

(30 July 2015 – 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.

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.*

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

- (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 or 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:



In partnership with:



- (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

[Section 35 (2) (a) of the Sectional Titles Act, 1986]

PRELIMINARY

1. The rules contained in this Annexure shall not be added to, amended or repealed except in accordance with section 35 (2) (a) of the Act, and subject to the provisions of section 35 (3) and (5) of the Act.

INTERPRETATION

2. In the interpretation of these rules, unless the context otherwise indicates-
 - (a) "Act" means the Sectional Titles Act, 1986 (Act 95 of 1986), as amended from time to time, and any regulations made and in force thereunder;
 - (b) "accounting officer" means a person who in terms of section 60 (2) of the Close Corporation Act, 1984 (Act 69 of 1984), is qualified to perform the duties of an accounting officer;
 - (c) "auditor" means an auditor qualified to act as such under the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951);
 - (d) "registered mortgagee" means any mortgagee of whom the body corporate has been notified in writing as contemplated in section 44 (1) (f) of the Act;
 - (e) "trustee" includes an alternate trustee;
 - (f) words and expressions to which a meaning has been assigned in the Act, shall bear the meanings so assigned to them;
 - (g) words importing-
 - (i) the singular number only shall include the plural, and the converse shall also apply;

- (ii) the masculine gender shall include the feminine, and neuter genders and the neuter gender shall include the masculine and feminine genders;
- (h) the headings to the respective rules are provided for convenience of reference only and are not to be taken into account in the interpretation of the rules.

DOMICILIUM CITANDI ET EXECUTANDI

3.

(1) The trustees shall from time to time determine the address constituting the *domicilium citandi et executandi* of the body corporate as required by section 37 (1) (m) of the Act, subject to the following:

- (a) Such address shall be situated in the magisterial district in which the scheme is situated and shall be the address of the chairman or other resident trustee duly appointed in general meeting or in the magisterial district in which the offices of any duly appointed managing agent are situated being the address of such managing agent;

(Rule 3(1)(a), corrected by the Regulations under Government Notice R991 in Government Gazette 11318 dated 27 May 1988)

- (b) no change of such address shall be effective until written notification thereof has been received by the registrar;
- (c) the trustees shall give notice to all owners of any change of such address.

(2) The *domicilium citandi et executandi* of each owner shall be the address of the section registered in his name: Provided that such owner shall be entitled from time to time to change the said *domicilium* but that any new *domicilium* selected shall be situate in the Republic, and that the change shall only be effective on receipt of written notice thereof by the body corporate at its *domicilium*.

TRUSTEES OF THE BODY CORPORATE

4. *Qualifications; appointment and election; tenure of office; remuneration; indemnity*

- (1) The number of trustees shall be determined from time to time by the members of the body corporate in general meeting, provided that there shall be not less than two trustees.
- (2) With effect from the date of the establishment of the body corporate, all owners shall be trustees who shall hold office until the first general meeting of the members of the body corporate as contemplated in rule 50 (1) whereupon they shall retire but shall be eligible for re-election.

- (3) The chairman of the trustees referred to in rule 4 (2) shall be the developer concerned or his nominee, who shall hold office until the general meeting referred to in the said rule, when he shall retire as a trustee and as chairman, but shall be eligible for re-election in terms of rule 18.

5. Qualifications

Save for the provisions of rule 4 (2), a trustee or alternate trustee shall not be required to be an owner or the nominee of an owner who is a juristic person, in order to qualify for office as a trustee: Provided that-

- (a) the majority of the trustees are owners, or spouses of owners; and

(Rule 5(a) substituted by Regulation 29(a) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

- (b) the managing agent or any of his or her employees or employee of the body corporate may not be a trustee unless he or she is an owner.

(Rule 5(b) substituted by Regulation 24(a) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Rule 5(b) substituted by Regulation 8 of Government Notice 830 in Government Gazette 21483 dated 25 August 2000)

(Rule 5 substituted by Regulation 9(a) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

6. Election of trustees

Save for the provisions of rule 4 (2), the trustees shall be elected at the first annual general meeting and thereafter at each subsequent annual general meeting, and shall hold office until the next succeeding annual general meeting, but they shall be eligible for re-election, if so nominated.

(Rule 6 substituted by Regulation 24(b) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

7. Nominations

Nominations by owners for the election of trustees at any annual general meeting shall be given in writing, accompanied by the written consent of the person nominated, so as to be received at the *domicilium* of the body corporate not later than 48 hours before the meeting: Provided that trustees are also capable of being elected by way of nominations with the consent of the nominee given at the meeting itself should insufficient written nominations be received to comply with rule 4(1): Provided further that no nomination or appointment as trustee, of a person in breach of rule 64, may be made or accepted: Provided further that an owner in breach of rule 64 may not nominate any person as a trustee.

(Rule 7 substituted by Regulation 9(a) of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

(Rule 7 substituted by regulation 6(a) of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

8. Vacancy in number of trustees

The trustees may fill any vacancy in their number. Any trustees so appointed shall hold office until the next annual general meeting when he shall retire and be eligible for re-election as though he had been elected at the previous annual general meeting.

9. Alternate trustees

- (1) The trustees may appoint another person, whether or not he be the owner of a unit, to act as an alternate trustee during the absence or inability to act of a trustee.
- (2) An alternate trustee shall have the powers and be subject to the duties of a trustee.
- (3) An alternate trustee shall cease to hold office if the trustee whom he replaces, ceases to be a trustee, or if the alternate's appointment is revoked by the trustees.

10. Remuneration

- (1) Unless otherwise determined by a special resolution of the owners, trustees who are owners shall not be entitled to any remuneration in respect of their services as such: Provided that the body corporate shall reimburse to the trustees all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers.
- (2) The body corporate may remunerate trustees who are not owners at such rate as may be agreed upon between the body corporate and such trustees, and such trustees shall further be entitled to have refunded to them any disbursements and expenses incurred by them in the circumstances envisaged in the proviso to sub-rule (1) of this rule, provided always that an alternative trustee appointed by the trustees, who is not an owner, shall claim his remuneration, if any, from the trustee whom he replaced and not from the body corporate, unless the body corporate has been instructed in writing by such trustee to pay any portion of his remuneration to such alternate trustee.

11. Validity of acts of trustees

Any act performed by the trustees shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or continuance in office of any trustee, be as valid as if such trustee had been duly appointed or had duly continued in office.

12. Indemnity

(1)

(a) Subject to the provisions of sub-rule (2), every trustee, agent or other officer or servant of the body corporate shall be indemnified by the body corporate against all costs, losses, expenses and claims which he may incur or become liable to by reason of any act done by him in the discharge of his duties, unless such costs, losses, expenses or claims are caused by the *male fide* or grossly negligent act or omission of such person.

