

South Africa

Sectional Titles Act, 1986

Sectional Titles Regulations, 1988

Government Notice R664 of 1988

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Sectional Titles Regulations, 1988

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Government Notice R664 of 1988

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[Amended by Sectional Titles Regulations: Correction (Government Notice R991 of 1988) on 27 May 1988]

[Amended by Sectional Titles Regulations: Amendment (Government Notice R1791 of 1990) on 3 August 1990]

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.

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**” means the main file referred to in regulation 13;

“**professional engineer**” means a professional engineer as defined in the Professional Engineers’ Act, 1968 (Act 81 of 1968);

“**subfile**” means the subfile referred to in regulation 13;

“**taxing master**” means—

- (a) in relation to the fees and charges of conveyancers, notaries public and other legal practitioners for the work contemplated in section 55(h) of the Act, the registrar of deeds, a deputy registrar of deeds, an assistant registrar of deeds, or, in the case where an assistant registrar has not been appointed for a deeds registry, the most senior officer on the staff of the registrar of the deeds registry concerned; and
- (b) in relation to the fees to be paid to architects and land surveyors for any sectional plan or other plan, the Surveyor-General concerned;

“**under his direction**”, or words to the same effect when used in relation to the taking of measurements, means the personal presence of and the active participation by the land surveyor or architect when the survey is undertaken.

2. Application for approval of a development scheme

- (1) An application referred to in section 4(1) of the Act, shall be made in the form of Form A in Annexure 1, and shall be lodged in duplicate with the local authority concerned.
- (2) The application shall be accompanied by—
 - (a) such paper copies of a draft sectional plan as may be required by the local authority;

- (b) a copy of the approved building plans or, if any deviation, alteration or amendment of such plans was approved, a composite plan, if required by the local authority, comprising the approved building plans and the approved deviation, alteration or amendment plans, or if such deviation, alteration or amendment plans are unavailable, a drawing of any variation or alteration with respect to the dimensions of that building;
 - (c) where no approved building plans are available, a drawing of the building or buildings, which drawing shall reflect to scale the site layout, the layout of every floor, at least one cross section of the building or buildings, and at least two elevations of each building;
- and any such plan or plans or drawing shall indicate the boundaries of each proposed section in a distinctive manner;
- (d) an affidavit by the developer as set out in Form AD, AE or AF in Annexure 1, whichever may be applicable, stating whether the provisions of section 4(3) of the Act apply to the scheme or not, and, if that section is applicable, whether the provisions of that subsection have been complied with, and that no contravention of section 9 of the Act has taken place;
 - (e) in a case where the provisions of section 4(3) of the Act apply to the relevant scheme, a specimen of the notice and certificate referred to in subparagraph (i) and (ii), respectively, of section 4(3)(a) of the Act;
 - (f) where the application is signed by a person authorised to sign on behalf of the developer, a written authority by the developer in which the person referred to is authorised to sign the application on behalf of the developer;
 - (g) a copy of the title deed of the land to which the application relates.
- (3) When the local authority has granted the application for the approval of a scheme, it shall notify the applicant in writing of its decision and return to the applicant two paper copies of the draft sectional plan together with the certificate contemplated in section 7(2)(a) of the Act or, in any other case, it shall notify the applicant of its decision in writing.
- (4) A local authority shall, together with its notification of its decision, furnish reasons for any refusal of an application and shall, on written application by an applicant, in writing within thirty days of receipt of such application furnish to such applicant its reasons for any other decision on an application in terms of section 4(1) of the Act or for the imposition of any condition in terms of section 4(9) of the Act.

3. Appeal to Administrator

- (1) An appeal to the Administrator in terms of the provisions of section 4(10) of the Act, shall be noted by means of a written notice of appeal which shall be served within the period referred to in subregulation (3) by delivery at the office of the provincial secretary concerned to a person apparently competent to accept such notice, or which shall be sent within such period by registered post to the provincial secretary of the provincial administration of the province for which the Administrator concerned has been appointed.
- (2) A copy of such notice shall forthwith be served on the local authority concerned by the applicant by delivery of the copy to a person in the employ of the local authority who apparently is competent to accept such notice, or shall be sent by registered post to the chief administrative officer of the local authority concerned in the name of the office held by such officer.
- (3) A notice of appeal shall be served in the manner referred to in subregulation (1)—
 - (a) in the case where an applicant feels aggrieved by any decision of the local authority, within a period of 60 days of the date on which the applicant was informed of the decision of the local authority; or
 - (b) in the case where the local authority has failed to approve a scheme within the period referred to in section 4(8) of the Act within a period of 30 days of the expiry of a period of

14 days after the date on which a written notice has been received by the local authority requiring the local authority to make a decision with reference to the scheme.

- (4) The applicant shall, together with the notice of appeal, serve a copy of the document in which the decision of the local authority was communicated to him, if such decision has not been endorsed on the draft sectional plan.
- (5)
 - (a) The Administrator may, in the case where a notice of appeal has been served by registered post, require that proof be furnished that such notice was posted within the period referred to in subregulation (3).
 - (b) For the purposes of paragraph (a), the date on a document purporting to have been issued by any post office and to be a receipt by the post office for a registered article addressed to the provincial secretary or local authority concerned, shall be deemed to constitute *prima facie* proof that the notice referred to in paragraph (a) was posted on such date by registered post to the provincial secretary or local authority concerned, as the case may be.
- (6) The Administrator or a person acting by direction of the Administrator may, upon cause being shown that the developer is or was not able to note an appeal within a period referred to in subregulation (3), before or after expiry of that period grant the developer permission, in writing, to note an appeal within 30 days of the date of the written permission of the Administrator, whereupon the provisions of this regulation shall apply *mutatis mutandis* with reference to an appeal so noted as if the appeal had been timeously noted.
- (7) Where the written permission referred to in subregulation (6) has been granted, the developer shall serve a copy of such permission with the copy of the notice of appeal on the local authority.
- (8) A notice of appeal shall clearly and specifically state the decision appealed against or that the appeal is noted by reason of the failure of the local authority to approve a scheme within the prescribed period, and shall also, whenever an appeal is noted on any ground other than the failure of the local authority to approve a scheme within the prescribed period, state the grounds on which the appeal is based.
- (9)
 - (a) Within a period of 30 days of the date of service on the local authority of the notice of appeal, the developer shall lodge with the Administrator a copy of the draft sectional plan and copies of the plans or drawings referred to in regulation 2(2)(a), (b) or (c) and the local authority shall within the period afore-mentioned also lodge with the Administrator a statement in writing in which is set out—
 - (i) the reasons for the decision of the local authority appealed against and its reply to the grounds of appeal as noted; or
 - (ii) if the appeal is noted by reason of the failure of the local authority to approve the scheme within the prescribed time, the reasons for such failure.
 - (b) The Administrator may, upon the written request by the local authority made before expiry of the period referred to in paragraph (a), extend that period for the purposes referred to in that paragraph for a period not exceeding 30 days and shall in writing notify the local authority concerned, if the request is acceded to, of such extension, and shall simultaneously send a copy of the written notification to the developer by registered post.
- (10)
 - (a) The local authority shall forthwith send a copy of the written statement referred to in subregulation (9)(a) to the developer concerned by registered post and the developer may, within a period of 21 days of the date of receipt of such statement serve a written reply thereto on the Administrator in the manner provided for in subregulation (1) for the service of a notice of appeal.
 - (b) The Administrator may, upon written request by the developer made before expiry of the period referred to in paragraph (a), extend that period for the purposes referred to in that paragraph for a further period not exceeding 21 days, and shall notify the developer, if the request is acceded to, in writing, of such extension and shall simultaneously send a copy of the written notification to the local authority by registered post.

