on a registered sectional plan or an approved building plan;
 - (ii) can reasonably be inferred from the provisions of the applicable town planning by-laws or the rules of the body corporate; or
 - (iii) is obvious from its construction, layout and available amenities;
- (g) construct or place any structure or building improvement on an exclusive use area which in practice constitutes a section or an extension of the boundaries or floor area of a section without complying with the requirements of the Act and the Sectional Titles Act; provided that the body corporate may by ordinary resolution —
 - (i) give consent for such a structure or building improvement, if they are satisfied that it does not require compliance with such requirements;
 - (ii) prescribe any reasonable condition in regard to the use or appearance of the structure or building improvement; and
 - (iii) withdraw any consent if the member or other occupier of a section breaches any such condition.

31. Obligation to maintain

- (1) Notwithstanding that a water-heating installation forms part of the common property and is insured by the body corporate, a member must maintain, repair and, when necessary, replace such an installation which serves that member's section or exclusive use area; provided that where such an installation serves sections owned or exclusive use areas held by more than one member, the members concerned must share the maintenance, repair and replacement costs on a pro-rata basis.
- (2) If despite written demand by the body corporate, a member refuses or fails to —
 - (a) carry out work in respect of that member's section ordered by a competent authority as required by section 13(1)(b) of the Act; or
 - (b) repair or maintain a section owned by that member in a state of good repair as required by section 13(1)(c) of the Act;

and that failure threatens the stability of the common property, the safety of the building or otherwise materially prejudices the interests of the body corporate, its members or the occupiers of sections generally, the body corporate must remedy the member's failure and recover the reasonable cost of doing so from that member; provided that in the case of an emergency, no demand or notice need be given to the member concerned.

(Annexure 8 amended by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

(Annexure 8 amended by Regulation 9 of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Annexure 8 amended by the Regulations under Government Notice R2542 in Government Gazette 12816 dated 2 November 1990)

(Annexure 8 amended by Regulation 29 of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Annexure 8 amended by Regulation 24 of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Annexure 8 amended by Regulation 8 of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

(Annexure 8 amended by Regulation 6 of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

(Annexure 8 amended by Regulation 3 of Government Notice R1109 in Government Gazette 28217 dated 18 November 2005)

(Annexure 8 amended by Regulation 6 of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

(Annexure 8 amended by Regulation 4 of Government Notice R291 in Government Gazette 33111 dated 16 April 2010)

(Annexure 8 amended by Regulation 14 of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

(Annexure 8 amended by Regulation 9 of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

(Annexure 8 amended by regulation 6 of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

(Annexure 8 substituted by Annexure 1 in Government Notice R1231 in Government Gazette 40335 dated 7 October 2016.)

ANNEXURE 9 CONDUCT RULES

Prescribed in terms of section 10(2)(b) of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011).

1. Keeping of animals, reptiles and birds

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- (1) The owner or occupier of a section must not, without the trustees' written consent, which must not be unreasonably withheld, keep an animal, reptile or bird in a section or on the common property.
- (2) An owner or occupier suffering from a disability and who reasonably requires a guide, hearing or assistance dog must be considered to have the trustees' consent to keep that animal in a section and to accompany it on the common property.
- (3) The trustees may provide for any reasonable condition in regard to the keeping of an animal, reptile or bird in a section or on the common property.
- (4) The trustees may withdraw any consent if the owner or occupier of a section breaches any condition imposed in terms of sub-rule (3).

2. Refuse and waste disposal

- (1) The owner or occupier of a section must not leave refuse or other materials on the common property in a way or place likely to interfere with the enjoyment of the common property by another owner or occupier.
- (2) Unless the body corporate provides some other way to dispose of refuse, the owner or occupier of a section must keep a receptacle for refuse of a type specified by the trustees in a clean and dry condition and adequately covered in the section, or on a part of the common property designated by the trustees for the purpose.
- (3) The owner or occupier of a section must—
 - (a) move the refuse receptacle referred to in sub-rule (2) to places designated by the trustees for collection purposes at the times designated by the trustees and promptly retrieve it from these places; and
 - (b) ensure that the owner or occupier does not, in disposing of refuse, adversely affect the health, hygiene or comfort of the owners or occupiers of other sections.

3. Vehicles

- (1) The owner or occupier of a section must not, except in a case of emergency, without the written consent of the trustees, park a vehicle, allow a vehicle to stand or permit a visitor to park or stand a vehicle on any part of the common property other than a parking bay allocated to that section or a parking bay allocated for visitors' parking.
- (2) A consent under sub-rule (1) must state the period for which it is given.

4. Damage to common property

- (1) The owner or occupier of a section must not, without the trustees' written consent, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the common property.
- (2) An owner or occupier of a section must be considered to have the trustees' consent to install a locking or safety device to protect the section against intruders, or a screen to prevent entry of animals or insects, if the device or screen is soundly built and is consistent with a design, colour, style and materials approved in writing by the trustees.
- (3) The owner or occupier of a section must keep a device installed under sub-rule (2) in good order and repair.

5. Appearance of section and exclusive use area

- (1) The owner or occupier of a section must not, without the trustees' written consent, make a change to the external appearance of the section or any exclusive use area allocated to it unless the change is minor and does not detract from the appearance of the section or the common property.
- (2) The owner or occupier of a section must not, without the trustees' written consent—
 - (a) erect washing lines on the common property;
 - (b) hang washing, laundry or other items in a section or any exclusive use area allocated to it if the articles are visible from another section or the common property, or from outside the scheme; or
 - (c) display a sign, notice, billboard or advertisement if the article is visible from another section or the common property, or from outside the scheme.

6. Storage of flammable materials

- (1) Subject to sub-rule (2), the owner or occupier of a section must not, without the trustees' written consent, store a flammable substance in a section or on the common property unless the substance is used or intended for use for domestic purposes.
- (2) This rule does not apply to the storage of fuel or gas in—
 - (a) the fuel tank of a vehicle, boat, generator or engine; or
 - (b) a fuel tank or gas cylinder kept for domestic purposes.

7. Behaviour of occupiers and visitors in sections and on common property

- (1) The owner or occupier of a section must not create noise likely to interfere with the peaceful enjoyment of another section or another person's peaceful enjoyment of the common property.
- (2) The owner or occupier of a section must not obstruct the lawful use of the common property by any other person.
- (3) The owner or occupier of a section must take reasonable steps to ensure that the owner or occupier's visitors do not behave in a way likely to interfere with the peaceful enjoyment of another section or another person's peaceful enjoyment of the common property.
- (4) The owner or occupier of a section is obliged to comply with these conduct rules, notwithstanding any provision to the contrary contained in any lease or any other grant of rights of occupancy.

8. Eradication of pests

- (1) The owner of a section must keep the section free of wood-destroying insects, including white ants and borer beetles.
- (2) The owner or occupier of a section must allow the trustees, the managing agent, or their duly authorised representatives to enter the section on reasonable notice to inspect it and take any action reasonably necessary to eradicate any such pests and replace damaged woodwork and other materials.
- (3) The body corporate must recover the costs of the inspection and replacement referred to in sub-rule (2) from the owner of the section.

(Annexure 9 amended by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

(Annexure 9 substituted by Annexure 2 in Government Notice R1231 in Government Gazette 40335 dated 7 October 2016.)