(b) It shall be the duty of the trustees to pay such indemnity out of the funds of the body corporate.

(2) The indemnity referred to in sub-rule (1) shall not apply in favour of any managing agent appointed in terms of rule 46.

Disqualification of trustees

13. Removal from Office

A trustee shall cease to hold office as such-

(a) if by notice in writing to the body corporate, he resigns his office;

(b) if he is or becomes of unsound mind;

(c) if he surrenders his estate as insolvent, or if his estate is sequestrated;

(d) if he is convicted of an offence which involves dishonesty;

(e) if by resolution of a general meeting of the body corporate, he is removed from his office, provided that the intention to vote upon the removal from office has been specified in the notice convening the meeting;

(f) if he is or becomes disqualified in terms of section 218 or 219 of the Companies Act, 1973, from being appointed or acting as a director of a company.

(g) if he is in arrears for more than 60 days with any levies and contributions payable by him in respect of his unit or exclusive use area (if any) and if he fails to bring such arrears up to date within 7 days of being notified in writing to do so.

(Rule 13(g) added (incorrectly termed "substituted") by Regulation 9(b) of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

14. Replacement

Prepared by:



In partnership with:



The body corporate may at a general meeting appoint another trustee in the place of any trustee who has ceased to hold office in terms of rule 13, for the unexpired part of the term of office of the trustee so replaced.

Meeting of trustees
Quorum; chairman; voting

15. When to be held and notice

- (1) Subject to the provisions of sub-rule (2) and (3) hereof, the trustees may give notice convening meetings, meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. It shall not be necessary to give notice of a meeting of trustees to any trustee for the time being absent from the Republic, but notice of any such meeting shall be given to his alternate, if he has appointed one, where such an alternate is in the Republic.
- (2) A trustee may at any time convene a meeting of the trustees by giving to the other trustees and all first mortgagees in the circumstances referred to in sub-rule (3) hereof, not less than seven days' written notice of a meeting proposed by him, which notice shall specify the reason for calling such a meeting: Provided that in cases of urgency such shorter notice as is reasonable in the circumstances may be given.
- (3) Any mortgage holding first mortgage bonds over units shall, if he so requires of the trustees in writing, be entitled to receive reasonable notice of all meetings of the trustees.
- (4) The nominee of any such first mortgagee shall be entitled to attend and speak at all meetings of the trustees but shall not, in his capacity as such, be entitled to vote thereat.
- (5) An owner shall be entitled to attend, on invitation, any meeting of the trustee, but shall not in his or her capacity as such be entitled to vote thereat.

(Rule 15(5) inserted by Regulation 24(c) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Rule 15(5) substituted by regulation 6(b) of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

16. Quorum

- (1) At a meeting of the trustees, 50 percent of the number of trustees but not less than two, shall 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 for the purpose of appointing or co-opting additional trustees to make up a quorum or for the purpose of convening a general meeting of owners.

(Rule 16(2) substituted by Regulation 24(d) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

17. If at any meeting of trustees a quorum is not present within thirty minutes of the appointed time of the meeting, such meeting shall stand adjourned to the next business day at the same time, and the trustees then present, who shall not be less than two, shall form a quorum.

Chairman

18. At the commencement of the first meeting of trustees after an annual general meeting, at which trustees have been elected, the trustees shall elect a chairman from among their number, who shall hold office as such until the end of the next annual general meeting of the members of the body corporate and who shall have a casting as well as a deliberative vote, save where there are only two trustees.

19. The trustees at a trustees' meeting or the body corporate at a special meeting, in respect of either of which notice of the intended removal from office of the chairperson has been given, may remove the chairperson from his or her office.

(Rule 19 substituted by Regulation 24(e) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

20. If any chairman elected in terms of rule 18 vacates his office as chairman or no longer continues in office by virtue of the provisions of rule 19, the trustees shall elect another chairman who shall hold office as such for the remainder of the period of office of the first-mentioned chairman, and who shall have the same rights of voting.

21. If any chairman vacates the chair during the course of a meeting or is not present or is for any other reason unable to preside at any meeting, the trustees present at such meeting shall choose another chairman for such meeting who shall have the same rights of voting as the chairman.

Voting

22. All matters at any meeting of the trustees shall be determined by a majority of the votes of the trustees present and voting.

23. A trustee shall be disqualified from voting in respect of any contract or proposed contract, or any litigation or proposed litigation, with the body corporate, by virtue of any interest he may have therein.

24. A resolution in writing signed by all the trustees for the time being present in the Republic and being not less than are sufficient to form a quorum, shall be as valid and effective as if it had been passed at a meeting of the trustees duly convened and held.

The functions, powers and duties of trustees

25. General

The duties and powers of the body corporate shall, subject to the provisions of the Act and these rules and to any restriction imposed or direction given at a general meeting of the owners of sections, be performed or exercised by the trustees of the body corporate holding office in terms of these rules.

26. Powers

- (1) Subject to any restriction imposed or direction given at a general meeting of the body corporate, the powers of the trustees shall include the following:
- (a) To appoint for and on behalf of the body corporate such agents and employees as they deem fit in connection with-
 - (i) the control, management and administration of the common property; and
 - (ii) The exercise and performance of any or all of the powers and duties of the body corporate;
 - (b) to delegate to one or more of the trustees such of their powers and duties as they deem fit, and at any time to revoke such delegation.
- (2) The trustees may not make loans on behalf of the body corporate to owners of units or to themselves.

27. Signing of instruments

No document signed on behalf of the body corporate, shall be valid and binding unless it is signed by a trustee and the managing agent referred to in rule 46 or by two trustees or, in the case of a certificate issued in terms of section 15B (3) (i) (aa) of the Act, by two trustees or the managing agent.

(Rule 27 substituted by Regulation 24(f) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

Duties of trustees

28. Statutory and general duties

- (1) Without detracting from the scope of the additional duties specified in rules 29 to 45, inclusive, and subject to the provisions of such rules, the trustees shall perform the functions entrusted to them by sections 37 and 39 of the Act.
- (2) The trustees shall do all things reasonably necessary for the control, management and administration of the common property in terms of the powers conferred upon the body corporate by section 38 of the Act.
- (3) The trustees shall do all things reasonably necessary for the enforcement of the rules in force.