- (c) The developer shall forthwith serve a copy of the reply referred to in paragraph (a) on the local authority in the manner provided for in subregulation (2) for the service of a copy of a notice of appeal.
- (11) At any time after the receipt of a notice of appeal or a written statement or a written reply referred to in this regulation, the Administrator may—
 - (a) request the developer to furnish the Administrator with such further particulars, information, plans or drawings as the Administrator may deem necessary;
 - (b) request the local authority concerned or cause the local authority concerned to be requested to furnish the Administrator with such further particulars, information or documents as the Administrator may deem necessary.
- (12) The Administrator shall notify the developer and the local authority, or cause the developer and the local authority to be notified, of his decision, and the provisions of regulation 2(3) shall apply *mutatis mutandis* with reference to such decision.

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 building or buildings to which the scheme applies;
- (b) the description and extent, as reflected in the title deed in respect of the land, on which the relevant building or buildings are situated;
- (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 a Surveyor-General and registered in a deeds registry shall comply with the following requirements:
- (a) It shall be prepared on a drawing medium of durable and good quality approved by the Surveyor-General, of any of the following sizes: 297 x 210 mm; 297 x 420 mm or 297 X 841 mm and in black ink of a good quality: Provided that any departure from these requirements shall require the prior approval of the Surveyor-General.
 - (b) Only one side of the sheet shall be used.
 - (c) The binding margin shall be along the 297 mm side and sheets larger than 297 mm x 210 mm shall be folded to that size with the folds clear of the binding margin: Provided that sheets required by the Surveyor-General shall not be folded.
 - (d) Margins 40 mm wide along the 297 mm binding side of the sheets and 10 mm wide along the other sides, shall be provided and such margins, subject to the provisions of paragraph (h), shall be left free of any writing or drawing.
 - (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 10 seconds.
 - (g) The scale to which any plan is prepared, shall be one of the following: 1/100, 1/150, 1/200, 1/250, 1/500, 1/750 or 1/1000: Provided that—
 - (i) the size of the figure shall be sufficiently large to show all the required details;
 - (ii) the floor plans and cross sections referred to in subregulations (2)(c) and (d) shall not be drawn to a scale of less than 1/200: Provided that any departure from this requirement shall require the prior approval of the Surveyor-General; and
[subparagraph (ii) amended by [Government Notice R991 of 1988](#)]
 - (iii) if necessary block plans, floor plans and cross sections of a building may be shown on more than one sheet.
 - (h) Any addition, alteration or interlineation on a draft sectional plan shall be initialled by the preparer thereof and for this purpose the margin on the right hand side of the sheet opposite such addition, alteration or interlineation shall be used.
 - (i) A Surveyor-General may refuse to approve a draft sectional plan should he 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 or that the writing or any drawing thereon does not, owing to faintness or other reasons, ensure durability.
 - (j) The developer shall furnish the architect or land surveyor with all documents and particulars required by him to prepare the draft sectional plan.
 - (k)
 - (i) If the scheme comprises more than one building, the buildings on the draft sectional plan shall be consecutively numbered commencing with the figure "1".
 - (ii) All sections in a scheme shall be numbered consecutively on the draft sectional plan commencing with the figure "1".
 - (iii) The number allocated to a section on the draft sectional plan shall be allocated to all parts of that section.
 - (iv) The numbers allocated to sections on a draft sectional plan of subdivision, consolidation and extension shall continue from the last number used for the scheme.

- (v) An exclusive use area shall be uniquely numbered.
- (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) If the boundaries of an exclusive use area or areas in terms of section 27(1), 27(2) or 60(3) of the Act are physical features such as walls, fences or other similar features, they shall be described, otherwise they shall be beacons and the beacons described in accordance with the Land Survey Act, 1927 (Act 9 of 1927), and sufficient data given on such plan to identify the area in relation to the building, section or boundaries of the land.
- (n) Each sheet shall contain the following:
 - (i) the title of the sheet;
 - (ii) the sheet number and, in addition thereto, an indication of the number of sheets of which the draft sectional plan shall consist, as follows:

“Sheet No. _____ of _____ sheets”;
 - (iii) the name and address of the architect or land surveyor concerned or, if he is practising with a firm of architects or land surveyors, his name and the name and address of the firm, all in block letters, the signature of the architect or land surveyor, and his 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;
 - (vi) such notes as the architect or land surveyor may wish to make.
- (2) A draft sectional plan shall consist of the following sheets which, subject to the provisions of the Act, 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 contemplated in sections 27(2) and 60(3) of the Act, or for the amendment of a scheme due to the destruction or damage of 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:
 - (a) A first sheet (if necessary, with annexures, which shall be firmly secured thereto and shall form part thereof) 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 building or buildings to which the scheme relates;
 - (ii) the title deed description of the land;
 - (iii) the number of the relevant approved general plan or of the approved diagram of the land;
 - (iv) the number of the title deed with which such diagram is filed;
 - (v) the full name and address of the developer;
 - (vi) the number of the title deed of the land concerned;
 - (vii) a brief description of the building or buildings, stating the number of storeys and the categories of usage;
 - (viii) the nature of any encroachment on the land to which the scheme relates;

- (ix) particulars of servitudes, other real rights and conditions, if any, certified by a conveyancer as burdening or benefiting the land or the sections and common property;
 - (x) a certificate signed by the architect or land surveyor that the draft sectional plan has been prepared from actual measurements taken by him or under his 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 on this sheet and such certificate shall disclose to what extent he accepts responsibility for the preparation of the draft sectional plan;
 - (xi) a caveat, if a developer should reserve the right in terms of section 25 of the Act to erect a further building or buildings or a horizontal or vertical extension of an existing building;
 - (xii) spaces for—
 - (aa) the name of the local authority;
 - (bb) the reference number of the local authority; and
 - (cc) the signature of the registrar and his reference number;
 - (xiii) an endorsement in respect of any condition imposed by the local authority or the Administrator under section 4(9) or (10) of the Act, provided that if this should be impractical, such endorsement may be shown on an annexure which shall be firmly secured to this sheet and shall form part thereof;
- (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) the position at ground level of the external surfaces of the walls of all buildings as defined in the Act, and of any other building on the land included in the scheme, shown by a solid line, together with the horizontal distances between each cadastral boundary and the nearest building to such boundary and, in a distinctive broken line, the greatest extent to which the external surfaces, excluding roof overhangs, unless such overhang encroaches over the cadastral boundary, of any building above ground level protrude beyond the external surface of the building at ground level, together with horizontal distances of such protrusions to the nearest cadastral boundaries: 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 separately shown by a distinctive broken line: Provided further that a brief description shall be given of all the parts of the building indicated by a distinctive broken line;
 - (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 direction;
 - (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);