29. Insurance

- (1)
 - (a) At the first meeting of the trustees or soon thereafter as is possible, and annually thereafter, the trustees shall take steps to insure the buildings, and all improvements to the common property, to the full replacement value thereof, subject to negotiation of such excess, premiums and insurance rates as in the opinion of the trustees are most beneficial to the owners, against-
 - (i) fire, lightning and explosion;
 - (ii) riot, civil commotion, strikes, lock-outs, labour disturbances or malicious persons acting on behalf of or in connection with any political organisation;
 - (iii) storm, tempest and flood;
 - (iv) earthquake;
 - (v) aircraft and other aerial devices or articles dropped therefrom;
 - (vi) bursting or overflowing of water tanks, apparatus or pipes;
 - (vii) impact with any of the said buildings or improvements by any road vehicle, horses or cattle;
 - (viii) housebreaking or any attempt thereat;
 - (ix) loss of occupation or loss of rent in respect of any of the above risks;
 - (x) such other perils or dangers as the trustees or any holder of first mortgage bonds over not less than 25% in number of the units in the scheme, may deem appropriate.

(Rule 29(1)(a) substituted by Regulation 6(a) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

- (b) The trustees shall at all times ensure that in the policy of insurance referred to in paragraph (a) above-
- (i) there is specified the replacement value of each unit (excluding the owner's interest in the land)-
 - (aa) initially [but subject to the provisions of subparagraph (cc)] in accordance with the trustees' estimate of such value;
 - (bb) after the first annual general meeting [but subject to the provisions of subparagraph (cc)] in accordance with the schedule of values as approved in terms of paragraph (c); or
 - (cc) as required at any time by any owner in terms of paragraph (d);
 - (ii) any "average" clause is restricted in its effect to individual units and does not apply to the building as a whole.
 - (iii) there is included a clause in terms of which the policy is valid and enforceable by any mortgagee 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 on not less than thirty days' notice to the mortgagee shall have terminated such insurance.
- (c) Before every annual general meeting, the trustees shall cause to be prepared schedules reflecting their estimate of-
- (i) the replacement value of the buildings and all improvements to the common property; and
 - (ii) the replacement value of each unit (excluding the owner's interest in the land), the aggregate of such values of all units being equal to the value referred to in subparagraph (i) above,
- and such schedules shall be laid before the annual general meeting for consideration and approval in terms of rule 56.
- (d) Any owner may at any time increase the replacement value as specified in the insurance policy in respect of his unit: Provided that such owner shall be liable for payment of the additional insurance premium and shall forthwith furnish the body corporate with proof thereof from the insurer.

- (e) The trustees shall, on the written request of a mortgagee and satisfactory proof thereof, record the cession by any owner to such mortgagee of the owner's interest in the application of the proceeds of the policies of insurance effected in terms of rule 29 (1) (a).
 - (2) At the first meeting of the trustees or as soon thereafter as is possible, the trustees shall take all reasonable steps-
 - (a) to insure the owners and the trustees and to keep them insured against liability in respect of-
 - (i) death, bodily injury or illness; and
 - (ii) loss of, or damage to, property,

occurring in connection with the common property, for a sum of liability of not less than one hundred thousand rand, which sum may be increase from time to time as directed by the owners in general meeting; and
 - (b) to procure to the extent, if any, as determined by the members of the body corporate in a general meeting, a fidelity guarantee in terms of which shall be refunded any loss of moneys belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by any insured person being any person in the service of the body corporate and all trustees and persons action in the capacity of managing agents of the body corporate; and
 - (c)
- (Rule 29(2)(c) deleted by Regulation 24(g) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)*
- (3) The owners may by special resolution direct the trustees to insure against such other risks as the owners may determine.
- (4) The owner of a section is responsible for any excess payment in respect of his or her section payable in terms of a contract of insurance entered into by the body corporate: provided that owners may by special resolution determine that the body corporate is responsible for excess payments in respect of specified damage.

(Rule 29(4) inserted by Regulation 6(a) of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

Contributions and liability in terms of section 37 (1) and 47 of the Act



30. It shall be the duty of the trustees to levy and collect contributions from the owners in accordance with the provisions and in the proportions set forth in rule 31.
- 31.
- (1) The liability of owners to make contributions, and the proportions in which the owners shall make contributions for the purposes of section 37 (1) of the Act, or may in terms of section 47 of the Act be held liable for the payment of a judgement debt of the body corporate, shall with effect from the date upon which the body corporate comes into being, be borne by the owners in accordance with a determination made in terms of section 32 (4) of the Act, or in the absence of such determination, in accordance with the participation quotas attaching to their respective sections.
- (2) At every annual general meeting the body corporate shall approve, with or without amendment, the estimate of income and expenditure referred to in rule 36, and shall determine the amount estimated to be required to be levied upon the owners during the ensuing financial year.
- (2A) Where the financial year-end and the annual general meeting of a body corporate do not coincide, the budget shall coincide with the financial year of the scheme.
(Rule 31(2A) inserted by Regulation 14(a) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)
- (3) Within fourteen days after each annual general meeting the trustees shall advise each owner in writing of the amount payable by him or her in respect of the estimate referred to in subrule (2), whereupon such amount shall become payable in instalments, as determined by the trustees.
(Rule 31(3) substituted by Regulation 24(h) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)
- (4)
(Rule 31(4) deleted by Regulation 14(b) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)
- (4A)
(Rule 31(4A) inserted by Regulation 6(b) of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)
(Rule 31(4A) deleted by Regulation 9(c) of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)
- (4Aa) After the expiry of a financial year and until they become liable for contributions in respect of the ensuing financial year, owners are liable for contributions in the same amounts and payable in the same instalments as were due and payable by them during the expired financial year: Provided that the trustees may, if they consider it necessary and by written notice to the owners, increase the contributions due by the owners by a maximum of 10 per cent excluding capital expenditure to take account of the anticipated increased liabilities of the body corporate. Such increase shall be ratified or

changed after the Annual General Meeting by the trustees once the body corporate has approved or amended the schedule of income and expenditure.

(Rule 31(4Aa) inserted by regulation 6(c) of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

- (4B) The trustees may from time to time, when necessary, make special levies upon the owners or call upon them to make special contributions in respect of all such expenses as are mentioned in rule 31(1) above (which are not included in any estimates made in terms of rule 31(2) above), and such levies and contributions may be made payable in one sum or by such instalments and at such time or times as the trustees shall think fit.

(Rule 31(4B) inserted by Regulation 9(d) of Government Notice R196 in Government Gazette 36241 dated 14 March 2013 with effect from 14 April 2013)

- (5) An owner shall be liable for and pay all legal costs, including costs as between attorney and client, collection commission, expenses and charges incurred by the body corporate in obtaining the recovery of arrear levies, or any other arrear amounts due and owing by such owner to the body corporate, or in enforcing compliance with these rules, the conduct rules or the Act.
- (6) The trustees shall be entitled to charge interest on arrear amounts at such rate as they may from time to time determine.

32. Record of rules and their availability

- (1) The trustees shall keep a complete record of all rules in force from time to time and shall ensure that any amendment, substitution, addition or repeal of such rules (as contemplated in section 35(5) of the Act) is submitted forthwith to the Registrar of Deeds for filing as contemplated in section 35(5)(c) of the Act

(Rule 32(1) substituted by Regulation 6(b) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

- (2) The trustees shall on the application of-
- (a) an owner of a unit;
 - (b) an occupant of a unit;
 - (c) the prospective purchaser of a unit;
 - (d) the holder of any registered sectional mortgage bond;
 - (e) the managing agent; and

- (f) the auditor or the accounting officer,

supply to any such person a copy of all rules in force, and may require them to pay a reasonable charge therefor.

33. Improvements

Luxurious improvements

- (1) The trustees may, if the owners by unanimous resolution so decide, effect or remove improvements of a luxurious nature on the common property.

(Rule 33(1) substituted by Regulation 6(c) of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

Non-luxurious improvements

(2)

- (a) Should the trustees wish to effect or remove any improvements to the common property, other than luxurious improvements referred to in subrule (1), they shall first give written notice of such intention to all the owners and such notice shall -

(i) indicate the intention of the trustees to proceed with the improvement or removal thereof upon the expiry of a period of not less than thirty days reckoned from the date of posting such notice; and

(ii) provide details of the improvement or removal thereof as to -

(aa) the costs thereof;

(bb) the manner in which it is to be financed and the effect upon levies paid by owners; and

(cc) the need, desirability and effect thereof.

(Rule 33(2)(a) substituted by Regulation 6(d) of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

- (b) The trustees shall at the written request of any owner convene a special general meeting in order to discuss and to deliberate upon the proposals contained in the notice referred to in paragraph (a), at which meeting the owners may approve, with or without amendments, such proposals by way of special resolution.

(Rule 33(2)(b) substituted by Regulation 9(b) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Rule 33(2)(b) corrected by the Regulations under Government Notice R2542 in Government Gazette 12816 dated 2 November 1990)

(Rule 33(2)(b) substituted by Regulation 6(c) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

- (c) In the event of such a special general meeting being called, the trustees shall not proceed with their proposals until the holding of such meeting, whereupon they shall be bound by any special resolution ensuring therefrom.
- (3) Notwithstanding the provisions of sub-rules (1) and (2), the trustees shall, if so required in writing by a majority of owners, procure the installation and maintenance in good working order, at the body corporate's cost, of separate meters to record the consumption of electricity, water and gas in respect of each individual section and the common property.
- (4) If and for so long as no separate meters have been installed in terms of sub-rule (3) the contribution payable by each owner in respect of electricity, water and gas shall be calculated in accordance with the provisions of rule 31.

34. Minutes

- (1) The trustees shall -
 - (a) keep minutes of their proceedings;
 - (b) cause minutes to be kept of all meetings of the body corporate in a minute book of the body corporate kept for the purpose;
 - (c) include in the minute book of the body corporate a record of every unanimous resolution, special resolution and any other resolution of the body corporate.
- (2) The trustees shall keep all minute books in perpetuity.
- (3) On the written application of any owner or registered mortgagee of a unit, the trustees shall make all minutes of their proceedings and the minutes of the body corporate available for inspection by such owner or mortgagee.

35. Books of account and records

- (1) The trustees shall cause proper books of account and records to be kept so as fairly to explain the transaction and financial position of the body corporate, including-
 - (a) a record of the assets and liabilities of the body corporate;

- (b) a record of all sums of money received and expended by the body corporate and the matters in respect of which such receipt and expenditure occur;
 - (c) a register of owners and of registered mortgagees of units and of all other persons having real rights in such units (insofar as written notice shall have been given to the trustee by such owners, mortgagees or other persons) showing in each case their addresses; and
 - (d) individual ledger accounts in respect of each owner.
- (2) On the application of any owner, registered mortgagee or of the managing agent the trustees shall make all or any of the books of account and records available for inspection by such owner, mortgagee or managing agent.
- (3) The trustees shall cause all books of account and records to be retained for a period of six years after completion of the transactions, acts or operations to which they relate: Provided that minute books shall be retained for so long as the scheme remains registered.

(Rule 35(3) substituted by Regulation 9(c) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

36. Annual financial estimate, financial statement and report

- (1) Prior to the commencement of every financial year of the body corporate, the trustees shall cause to be prepared an itemised estimate of the anticipated income and expenses of the body corporate for the ensuing financial year, which estimate shall be laid before the annual general meeting for consideration in terms of rule 56 hereof.

(Rule 36(1) substituted by Regulation 14(c) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

- (2) The estimate of expenses referred to in subrule (1) shall include a reasonable provision for contingencies and the maintenance of the common property.

(Rule 36(2) substituted by Regulation 3(a) of Government Notice R1109 in Government Gazette 28217 dated 18 November 2005)

37.

- (1) The trustees shall cause to be prepared, and shall lay before every annual general meeting, for consideration in terms of rule 56(a), a financial statement in conformity with generally accepted accounting practice, which statement shall fairly present the state of affairs of the body corporate and its finances and transactions as at the end of the financial year concerned.

(Rule 37(1) substituted by Regulation 6(e) of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

- (2) The financial statement shall include information and notes pertaining to the proper financial management by the body corporate, including:
- (a) an analysis of the periods of debts and the amounts due in respect of levies, special levies and other contributions;
 - (b) an analysis of the periods and the amounts due, owing by the body corporate to the creditors and in particular to any public or local authority in respect of rates, taxes and charges for consumption or services, including but not limited to, water, electricity, gas, sewerage and refuse removal;
 - (c) the expiry dates of all insurance policies.

(Rule 37 substituted by Regulation 9(d) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Rule 37 substituted by Regulation 3(b) of Government Notice R1109 in Government Gazette 28217 dated 18 November 2005)

- 38.** The trustees shall further cause to be prepared and shall lay before every annual general meeting a report signed by the chairman reviewing the affairs of the body corporate during the past year, for consideration in terms of rule 56(a).

(Rule 38 substituted by Regulation 6(f) of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

39.

- (1) The trustees shall cause copies of the schedules, estimate, audited statement and report referred to in rules 29 (1) (c), 36, 37 and 38 to be delivered to each owner, and to any mortgagee which has advised the body corporate of its interest, at least fourteen days before the date of the annual general meeting at which they are to be considered.
- (2) Delivery for purposes of subrule (1) shall be deemed to have been effected if the documents referred to are sent to the owner at the address referred to in rule 3(2), and to any mortgagee as aforesaid at the address of such mortgagee as reflected in the records of the body corporate: Provided that delivery for purposes of subrule (1) shall also be deemed to have been effected on the owner if the said documents are transmitted by facsimile or electronic mail to a facsimile number or electronic mail address specified by such owner in writing for the purposes of receiving such documentation which specification shall only be effective on receipt thereof by the body corporate at its *domicilium*.