- (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 paragraph [\(d\)](#);
 - (iv) the number of each section or part of such section;
 - (v) the total floor area of each section to the nearest square metre referred to in section [5\(3\)\(e\)](#) of the Act: Provided that such total floor area shall be indicated on each part of each section;
 - (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) a sheet or sheets on which diagrammatic cross sections of the building or buildings and of each storey in the building or buildings are represented sufficiently detailed to indicate the boundaries of all sections, and which shall, in addition to the particulars mentioned in subregulation [\(1\)\(n\)](#), contain the following:
 - (i) the number of the building and the name or number of each storey;
 - (ii) such other information as may be necessary to define each section;
- (e) a sheet or sheets showing the schedule referred to in section [5\(3\)\(g\)](#) of the Act;
- (f) a sheet or sheets containing the insets referred to in paragraphs [\(b\)\(vi\)](#) and [\(c\)\(viii\)](#).

6. Submission of draft sectional plan to Surveyor-General

- (1) The submission of a draft sectional plan to the Surveyor-General in terms of section [7](#) of the Act for his approval shall be substantially in the form of Form AB in Annexure 1.
- (2) In addition to the requirements of section [7\(2\)](#) of the Act, the submission shall also be accompanied by the other documents and plans listed in Form AB in Annexure 1.
[subregulation (2) amended by [Government Notice R991 of 1988](#)]
- (3) The field book or field plan shall 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.
- (4) The calculations shall include the following:
 - (a) The calculations of the dimensions of the sections to the median lines from the field measurements;
 - (b) sufficient calculations to indicate how the area of each section or exclusive use area was determined and how checked;
 - (c) the calculations of the participation quota of each section;

- (d) a list of co-ordinates of at least two comers or identified permanent features of each building: Provided that the distances between such comers or features shall be adequate to provide an accurate determination of the position of each building: Provided further that the co-ordinates may be listed on the copy of the block plan;
 - (e) a copy of the block plan on which the comers or identified permanent features are indicated and described;
 - (f) the calculations relevant to the fixing and checking of the buildings to the boundaries of the land and exclusive use areas in relation to the building, section or boundaries of the land.
- (5) The median dimension plan shall indicate the boundaries and the final dimensions of each section as derived from the field measurements and the consistency adjustments.

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 accuracy to which a survey shall be performed for the purposes of preparing a block plan shall be in accordance with Class B as prescribed in the regulations framed in terms of the Land Survey Act, 1927.

8. Accuracy and correctness of a draft sectional plan

- (1) The Surveyor-General may at any time check in the field the accuracy, correctness or authenticity of a draft sectional plan or measurement recorded by a land surveyor or architect.
- (2) If the Surveyor-General finds a draft sectional plan to be incorrect, he may take such action as he may deem fit in terms of section 14 of the Act.

9. Rate of interest in terms of section 9(3)(b)(i)

The interest rate for purposes of section 9(3)(b)(i) of the Act, shall be 20 percent per annum.

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

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) Each certificate of registered sectional title shall bear the same number as that allotted to the subfile relating to the section concerned.
- (3) The schedule to a certificate of registered sectional title shall be firmly secured to such certificate and shall form part of such certificate.
- (4) The endorsements provided for in Form C in Annexure 1 shall be made on a schedule to Form C, and such endorsements shall be signed by the registrar under his seal of office whenever ownership in a unit or land is transferred from one owner to another or a mortgage bond or lease or any other act in terms of any law in connection with such unit or land is registered by the registrar.
- (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) A certificate of registered sectional title shall be lodged in duplicate with the registrar and the duplicate original shall be filed on the relevant subfile.
 - (b) Where a procedure is followed in a deeds registry of filing of records in the form of a microfilm reproduction of any type of deed, it shall, notwithstanding anything to the contrary in these Regulations, not be necessary to lodge a duplicate copy of such deed or document for filing on the appropriate subfile 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 microfilm 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 to do so.
- (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) A registered sectional plan shall be filed in a deeds registry according to the consecutive number of each sectional plan, and shall be kept separate from any other plans that may be filed in a deeds registry.
- (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 to be opened by the registrar in terms of section [12\(1\)\(b\)](#) of the Act, shall be in the form of a main file and subfiles set out in Forms D and E, respectively, in Annexure 1.
- (2) The file number allotted to the main file, shall be the same as the number allotted to the sectional plan.
- (3) A subfile shall be opened with reference to each section in the building and a number shall be allotted to the subfile which shall correspond with the number allotted to the main file and in parentheses thereafter the number of the section to which the subfile relates.

- (4) In the main file shall be filed—
 - (a) the documents referred to in section [11\(3\)](#) of the Act, with the exception of the sectional plan, the certificates of registered sectional title, the owner's and the holder's copy of the title deed of the land, the title deed to any real right and the bond;
 - (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; and
 - (d) such other documents as may suitably be filed in the main file.
- (5) In the subfiles shall be filed—
 - (a) the duplicate original copies of the certificates of registered sectional title of each section, each such copy to be filed in the subfile relating to the section to which such certificate relates;
 - (b) correspondence relating to dealings with the units or sections concerned; and
 - (c) such other documents as may suitably be filed in the subfile concerned.
- (6) Where a procedure is followed in a deeds registry of keeping records in the form of a microfilm reproduction and maintaining a register on computer, the main file and subfiles referred to in subregulations [\(4\)](#) and [\(5\)](#), respectively, may be superseded by the microfilm records and computerised register: Provided that the main file shall be maintained for such documents as the Chief Registrar of Deeds may determine.

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) An architect, land surveyor or developer who, or a body corporate which, is required by the Surveyor-General under section [14](#) of the Act to alter or amend or to cause to be altered or amended any registered sectional plan or to substitute another sectional plan for a registered sectional plan found to be incorrect, as the case may be, shall, if required by the Surveyor-General, obtain a certificate from the local authority concerned to the effect that the alteration or amendment is not in conflict with the approval referred to in section [7\(2\)\(a\)](#) of the Act.
- (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) Whenever the registrar amends the relative sectional title deed as required by section [14\(5\)](#) of the Act, he shall endorse thereon that the amendment has been effected in accordance with an alteration, amendment or substitution of the registered sectional plan.

- (5) Whenever the registration of a sectional plan is cancelled on the application of a 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 of the developer;
 - (b) the main file;
 - (c) each duplicate original copy of the certificate of registered sectional title filed in the relevant subfiles; and
 - (d) the originals and duplicate originals of the title to any real rights.
- (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.