(Rule 39(2) substituted by Regulation 4 of Government Notice R291 in Government Gazette 33111 dated 16 April 2010)

(Rule 39(2) substituted by Regulation 14(d) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

40. Audit

Prepared by:



In partnership with:



At the first general meeting and thereafter at every ensuing annual general meeting, the body corporate shall appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting: Provided that where a scheme comprises less than 10 units, an accounting officer may be appointed for that purpose and the auditor or accounting officer, as the case may be, must sign the financial statements.

(Rule 40 substituted by Regulation 9(e) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

(Rule 40 substituted by Regulation 3(c) of Government Notice R1109 in Government Gazette 28217 dated 18 November 2005)

Deposit and investment of funds

41. The trustees shall cause all moneys received by the body corporate to be deposited to the credit of an account or accounts with a registered commercial bank or building society in the name of the body corporate and, subject to any direction given or restriction imposed at a general meeting of the body corporate, such moneys shall only be withdrawn for the purpose of payment of the expenses of the body corporate or investment in terms of rule 43.

42. The trustees may authorise the managing agent to administer and operate the accounts referred to in rule 41 and 43: Provided that where the managing agent is an estate agent as defined in the Estate Agents' Act, 1976 (Act 112 of 1976), the trustees may authorise such managing agent to deposit moneys contemplated in rule 41 in a trust account as contemplated in section 32 (3) of the Estate Agents' Act, 1976, which moneys shall only be withdrawn for the purposes contemplated in rule 41.

43. Any funds not immediately required for disbursement, may be invested in a savings or similar account with any registered building society or bank approved by the trustees from time to time.

(Rule 43 substituted by Regulation 24(i) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

44. Interest on moneys invested shall be used by the body corporate for any lawful purposes.

45. No refunds or distribution of profits or assets

(1) The owners shall not be entitled to a refund of contributions lawfully levied upon them and duly paid by them.

(2) No portion of the profits or gains of the body corporate shall be distributed to any owner or any other person except upon destruction or deemed destruction of the building, or where such profit or gain is a capital nature.

The appointment, powers and duties of a managing agent

46.

(1)

- (a) Notwithstanding anything to the contrary contained in rule 28, and subject to the provisions of section 39(1) of the Act, the trustees may from time to time, and shall if required by a registered mortgagee of 25 per cent of the units or by the members of the body corporate in a general meeting, appoint in terms of a written contract a managing agent to control, manage and administer the common property and the obligations to any public or local authority by the body corporate on behalf of the unit owners, and to exercise such powers and duties as may be entrusted to the managing agent, including the power to collect levies and to appoint a supervisor or caretaker.
- (b) A managing agent is appointed for an initial period of one year and thereafter such appointment shall automatically be renewed from year to year unless the body corporate notifies the managing agent to the contrary: provided that notice of termination of the contract may be given by the trustees in accordance with a resolution taken at a trustee meeting or an ordinary resolution taken at a general meeting.

(Rule 46(1) substituted by Regulation 24(j) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Rule 46(1) substituted by Regulation 3(d) of Government Notice R1109 in Government Gazette 28217 dated 18 November 2005)

(Rule 46(1) substituted by Regulation 6(g) of Government Notice R1264 in Government Gazette 31626 dated 28 November 2008)

(2)

- (a) The trustees shall ensure that there is included in the contract of appointment of all managing agents a provision to the effect that if he is in breach of any of the provisions of his contract, or if he is guilty of conduct which at common law would justify the termination of a contract between master and servant, the trustees may, without notice, cancel such contract of appointment, and that the managing agent shall have no claim whatsoever against the body corporate or any of the owners as a result of such cancellation.
- (b) Any one or more of the owners or mortgagees of sections in the buildings may, if the managing agent is in breach of the provisions of his contract or if he is guilty of any conduct which at common law would justify the termination of a contract between master and servant, require the trustees to cancel the managing agent's contract in terms of paragraph (a). The foregoing provisions shall in no way detract from the trustees' rights to cancel the managing agent's contract.
- (c) Any owner or mortgagee who required the trustees to cancel the managing agent's contract in terms of paragraph (b) shall furnish the trustees with such security as they in their discretion

may determine for the payment of and shall indemnify the trustees and the body corporate against-

- (i) all litigation costs reasonably incurred by the trustees in enforcing such cancellation against the managing agent; and
- (ii) all other costs and damages arising out of such cancellation, purported cancellation or litigation for which the trustees or the body corporate might be liable up to the time such owner or mortgagee formally notifies the trustees that he no longer requires them to pursue the action.

(d) The trustees shall not be required to cancel the contract of appointment of the managing agent unless and until the owner or mortgagee requiring cancellation in terms of paragraph (b) has furnished them with the security and indemnity as specified in ruled 46, paragraph (2) (c).

47. The contract with the managing agent shall further provide for the appointment to be revoked, and such managing agent shall cease to hold office, if-

- (i) where the managing agent is a juristic person, an order is made for its provisional or final liquidation or, where the managing agent is a natural person, he applies for the surrender of his estate as insolvent or his estate is sequestrated either provisionally or finally or, where the managing agent is a company, it is placed under judicial management; or
- (ii) the managing agent is convicted of an offence involving an element of fraud or an element of dishonesty or, where the managing agent is a company or a close corporation, any of its directors or members is convicted of an offence involving an element of fraud or an element of dishonesty, or

(Rule 47(ii) substituted by Regulation 24(k) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

- (iii) a special resolution of the members of the body corporate is passed to that effect: Provided that in such event the managing agent so removed from office shall not be deprived of any right he may have to claim compensation or damages for breach of contract.

48. The managing agent shall keep full records of his or her administration and shall report to the body corporate and to all holders of registered sectional mortgage bonds who have notified the body corporate of their interest in terms of rule 54 (1) (b) of all matter which in his or her opinion detrimentally affect the value or amenity of the common property and any of the sections.

(Rule 48 substituted by Regulation 24(j) [sic] of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

49.

- (1) The trustees shall give reasonable prior notice to the managing agent of all meetings of the trustees and he may with the consent of the trustees be present thereat.
- (2) The trustees shall from time to time furnish to the managing agent copies of the minutes of all meetings of the trustees and of the body corporate.

MEETINGS OF OWNERS

General meetings

When to be held

50.