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) A draft certificate in the form referred to in paragraph [\(a\)](#) shall be prepared by a conveyancer and lodged in duplicate. The original certificate shall be filed in the main file and the duplicate thereof shall be delivered to the conveyancer.
 - (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.
- (2) The certificate referred to in [section 15\(4\)](#) of the Act shall be in the form of Form H in Annexure 1 and the provisions of the regulations under the Deed Registries Act, [Act 47 of 1937](#), relating to powers of attorney, shall not apply to such a certificate.
- (3) Where a consent as contemplated in regulation [30\(2\)](#) is required, such consent shall be lodged with the certificate referred to in section [15\(4\)](#) of the Act.
- (4) An application referred to in section [15\(9\)](#) of the Act, shall be in the form set out in Form I in Annexure 1.
- (5) A certificate of registered sectional title referred to in section [15\(9\)](#) of the Act, shall be in the form of Form J in Annexure 1, and shall be issued under the signature and seal of office of the registrar.

17. Dealings with common property

- (1) The registrar shall register a transfer of land comprised in the common property—
 - (a) referred to in section [17\(3\)\(a\)](#) of the Act, by issuing to the transferee a Certificate of Registered Sectional Title in the form of Form K in Annexure 1; and

- (b) referred to in section [19\(4\)](#) of the Act by issuing to the transferee a Certificate of Registered Sectional Title in the form set out in Form L in Annexure 1.
- (2) Simultaneously with the issuing of a certificate referred to in subregulation (1), the registrar shall make an endorsement under his signature on the schedule of conditions [referred to in section [11\(3\)\(b\)](#) of the Act] of the relevant sectional plan.
- (3) Any certificate of registered sectional title which has been registered pursuant to section [17\(3\)](#) or [19\(3\)](#) of the Act shall simultaneously be re-registered as a deed of transfer in terms of the Deeds Registries Act, 1937 ([Act 47 of 1937](#)).
- (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. Application for subdivision of a section

- (1) An application for subdivision referred to in section [20\(1\)](#) of the Act, shall be in the form of Form N in Annexure 1, and shall be lodged in duplicate with the local authority concerned.
- (2) The provisions of regulations [2](#), [3](#) and [5](#) shall apply *mutatis mutandis* to a draft sectional plan of subdivision and an application referred to in subregulation (1).

19. Registration of subdivision of a section

- (1) When registering a sectional plan of subdivision in terms of section [22\(3\)](#) of the Act, the registrar shall allot a distinctive number to the said plan, and shall include in parentheses the distinctive number allotted to the subfile of the relevant section. Application for registration shall be in the form of Form O in Annexure 1.
- (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. Application for consolidation of sections

- (1) An application for consolidation referred to in [section 20\(1\)](#) of the Act, shall be in the form of Form N in Annexure 1, and shall be lodged in duplicate with the local authority concerned.
- (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).

21. Registration of consolidation of sections

- (1) When registering a sectional plan of consolidation in terms of section [23\(3\)](#) of the Act, the registrar shall allot a distinctive number to the said plan and shall include in parentheses the distinctive numbers allotted to the mainfile of the relevant sections. Application for registration shall be in the form of Form O in Annexure 1.
- (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. Application for extension of sections

- (1) An application referred to in section [24\(2\)](#) of the Act, shall be in the form of Form N in Annexure 1, and shall be lodged in duplicate with the local authority concerned.
- (2) The provisions of regulations [2](#), [3](#) and [5](#) shall *mutatis mutandis* apply to a draft sectional plan of extension and an application referred to in subregulation [\(1\)](#).

23. Registration of extensions of sections

- (1) When registering a sectional plan of extension of sections in terms of section [24\(7\)](#) of the Act, the registrar shall allot a distinctive number to the said sectional plan and shall include in parentheses the distinctive number allotted to the sub-file of the relevant section. Application for registration shall be in the form of Form O in Annexure 1.
- (2) The registrar shall furnish the local authority concerned with a copy of the registered sectional plan of extension.

24. Application for extension of a scheme

- (1) An application referred to in section [25\(7\)](#) of the Act shall be in the form set out in Form S in Annexure 1, and shall be lodged in duplicate with the local authority concerned.
- (2) The provisions of regulations [2](#), [3](#) and [5](#) shall apply *mutatis mutandis* to a draft sectional plan of extension and an application referred to in subregulation [\(1\)](#).

25. Registration of extension of a scheme

- (1) When registering a plan of extension of a scheme in terms of section [25\(11\)](#), the registrar shall allot a distinctive number to the sectional plan of extension and shall include in parentheses the distinctive number allotted to the main file of the relevant scheme. The application for registration shall be in the form set out in Form O in Annexure 1.
- (2) The certificate of registered sectional title referred to in section [25\(10\)\(d\)](#) of the Act, shall be in the form of Form C in Annexure 1.
- (3) The registrar shall furnish the local authority concerned with a copy of the registered sectional plan of extension.

26. Application for extension of the common property

- (1) An application referred to in section [26\(3\)](#) of the Act, shall be in the form set out in Form T in Annexure 1 and shall be lodged in duplicate with the local authority.
- (2) The provisions of regulations [2](#), [3](#) and [5](#) shall apply *mutatis mutandis* to a draft sectional plan of extension and an application referred to in subregulation [\(1\)](#).

27. Registration of plan of extension of the common property

- (1) When registering a sectional plan of extension of the common property in terms of section [26\(5\)](#) of the Act, the registrar shall allot a distinctive number to the said plan and shall include in parentheses the distinctive number allotted to the main file of the relevant scheme. An application for registration shall be in the form set out in Form O in Annexure 1.
- (2) The registrar shall furnish the local authority concerned with a copy of the registered sectional plan of extension.

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 referred to in section [12\(1\)\(f\)](#) of the Act.
- (2) Simultaneously with the transfer of a right to an exclusive use area as contemplated in section [60\(3\)](#) of the Act, the Registrar shall make an endorsement under his signature on the Schedule of Conditions of the relevant sectional plan and shall notify the Surveyor-General accordingly.
- (3) The provisions of subregulation [\(1\)](#) shall apply *mutatis mutandis* to a transfer, cancellation or mortgage of any exclusive use area.

29. Alienation in one transaction of whole of any interest in land and the building or buildings comprised in a scheme or a share in the whole of such interest

The certificate referred to in section [34\(4\)](#) of the Act shall be in the form set out in Form U in Annexure 1.

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 set out in Annexure 8, for which except in the case of rules 1 to 6, inclusive, 10 to 13, inclusive, 15(3) and (4), 16 to 26, inclusive, 28 to 45, inclusive, 46(1), 47 to 56, inclusive, 57(1), and 59 to 70, inclusive, other rules may be substituted by the developer when submitting an application for the opening of a sectional title register.
- (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 50 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.
- (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 schedule in terms of section [5\(3\)\(g\)](#) of the Act which shall exclude reference to any section which has been destroyed, and 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.
- (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 suitable amendments and endorsements on the sectional plan.