- (1) The first meeting of owners shall be held within sixty days of the establishment of the body corporate, at least seven days' notice of which shall be given in writing, and which notice shall be accompanied by a copy of the agenda of such meeting and details of the items referred to in sub-rule 2.
- (2) The agenda for the meeting convened under subrule (1), shall comprise at least the following:
 - (i) The consideration, confirmation or variation of the insurances effected by the developer or the body corporate;
 - (ii) the consideration, confirmation or variation of an itemised estimate of the anticipated income and expenses of the body corporate for the ensuing financial year;
 - (iii) the consideration and approval, with or without amendment, of the financial statements relating to the management, control and administration of the building from date of establishment of the body corporate to date of notice of the meeting referred to in subrule (1);
 - (iv) subject to section 47(2) of the Act, the taking of cession of such contracts relating to the management, control and administration of the building as may have been entered into by the developer for the continual management, control and administration of the building and the common property and in respect of which the developer shall be obliged to submit such contracts to the meeting;
 - (v) the appointment of an auditor, or where applicable, an accounting officer;
 - (vi) the election of trustees;
 - (vii) any restrictions imported or directions given in terms of section 39 (1) of the Act; and
 - (viii) determination of the *domicilium citandi et executandi* of the body corporate.

(Rule 50(2) substituted by Regulation 24(m) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

51.

- (1) An annual general meeting shall be held within four months of the end of each financial year.
- (2) Unless otherwise decided at a general meeting or by the trustees, the financial year of the body corporate shall run from the first day of March of each year to the last day of February of the following year.

(Rule 51 substituted by Regulation 24(n) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

52. All general meetings other than the annual general meeting shall be called special general meetings.

53. The trustees may whenever they think fit and shall upon a request in writing made either by owners entitled to 25 per cent of the total of the quotas of all sections or by any mortgagee holding mortgage bonds over not less than 25 per cent in number of the units, convene a special general meeting. If the trustees fail to call a meeting so requested within fourteen days of the request, the owners or mortgagee concerned shall be entitled to themselves to call the meeting.

54. Notice of general meetings

- (1) Unless otherwise provided for in the Act, at least fourteen days' notice of every general meeting specifying the place, within the magisterial district where the scheme is situated, or such other place determined by special resolution of members of the body corporate, the date and the hour of the meeting and, in the case of special business, the general nature of such business, shall be given-
 - (a) to all owners;
 - (b) to all holders of registered mortgage bonds over units who have advised the body corporate of their interests; and
 - (c) to the managing agent.
- (2) The holders of registered mortgage bonds and the managing agent referred to in sub-rule (1), shall have the right to attend the meeting herein referred to and to speak at such meetings, but shall not, in their respective capacities as such, be entitled to vote thereat.
- (3) The notice referred to in sub-rule (1) (a) shall be deemed to have been sufficiently given and delivered if delivered in accordance with rule 39 (2).

- (4) The notice referred to in sub-rule (1) shall be accompanied by the documents referred to in rule 39 (1), except in the case of a meeting contemplated in rule 50 (1) or a special general meeting.
- (5) Inadvertent omission to give the notice referred to in subrule (1), or failure to deliver the documentation referred to in rule 39(1), to any person entitled to such notice or documentation, or the non-receipt of such notice or documentation by such person shall, save in the case of the persons contemplated in subrule (1)(b), not invalidate any proceedings at any such meeting.

(Rule 54(5) substituted by Regulation 14(e) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

- (6) A general meeting of the body corporate may be called on shorter notice than that specified in sub-rule (1) hereof, provided it is so agreed by all persons entitled to attend.
- (7) A special general meeting for the purposes of passing a unanimous or special resolution may be convened for a date 30 days or less after notice has been given to all the members of the body corporate if, in the opinion of the trustees, it is necessary due to the urgency of a matter or due to the specific nature of a matter to convene the meeting with such shorter period of notice.

PROCEEDINGS AT GENERAL MEETINGS

55. Ordinary and special business

All business at any general meeting other than business referred to in rule 56 (a), (b), (c) and (d), shall be special business.

56. Annual general meeting

The following business shall be transacted at an annual general meeting:

- (a) The consideration of the financial statement and report referred to in rules 37 and 38;
- (b) the approval with or without amendment of -
 - (i) the schedules of replacement values referred to in rule 29 (1) (c); and
 - (ii) the estimate of income and expenditure referred to in rule 36;
- (c) the appointment of an auditor or an accounting officer;
- (d) the determination of the number of trustees for the ensuing year;
- (e) the election of trustees for the ensuing year;

(f) any special business of which due notice has been given in terms of rule 54;

(g) the giving of directions or the imposing of restrictions referred to in section 39(1) of the Act;

(Rule 56(g) substituted by Regulation 24(o) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

(Rule 56(g) substituted by Regulation 6(d) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

(h) the determination of the *domicilium citandi et executandi* of the body corporate; and

(Rule 56(h) substituted by Regulation 6(d) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

(i) the confirmation by the auditor or accounting officer that any amendment, substitution, addition or repeal of the rules (as contemplated in section 35(5) of the Act) have been submitted to the Registrar of Deeds for filing as contemplated in section 35(5)(c) of the Act.

(Rule 56(i) added by Regulation 6(d) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

(Rule 56 substituted by Regulation 9(f) of Government Notice R2345 in Government Gazette 12767 dated 5 October 1990)

Quorum

57.

(1) No business shall be transacted at any general meeting unless a quorum of persons is present in person or by proxy at the time when the meeting proceeds to business.

(2) A quorum at a general meeting shall be-

(a) the number of owners holding at least 50 per cent of the votes, present in person or by proxy or by representative recognised by law and entitled to vote, in schemes where there are ten units or less;

(b) the number of owners holding at least 35 per cent of the votes, present in person or by proxy or by representative recognised by law and entitled to vote in the case of schemes with less than 50 but more than 10 units; and

(c) the number of owners holding at least 20 per cent of the votes present in person or by proxy or by representative recognised by law and entitled to vote, in the case of schemes with 50 or more units.

58. If within half-an-hour from the time appointed for a general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time, and if at the adjourned meeting a quorum is not present within half-an-hour of the time appointed for the meeting, the owners present in person or by proxy and entitled to vote shall form a quorum.

59. Chairman

- (1) The chairman, if any, of the trustees shall preside as chairman at every general meeting of the body corporate, unless otherwise resolved by members of the body corporate at such meeting.
- (2) If there is no such chairman or if, at any meeting, the chairman of the trustees is not present within fifteen minutes after the time appointed for the holding of the meeting, or if he is unwilling or unable to act as chairman, the members present shall elect a chairman for such meeting.

(Rule 59(2) substituted by Regulation 6(e) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

VOTING AT GENERAL MEETINGS

POLL

60.