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. Keeping of indices

A registrar shall keep the following indices:

- (a) An index in which the names of buildings with respect to which a sectional plan has been registered by the registrar concerned are reflected alphabetically, showing opposite the name of the building concerned the number of the building, which number shall be the number of the registered sectional plan, and the name of the local authority in whose area of jurisdiction the building is situated;
- (b) an index reflecting in numerical order the numbers of registered sectional plans, showing opposite each number the name of the building concerned; and
- (c) an index in which is reflected in alphabetical sequence the names of owners of sections and the holders of exclusive use areas, showing opposite the name of each owner the name and number of the building, the section of which he is the owner, and the area in respect of which his right referred to, applies.

34. Sectional mortgage bonds

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 duly authorised agent, in the presence of a conveyancer, and the said form shall be suitably adapted when hypothecating land held under a sectional title deed or a registered notarial lease or sublease or other registered real right.

35. Fees of office

- (1) The acts, matters or things required or permitted to be done in terms of the Act in or in relation to a deeds registry in respect of which fees of office are to be charged and the amount of the fees of office recoverable in respect thereof, shall be as specified in Annexure 2 to these Regulations.

- (2) The acts, matters or things required or permitted to be done in relation to an office of the Surveyor-General in respect of which fees of office are to be charged, and the amount of such fees, shall be as specified in Annexure 3 to these Regulations.
- (3) The fees of office referred to in subregulations (1) and (2) shall be paid in cash, by postal order or by cheque.

36. Fees to be paid to architects and land surveyors

- (1) The fees to be paid to architects or land surveyors for the preparation of a sectional plan shall be on the scale as specified in Annexure 4 to these Regulations.
- (2)
 - (a) The Surveyor-General shall perform, in case of dispute, all the functions of a taxing master of the Court in relation to fees charged by architects or land surveyors for performing acts which shall or may be performed under the Act by architects or land surveyors in connection with the preparation of a sectional plan filed or to be filed in the Surveyor-General's office.
 - (b) The account submitted for taxation shall disclose the items by virtue of which the amounts stated therein are claimed.
 - (c) The account shall be accompanied by a signed written statement by the disputing party setting out the items disputed.
 - (d) The fee of office for taxing the account of an architect or a land surveyor shall be 5 % of the amount of the account or of such part thereof which has to be taxed, with a minimum fee of R10.
 - (e) The Surveyor-General may during taxation determine what proportion of the taxing fee shall be paid by the parties to the taxation.

37. Fees and charges of conveyancers and notaries public and of other legal practitioners

- (1) The fees and charges of conveyancers and notaries public in connection with the preparation, passing and registration of deeds or other documents registered or filed or intended for registration or filing in a deeds registry, and the fees and other charges of any other legal practitioners in connection with the preliminary work required in respect of any such deed or other document, referred to in section 55(h) of the Act, shall be as set out in Annexure 5 to these Regulations, and in so far as that Annexure does not provide for any fee or charge as aforesaid, the fees and charges of conveyancers and notaries public in connection with the preparation, passing and registration of deeds or other documents registered or filed or intended for registration or filing in a deeds registry, and the fees and charges of any other legal practitioners in connection with the preliminary work required in respect of any such deed or other document prescribed in regulations made under the Deeds Registries Act, shall, respectively, and *mutatis mutandis*, apply in so far as such regulations can be applied for that purpose.
- (2) The provisions of regulation 36(2) shall apply *mutatis mutandis* to the taxing master in connection with the fees and charges of conveyancers and notaries public and other legal practitioners paid or payable under this regulation.

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 the file referred to in section [15\(10\)](#) of the Act, the respective documents set out in Annexure 6 to these Regulations in respect of the following transactions:
 - (a) Transfers of ownership in respect of which he has signed the conveyancer's certificate in terms of section [15\(4\)](#) of the Act;
 - (b) transfers of ownership in respect of which he has signed the conveyancer's certificate in terms of section [34\(4\)](#) of the Act;
 - (c) sectional mortgage bonds referred to in section [15\(1\)\(c\)](#) of the Act in respect of which he has signed the bond as preparer.

[subregulation (1) amended by [Government Notice R991 of 1988](#)]

- (2) Every conveyancer shall take such reasonable precautions for the safe custody of his file as may be necessary.

41. Fees payable to a local authority

- (1) The fees payable to a local authority in connection with the exercise or performance of its powers, functions and duties in terms of the Act, shall be as specified in Annexure 7 to these Regulations.
- (2) The fees referred to in subregulation (1) shall be paid when an application referred to in section [4](#), [20](#), [24](#), [25](#) or [26\(3\)](#) of the Act, as the case may be, is lodged with a local authority.

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 Director 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

[paragraph (b) amended by [Government Notice R991 of 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.

- (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 Director who shall be Chairman of the Committee;
 - (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 examinations 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 Director, 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 Director, 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 Director.

Annexure 1

Forms

[Form H amended by [Government Notice R991 of 1988](#)]

[Editorial note: The forms have not been reproduced.]

Annexure 2

Forms

[Editorial note: The forms have not been reproduced.]

Annexure 3

Fees of office: Surveyor-General

1. Examination of sectional plans

For examination, approval and certification of a sectional plan, including such additional copies thereof as may be prescribed by law or regulation: R50 (no general sales tax payable). Plus, for each unit shown on such plan: R6 (no general sales tax payable).

2. Amendments

For each amendment to a sectional plan in terms of any law: R10 (no general sales tax payable): Provided that—

- (a) where more than one amendment is included in the same authority to amend, the second and subsequent amendments shall be charged for at a rate of R10 (no general sales tax payable) per amendment;
- (b) if, in the opinion of a Surveyor-General, the work involved is of a complicated nature, the charge shall be on a time basis at a rate of R20 (no general sales tax payable) per each hour, or portion thereof;
- (c) for the purpose of this paragraph a sectional title plan includes the number of copies of such document necessary for registration, provided they are amended at the same time.

3. Certified copies of sectional plans

For supplying a certified copy of a sectional plan, the charge for each sheet shall be in accordance with the charges as laid down in paragraph 7 of the “Scale of fees to be charged in the offices of the Chief Director of Surveys and Mapping and the Surveyors-General”: Provided the Surveyor-General shall have the right to employ any method of copying a sectional plan.

4. General

For all other services not specified in this Annexure the charges as laid down in the “Scale of fees to be charged in the offices of the Chief Director of Surveys and Mapping and the Surveyors-General” shall apply *mutatis mutandis*.

Annexure 4

Fees

[Schedule 4 amended by [Government Notice R991 of 1988](#)]

1. Architects and land surveyors

For preparing a sectional plan referred to in section [5](#) and [25](#) of the Act:

(a)

For sheet 1	R360
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- (b) For sheet 2 (block plan), excluding the determination of cadastral boundaries: R360 plus R1,15 per square metre of the total area as shown on the participation quota schedule.

(c) For the remaining sheets of the section plan—

(i)

	Basic fee R
for five sections and fewer	520
for 6 sections to 10 sections	700
for 11 sections to 20 sections	860
for 21 sections to 30 sections	1 000
for 31 sections to 40 sections	1 120
for 41 sections to 50 sections	1 220
for 51 sections to 60 sections	1 300
for 61 sections to 70 sections	1 360
for 71 sections to 80 sections	1 400
for 81 sections to 90 sections	1 430
for 91 sections to 100 sections	1 450
for every section over 100, per section	15;

and

(ii) in addition to the fees referred to in subparagraph (i), a fee equal to R3,25 per square metre of the total area shown on the participation quota schedule.

[paragraph 1 amended by [Government Notice R991 of 1988](#)]

2. For preparing a plan of exclusive use areas, the fee charged in respect thereof shall be at an hourly rate as provided for in paragraph 4 hereunder.
3. For preparing a sectional plan of subdivision of a section: A basic fee of R540, and an additional fee of R145 for each new section created.
4. For any matter relating to the preparation of a sectional plan not herein provided for, the fee charged in respect thereof shall be in accordance with the tariff of 15 cents per hour per R100, or part thereof, of the total annual salary attached to a director's grading in the Public Service.

5. The fees referred to in paragraphs 1 and 3 may be increased by an amount not exceeding 20 % where circumstances beyond the control of the architect or land surveyor prevent the project from being carried out expeditiously.
6. For essential trips outside a radius of 50 kilometres from the usual place of business a fee shall be charged for travelling time during normal business hours up to a maximum of eight hours per day at the time charges laid down in paragraph 4 of this Annexure.

Note.— The fees specified shall include the taking of instructions and visits to the deeds registry or the office of the local authority.

Annexure 5

Tariff of fees and charges of conveyancers and notaries public and other legal practitioners

[Schedule 5 substituted by [Government Notice R1791 of 1990](#)]

1. General Note

The fees specified in this Tariff shall include the fees for all correspondence and shall include the following: The taking and giving of instructions, including perusal of deeds of sale; the preparation as well as attendance on signature, of powers of attorney, declarations, affidavits, conveyancers' certificates, resolutions, status affidavits, company certificates, exchange control certificates and other necessary preliminary and ancillary documents; the payment of transfer duty and of any moneys due to the body corporate; the obtaining or making of all clearance or other certificates; the obtaining of endorsements or copies of documents from the Office of the Master of the Supreme Court or any other public office (unless otherwise provided); the perusal of memorandums and articles of association, constitutions, identity documents, and trust deeds; the making of all necessary financial arrangements, including the provision and perusal of guarantees and attendance for payment in terms thereof; the drawing and preparation of any document intended for execution or registration at a deeds registry and the obtaining of registration thereof, arranging simultaneous lodgement and registration with any other conveyancer where necessary; the giving of certificates or references required by the deeds registry; and all attendances at the deeds registry, but shall not include any attendance in connection with the drawing and execution of deeds of sale, deeds of donation, partition agreements, amendments to the rules for bodies corporate, special developers' conditions, deeds of suretyship, acknowledgements of debt and documents of a similar nature, of any separate act of registration of any documents which may be necessary before or in connection with the first-mentioned act of registration.

2. Definitions

For the purposes of this Tariff—

- (a) a folio shall consist of 100 printed or written words or figures, or part thereof, and four figures shall be reckoned as one word.
- (b) 'value of the property' means—
 - (i) where transfer duty is payable, the purchase price of the property or the amount on which transfer duty is payable, whichever amount is the highest;
 - (ii) where no transfer duty is payable in terms of section 9(2) of the Transfer Duty Act, 1949 ([Act No. 40 of 1949](#)), the purchase price of the property or the declared value of the property as contemplated in the Transfer Duty Act, 1949, whichever amount is the highest;
 - (iii) where no transfer duty is payable in terms of any provision of section 9 of the Transfer Duty Act, 1949, other than section 9 (2), but an official valuation by a municipality, divisional council or the Master of the Supreme Court is available, such valuation or the compensation paid in respect of the acquisition of the property, whichever amount is the highest; or

- (iv) where no compensation is payable in respect of the acquisition of the property and no official valuation by a municipality, divisional council or the Master of the Supreme Court is available, an amount which shall be deemed to be no less than R2 500.

Application for the opening of a sectional title register

For the preparing and drawing of an application for the opening of a sectional title register, perusing of sectional plan, drawing of certificates of registered sectional title, correspondence and attendances on all matters referred to in section 11 of the Act, but excluding the drawing of any consent of a bondholder, or searches in any deeds registry or other public office, or attendance upon fulfilling the requirements of section 4 (3) of the Act:

- (a) A basic fee of: R500; and
- (b) in respect of each section, a fee of: R45.

Transfer of ownership

1. For the registration of transfer of ownership of a unit or land held under sectional title deed, the fee shall be the amount set out in column B of Schedule A to this Tariff, in respect of an amount of purchase price or value of the property concerned as indicated in column A of that Schedule.
2. Where more than one section is included in the same transaction, an additional fee of R10 shall be chargeable for each additional section.

Note. — Where transfer takes place as a result of expropriation in terms of an act, or if a person becomes entitled to deal with a unit or land as if he had taken formal transfer into his name by virtue of an endorsement contemplated in the Act, the fee shall be 50 per cent of the amount set out in column B of Schedule A.

Partition transfers

For the drawing and registration of each deed of partition transfer, inclusive of all preliminary and other work in connection therewith, but excluding attendances in connection with the framing of any provisional agreement, a fee of: R400; and a further fee of R10 for each additional section or subdivision transferred in any one certificate of registered sectional title.

Enforcement in terms of the Administration of Estates Act, 1965

For drawing all necessary documents, obtaining necessary ancillary documents, consents and certificates from the Master and Registrar, and all necessary attendances and correspondence in connection therewith, including the obtaining of registration, a fee of: R145.

Subdivision and consolidation of a section/s

For drawing and submitting an application for subdivision and preparing certificates of registered sectional title, together with supporting documents, for perusing a plan of subdivision or of consolidation, for obtaining of registration, for correspondence and attendance on all matters referred to in sections 22 and 23 of the Act, but excluding the drawing of the consent of any bondholder:

- (a) basic fee of: R400; and
- (b) in respect of each subdivision or consolidation, a fee of: R45.

Application for sectional title deed in respect of undivided share in unit

For preparing a certificate of registered sectional title in respect of an undivided share (including the application), for correspondence and for attendances on all matters referred to in section 15 (9) of the Act, a fee of: R150.

Application for certificate of registered sectional title for common property

For preparing a certificate of registered sectional title (including the application) in respect of a portion of land forming part of the common property, for correspondence and for attendances on matters referred to in section [17 \(3\)](#) of the Act, a fee of: R200.