- (1) At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless either prior to or on the declaration by the chairman of the result of the show of hands, a poll is demanded by any person entitled to vote at such meeting.
- (2) Unless a poll be so demanded, a declaration by the chairman that a resolution has on the show of hands been carried, shall be conclusive evidence of that fact without proof of the number or proportion of votes recorded in favour of or against such resolution.
- (3) A demand for a poll may be withdrawn.

61. A poll, if demanded, shall be taken in such a manner as the chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

Votes

62. On a show of hands the owner or owners of a section, or if the owner is a juristic person, its proxy, shall have one vote for each section owned: Provided that the chairman shall be entitled, in his discretion, to change the manner of voting to one by poll and not by show of hands.

(Rule 62 substituted by Regulation 6(f) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

63. For the purpose of unanimous or special resolution (with or without a ballot), or on a poll the value of the vote of the owner or owners of a section shall be reckoned in accordance with a determination made in terms of section 32 (4) of the Act or, in the absence of this determination, in accordance with participation quotas.

64. *No vote in certain circumstances*

Except in cases where a special resolution or unanimous resolution is required under the Act, an owner shall not be entitled to vote at any general meeting if-

- (a) any contributions payable by him in respect of his section and his undivided share in the common property have not been duly paid; or
- (b) he persisted in breach of any of the conduct rules referred to in section 35 (2) (b) of the Act, notwithstanding written warning by the trustees or managing agent to refrain from breaching such rule: Provided that any mortgagee shall be entitled to vote as such owner's proxy at any general meeting, even though paragraph (a) or the foregoing provisions of this paragraph may apply to such owner.

65 *Voting by trustee for beneficiary*

Where an owner of a section is as such a trustee for a beneficiary, he shall exercise the voting rights in respect of the section to the exclusion of persons beneficially interested in the trust and such persons shall not be entitled to vote.

66. *Joint voters*

- (1) When two or more persons are entitled to exercise one vote jointly, that vote shall be exercised only by a person (who may or may not be one of them) jointly appointed by them as their proxy.
- (2) Notwithstanding sub-rule (1), where two or more persons are entitled to exercise one vote jointly, any one of them may demand a poll.

67. *Proxies*

- (1) Votes at a general meeting may be cast either personally or by proxy, whether on a poll or on a show of hands.
- (2) A proxy shall be appointed in writing under the hand of the appointer, or his agent duly appointed in writing, and shall be handed to the Chairman prior to the commencement of the meeting: Provided that the foregoing provisions shall not apply in the case of any proxy created and contained in any registered mortgage bond, if such mortgage bond is produced at the meeting.

- (3) A proxy need not be an owner, but shall not be the managing agent or any of his or her employees, or an employee of the body corporate.

(Rule 67(3) substituted by Regulation 29(b) of Government Notice R2653 in Government Gazette 13612 dated 8 November 1991)

(Rule 67(3) substituted by Regulation 24(p) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

DUTIES OF OWNERS AND OCCUPIERS OF SECTIONS

68. Statutory and general

- (1) In addition to his obligations in terms of section 44 of the Act, an owner-
- (i) shall not use his section, exclusive use area or any part of the common property, or permit it to be used, in such a manner or for such purpose as shall be injurious to the reputation of the building
 - (ii) shall not contravene, or permit the contravention, of any law, by-law, ordinance, proclamation or statutory regulation, or the conditions of any licence, relating to or affecting the occupation of the building or the common property, or the carrying on of business in the building, or so contravene or permit the contravention of the conditions of title applicable to his section or any other section or to his exclusive use area or any other exclusive use area;
 - (iii) shall not make alterations which are likely to impair the stability of the building or the use and enjoyment of other sections, the common property or any exclusive use area;
 - (iv) shall not do anything to his section or exclusive use area which is likely to prejudice the harmonious appearance of the building;
 - (v) shall, when the purpose for which a section and exclusive use area is intended to be used, -
 - (a) is shown expressly or by implication on a registered sectional plan;
 - (b) is shown expressly or by implication on the original approved building plan thereof;
 - (c) can be inferred from the provisions of the rules; or
 - (d) is obvious from its construction, layout and available amenities,

not use, nor permit such section or exclusive use area to be used, for any other purpose: Provided that with the written consent of all owners such section or exclusive use area may be used for another purpose.

(Rule 68(1)(v) substituted by Regulation 14(f) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

- (vi) shall not construct or place any structure or building improvement on his or her exclusive use area, without the prior written consent of the trustees, which shall not be unreasonably withheld and that the provisions of section 24 and section 25 or other relevant provisions of the Act or the rules, will not be contravened.

(Rule 68(1)(vi) substituted by Regulation 6(g) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

- (vii) shall maintain the hot water installation which serves his section, or, where such installation serves more than one section, the owners concerned shall maintain such installation pro-rata, notwithstanding that such appliance is situated in part of the common property and is insured in terms of the policy taken out by the body corporate.

- (2) An owner who exercises his rights in terms of section 60 (3) of the Act shall bear all costs to give effect thereto.

69. Binding nature

The provisions of these rules and of the conduct rules, and the duties of the owner in relation to the use and occupation of sections and common property shall be binding on the owner of any section and any lessee or other occupant of any section, and it shall be the duty of the owner to ensure compliance with the rules by his lessee or occupant, including employees, guests and any member of his family, his lessee or his occupant.

70. Owner's failure to maintain

If an owner-

- (a) fails to repair or maintain his or her section in a state of good repair as required by section 44(1)(c) of the Act; or
- (b) fails to maintain adequately any improvement on any area of the common property allocated for his or her exclusive use,

and if any such failure persists for a period of thirty days after the giving of written notice by the trustees or the managing agent to repair or to maintain, as the case may be, the body corporate shall be entitled to

remedy the owner's failure and to recover, subject to section 37(1)(b), the reasonable cost of doing so from such owner.

(Rule 70 substituted by regulation 6(d) of Government Notice R548 in Government Gazette 38923 dated 30 June 2015)

71. Determination of disputes by arbitration

- (1) Any dispute between the body corporate and an owner or between owners arising out of or in connection with or related to the Act, these rules or the conduct rules, save where an interdict or any form of urgent or other relief by be required or obtained from a Court having jurisdiction, shall be determined in terms of these rules.
- (2) If such a dispute or complaint arises, the aggrieved party shall notify the other affected party or parties in writing and copies of such notification shall be served on the trustees and the managing agents, if any, and should the dispute or complaint not be resolved within 14 days of such notice, either of the parties may demand that the dispute or complaint be referred to arbitration : Provided that, if an owner declares a dispute with the body corporate, it shall be sufficient notice if notification is served on the trustees and managing agents, if any, and such owner will not be required to serve notice on each of the other owners.