Revision from sectional title register to land register

For attending to all matters referred to in subsections [\(4\)](#), [\(5\)](#) and [\(6\)](#) of section [17](#) of the Act:

- (a) A basic fee of: R200; and
- (b) in respect of each section, a fee of: R20.

Sectional mortgage bonds

1. For obtaining registration of any sectional mortgage bond or surety bond other than a bond referred to in paragraph [2](#) of this Section, including the drawing of all necessary documents and the obtaining of necessary ancillary documents, the fee shall be the amount as set out in column C of Schedule A to this Tariff in respect of an amount of the bond concerned as indicated in column A of the Schedule.
2. The fee for any collateral bond passed as additional security for another bond between the same parties shall be: R135.
3. If more than one unit is included in a bond referred to in paragraph [1](#) or [2](#) of this Section, and additional fee of R10 shall be chargeable for each additional unit.
4. For the purposes of determining a fee charged under paragraph [1](#) of this section, the amount of the bond on which stamp duty is being levied shall be used or, in the event of a bond exempted from stamp duty, the amount on which stamp duty would have been levied, if not this exempted.

Cession, cancellation or modification of bonds

1.
 - (a) For drawing consent to cancellation of bond, consent to cancellation of cession of bond, release of property or a person from a bond, consent to reduction of cover, consent to part payment of capital, framing waiver of preference in regard to the ranking of a bond, waiver of preference in respect of real rights in land, consent of a mortgagee, usufructuary, lessee or holder of any other limited interest required in terms of any provision of the Act or these Regulations and not otherwise provided for in this Tariff (but not being notarial), and attending registration thereof, including instructions, correspondence and all relevant attendances except attendances on the Office of the Master of the Supreme Court, a fee of: R150: Provided that in any case where there are no financial arrangements to be made by the conveyancer concerned, the fee shall be: R100.
 - (b) For attending to all matters referred to in sub-paragraph [\(a\)](#) of this paragraph in respect of any second or subsequent bond when any relevant document has been drawn by the same conveyancer who drew the corresponding document or documents in connection with the first bond between the same parties over the same property, and such documents are or can be lodged simultaneously as a set, a fee of: R40 per bond.
 - (c) If more than two units are included in any release contemplated in subparagraph [\(a\)](#) of [\(b\)](#) of this paragraph, a further fee of R10 shall be chargeable for each additional unit over and above the first two units.
2. For drawing cession of bond or an application for endorsement, including instructions and drawing consent of mortgagor where necessary, attendances on mortgagor and mortgagee, correspondence and all relevant attendances including registration, but excluding attendances on the Office of the

Master of the Supreme Court, a fee of: R115 Provided that in any case where there are no financial arrangements to be made by the conveyancer concerned, the fee shall be: R80.

3. (a) For drawing agreement varying the terms of a mortgage bond registered under the Deeds Registries Act to comply with the mortgagee's requirements for a sectional mortgage bond, there shall be a fee assessed according to the length and complexity of the agreement, with a minimum of R150 and a maximum of R300.
- (b) For drawing agreement varying the terms of a bond, including instructions, attendance on mortgagor and mortgagee, correspondence and all relevant attendances including registration, there shall be a fee assessed according to the length and complexity of the agreement, with a minimum of R80 and a maximum of R135.
4. For drawing consents to substitution under section 57 of the Deeds Registries Act, 1937, including instructions, all attendances on mortgagee and new debtor, correspondence and miscellaneous attendances, including registration but excluding attendances on the Office of the Master of the Supreme Court: 50 per cent of the fees for bonds, specified in Schedule A to this Tariff.
5. Where any document referred to in any paragraph of this Section is required to be signed by more than one mortgagee, mortgagor, usufructuary, lessee or holder of other limited interest, an additional fee of R10 shall be chargeable in respect of each such additional person after the first.
6. Where it is necessary to attend on the Office of the Master of the Supreme Court in connection with any matter referred to in paragraph 1(a) or 2, the following additional fees shall be allowed:
 - (a) For obtaining any Masters' Certificate per estate for any number of certificates which are or can be applied for simultaneously, a fee of: R20; and
 - (b) for obtaining copies of all necessary documents which are or can be included in one application, per estate: R10.

Section 10A Notarial deeds

1. For drawing and registering any notarial lease, sub-lease, servitude or other notarial deed, the fee shall be assessed according to the length and complexity of the deed concerned, with a minimum of R300.
2. For drawing and registering a notarial waiver of preference by mortgagee, usufructuary or other holder of a limited interest, or other notarial consent required in terms of any provision of the Act or these Regulations, a fee of: R140.

Section 10B Miscellaneous

1. For attendance on behalf of transferor or transferee, mortgagor or mortgagee or any other person, for supervising the registration of the transfer or bond or supervising the bond with documents prepared and lodged by another conveyancer, including instructions, correspondence and attendances relevant to the supervision:
 - (a) Where the purchase price or value of the property or the amount of the bond does not exceed R20 000, a fee of: R35; and
 - (b) where the purchase price or value of the property or the amount of the bond exceeds R20 000, a fee of: R60.
2. (a) For the necessary attendances and searching and inspecting of a Conveyancer's protocol or file or at deeds registry for information, including instructions, correspondence and all relevant attendances, per quarter hour or part thereof, a fee of: R15. Reporting per folio, except in the case of research as provided for in subparagraph (b) of this paragraph, a fee of: R10.
- (b) For attendance and searching at deeds registry or the office of the Surveyor-General for research and searching for the necessary information in connection with the opening of the

register and registration of the sectional plans, including correspondence and all relevant attendances, a fee of R150 per hour or part thereof *pro rata*. Reporting per folio, a fee of R25.

3. For drawing of any certificate by a conveyancer with regard to any servitude, other real right or condition, where not otherwise provided for in this Tariff: R50.
4. For preparing and drawing certificate of establishment of any body corporate under regulation [16 \(1\)](#), lodging the same, including all correspondence and attendances in connection therewith, a fee of: R30.
5. For drawing a consent by any owner of a section or holder of any sectional mortgage bond in terms of sections [24 \(6\)](#) and [25 \(10\)](#) of the Act, including all correspondence and attendances in connection therewith, including lodging, a fee of: R100.
6. (A) **Certificates of real rights**

1.	Section 12(1)(e): In favour of developer to develop further in terms of section 25 (1). [See regulation 14 (1) and Form F]	R115
2.	Section 25(6): In favour of body corporate to extend scheme. [See regulation 14 (2) and Form R]	R115
3.	Section 12(1)(f): In favour of developer, right of exclusive use in terms of section 27 (1). [See regulation 14(3) and Form G]	R115

+ R10 for each additional area.