(Rule 71(2) substituted by Regulation 6(h) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

- (3) Having regard to the nature and complexity of the dispute or complaint and to the costs which may be involved in the adjudication thereof, the parties appoint an arbitrator who shall be an independent and suitable experienced and qualified person as may be agreed upon between the parties to the dispute.
- (4) If the parties cannot agree as to the arbitrator to be appointed in terms of subrule (3) within three days after the arbitration has been demanded, the chief registrar of deeds or his or her nominee shall upon written application and subject to payment of the prescribed fee, in writing appoint an arbitrator within 7 days after he or she has been required to make the appointment so that the arbitration can be held and concluded without delay.

(Rule 71(4) substituted by Regulation 14(g) of Government Notice R820 in Government Gazette 34639 dated 28 September 2011 with effect from 28 October 2011)

- (5) Arbitration shall be held informally or otherwise as the arbitrator may determine. The arbitrator shall have the right to demand that the party demanding the arbitration furnish the arbitrator with security for payment of the costs of the arbitration in such amount and form as the arbitrator may determine, failing which the arbitration shall not be proceeded with. Where possible, the arbitration shall be concluded within 21 days after the matter has been referred to arbitration in terms of subrule (2) or security for costs has been furnished.

- (6) The arbitrator shall make his or her award within 7 days from the date of the completion of the arbitration and shall, in making his or her award, have regard to the principles laid down in terms of these rules. The arbitrator may determine that the costs of the arbitration be paid by any one of the disputing parties or any of them jointly or in such shares as he or she may determine, and as he or she, in his or her discretion, may deem appropriate having regard to the outcome of the arbitration.
- (7) The decision of the arbitrator shall be final and binding and may be made an order of the High Court upon application of any party to or affected by the arbitration.
- (8) Notwithstanding that the Arbitration Act, No. 42 of 1965, makes no provision for joinder of parties to an arbitration without their consent thereto, should a dispute arise between the body corporate and more than one owner or between a number of owners arising out of the same or substantially the same cause of action, or where substantially the same order would be sought against all the parties against whom the dispute has been declared, such parties shall be automatically joined in the arbitration by notice thereof in the original notice of dispute given in terms of sub-rule (2).

(Rule 71(8) added by Regulation 6(i) of Government Notice R438 in Government Gazette 27561 dated 13 May 2005)

(Rule 71 inserted by Regulation 24(q) of Government Notice R1422 in Government Gazette 18387 dated 31 October 1997)

ANNEXURE 9 CONDUCT RULES

[Section 35 (2) (b) of the Sectional Titles Act, 1986]

1. ANIMALS, REPTILES AND BIRDS

- (1) An owner or occupier of a section shall not, without the consent in writing of the trustees, which approval may not unreasonably withheld, keep any animal, reptile or bird in a section or on the common property.

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

- (2) When granting such approval, the trustees may prescribed any reasonable condition.
- (3) The trustees may withdraw such approval in the event of any breach of any condition prescribed in terms of sub-rule (2).

2. REFUSE DISPOSAL

- (1) An owner or occupier of a sectional shall-

- (a) maintain in an hygienic and dry condition, a receptacle for refuse within his section, his exclusive use area or on such part of the common property as may be authorised by the trustees in writing;
- (b) ensure that before refuse is placed in such receptacle it is securely wrapped, or in the case of tins or other containers, completely drained;
- (c) for the purpose of having the refuse collected, place such receptacle within the area and at the times designated by the trustees;
- (d) when the refuse has been collected, promptly return such receptacle to his section or other area referred to in paragraph (a).

3. VEHICLES

- (1) No owner or occupier shall park or stand any vehicle upon the common property, or permit or allow any vehicle to be parked or stood upon the common property, without the consent of the trustees in writing.
- (2) The trustees may cause to be removed or towed away, at the risk and expense of the owner of the vehicle, any vehicle parked, standing or abandoned on the common property without the trustees' consent.
- (3) Owners and occupiers of sections shall ensure that their vehicles, and the vehicles of their visitors and guests, do not drip oil or brake fluid on to the common property or in any other way deface the common property.
- (4) No owner or occupier shall be permitted to dismantle or effect major repairs to any vehicle on any portion of the common property, an exclusive use area or in a section.

4. DAMAGE ALTERATIONS OR ADDITIONS TO THE COMMON PROPERTY

- (1) An owner or occupier of a section shall not mark, paint, drive nails or screws or the like into, or otherwise damage, or alter, any part of the common property without first obtaining the written consent of the trustees.
- (2) Notwithstanding sub-rule (1), owner or person authorised by him, may install-
 - (a) any locking device, safety gate, burglar bars or other safety device for the protection of his section; or
 - (b) any screen or other device to prevent the entry of animals or insects:

Provided that the trustees have first approved in writing the nature and design of the device and the manner of its installation.

5. APPEARANCE FROM OUTSIDE

The owner or occupier of a section used for residential purposes shall not place or do anything on any part of the common property, including balconies, patios, stoeps, and gardens which, in the discretion of the trustees, is aesthetically displeasing or undesirable when viewed from the outside of the section.

6. SIGNS AND NOTICES

No owner or occupier of a section, used for residential purposes, shall place any sign, notice, billboard or advertisement of any kind whatsoever on any part of the common property or of a section, so as to be visible from outside the section, without the written consent of the trustees first having being obtained.

7. LITTERING

An owner or occupier of a section shall not deposit, throw, or permit or allow to be deposited or thrown, on the common property any rubbish, including dirt, cigarette butts, food scraps or any other litter whatsoever.

8. LAUNDRY

An owner or occupier of a section shall not, without the consent in writing of the trustees, erect his own washing lines, nor hang any washing or laundry or any other items on any part of the building or the common property so as to be visible from outside the buildings or from any other sections.

9. STORAGE OF INFLAMMATORY MATERIAL AND OTHER DANGEROUS ACTS

An owner or occupier shall not store any material, or do or permit or allow to be done, any other dangerous act in the building or on the common property which will or may increase the rate of the premium payable by the body corporate on any insurance policy.

10. LETTING OF UNITS

All tenants of units and other persons granted rights of occupancy by any owner of the relevant unit are obliged to comply with these conduct rules, notwithstanding any provision to the contrary contained in any lease or any grant of rights of occupancy.

11. ERADICATION OF PESTS

An owner shall keep his section free of white ants, borer and other wood destroying insects and to this end shall permit the trustees, the managing agent, and their duly authorised agents or employees, to enter upon his section from time to time for the purpose of inspecting the section and taking such action as may be reasonably necessary to eradicate any such pests. The costs of the inspection, eradicating any such pests as may be found within the section, replacement of any woodwork or other material forming part of such section which may be damaged by any such pests shall be borne by the owner of the section concerned.