(B) Cessions (notarial)

1.	Section 27(1)(b): Unilateral cession of an exclusive use area by a developer to owner(s) to whom such rights are allocated.	R115
	+ R10 for each additional area.	
2.	Section 27(3) and section 60(3): Bilateral cession by body corporate as representative of owners of all sections	R150
	+ R10 for each additional area	
3.	Section 27(4): Bilateral cession of an exclusive use area:	
	<i>Ad valorem</i> as per Schedule A to this Tariff unless no consideration has been allocated to the exclusive use area, in whichcase: R150.	
	+ R10 for each additional area.	
4.	Section 27(5): Cancellation of right to exclusive use; bilateral notarial deed between owner and body corporate	R150
	+ R10 for each additional area.	

7. In any case where a fee is not prescribed in this Tariff in respect of any matter, but a fee has been prescribed in respect of the corresponding matter in the Tariff of Fees prescribed by regulation 85 of the regulations made under the Deeds Registries Act, 1937, such fee shall *mutatis mutandis* apply in respect of the matter in question.

Schedule A

Column A	Column B	Column C
Value of property or amount of bond	Fees for conveyance of immovable property	Fees for mortgage bonds
	R	R
R400 or less	165	115
Over R400 up to and including R 1 000	195	145
Over R1 000 up to and including R2 000	260	165
Over R2 000 up to and including R4 000	305	200
Over R4 000 up to and including R6 000	375	225
Over R6 000 up to and including R8 000	400	255
Over R8 000 up to and including R10 000	420	285
Over R10 000 up to and including R12 000	455	305
Over R12 000 up to and including R14 000	475	340
Over R14 000 up to and including R16 000	505	365
Over R16 000 up to and including R18 000	535	400

Over R18 000 up to and including R20 000	565	435
Over R20 000 up to and including R25 000	625	475
Over R25 000 up to and including R30 000	675	505
Over R30 000 up to and including R35 000	725	555
Over R35 000 up to and including R40 000	795	595
Over R40 000 up to and including R45 000	845	635
Over R45 000 up to and including R50 000	900	675
Over R50 000 up to and including R60 000	945	705
Over R60 000 up to and including R70 000	1015	765
Over R70 000 up to and including R80 000	1060	800
Over R80 000 up to and including R90 000	1120	845
Over R90 000 up to and including R100 000	1180	895
Over R100 000 up to and including R150 000	1315	980
Over R150 000 up to and including R200 000	1460	1045
Over R200 000	1460	1045

	for the first R200 000, plus R290 per R100 000 or part thereof above that up to and including R 1 000 000, whereafter the fee shall be R100 per R 100 000 or part thereof.	for the first R200 000, plus R290 per R100 000 or part thereof above that up to and including R 1 000 000, whereafter the fee shall be R100 per R100 000 or part thereof.
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Annexure 6

Documents to be kept in conveyancers' files in terms of section 15(10)

A. Transfer of ownership or alienation in terms of section 15(4) and 34(4), respectively, of the Act

- (1) The original or duplicate original of the conveyancer's certificate in terms of sections [15\(4\)](#) and [34\(4\)](#) of the Act.
- (2) Where applicable, the power of attorney conferring authority on the agent to act in respect of the transaction. Where Form H or Form U of Annexure 1 to these Regulations is signed by the owner conferring authority on the conveyancer, no such power of attorney shall be necessary.
- (3) The clearance or other certificate issued by the body corporate to the effect that all moneys 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.
- (4) Any sworn declaration by the transferor in terms of section [15 \(4\) \(c\)](#) of the Act.
- (5) Any other documents deemed necessary by the conveyancer relating to the status, authority or capacity of the transferor or the transferee.

B. Sectional mortgage bond

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

Annexure 7

Fees payable to local authorities

*The fees payable to local authorities for the consideration of the matters indicated below shall be as follows:

- (a) A scheme in terms of section [4](#) of the Act:

No. of units	Fee
2	R100,00 and in addition thereto R20 per unit;
3-10	R200,00 and in addition thereto R20 per unit;
11-25	R300,00 and in addition thereto R20 per unit;
26-39 (and more)	R400,00 and in addition thereto R20 per unit;

- (b) an application for the subdivision of a section in terms of section [20](#): R50, and in addition thereto R10 for each of the first 49 new sections into which a section is subdivided, and R5 for each new section over 49 into which a section is subdivided;
- (c) an application for consolidation of sections in terms of section [20](#): R50, and in addition thereto R10 for each of the sections consolidated;
- (d) an application for the extension of a section in terms of section [24](#): R50 for each section extended;
- (e) an application for the extension of a scheme in terms of section [25\(7\)](#):

No. of new units	Fee
2	R100,00 and in addition thereto R20 per unit;
3-10	R200,00 and in addition thereto R20 per unit;
11-25	R300,00 and in addition thereto R20 per unit;
26-39 (and more)	R400,00 and in addition thereto R20 per unit;

- (f) an application for an extension of a scheme by the addition of land to the common property as contemplated in section [26\(3\)](#): R50.

Annexure 8 (Section 35(2)(a) of the Sectional Titles Act, 1986)

Management rules

[Schedule 8 amended by [Government Notice R991 of 1988](#)]

1. Preliminary

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.

2. Interpretation

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.

3. *Domicilium citandi et executandi*

- (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;
[subparagraph (a) amended by [Government Notice R991 of 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, to qualify for office as a trustee: Provided that a majority of the trustees shall be owners, and provided further that the managing agent in his capacity as such may not be a trustee.

6. Election of trustees

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

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).

8. Vacancy in number of trustees

The trustees may fill any vacancy in their number. Any trustee 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, 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.

14. Replacement

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 mortgagee 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.

Quorum

- 16. (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 trustees who shall not be less than two, 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.
- 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 body corporate may at a general meeting, in respect of which the requisite notice of special business has been given, remove the chairman from his office as such.
- 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 instrument 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 [15 \(4\) \(b\)](#) of the Act, by a trustee or the managing agent.

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 so 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 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.
- (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 increased 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 acting in the capacity of managing agents of the body corporate; and
- (c) to procure a cash policy as determined by the members of the body corporate in a general meeting, in terms of which policy there will be made good—
- (i) loss of money in the course of business up to and including an amount equivalent to total levies due and payable in one month, or such lesser amount as the trustees from time to time may determine;
- (ii) loss of or damage to any receptacle for which the body corporate is responsible resulting from the theft or attempted theft of money.
- (3) The owners may by special resolution direct the trustees to insure against such other risks as the owners may determine.

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.
- (3) Within fourteen days after each annual general meeting the trustees shall determine the amount payable by each owner in accordance with the determination made in terms of section 32(4) of the Act or, in the absence of such determination, the participation quota attaching to his section, and shall forthwith advise each owner in writing of the amount payable. Such amount shall thereupon become payable in instalments, as determined by the trustees.
- (4) 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.

- (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.
- (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

(1) Luxurious improvements

The trustees may, if the owners by unanimous resolution so decide, effect improvements of a luxurious nature on the common property.

(2) Non-luxurious improvements

- (a) Should the trustees wish to effect 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 owners such notice shall—
 - (i) indicate the intention of the trustees to proceed with the improvement 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 as to—
 - (aa) the costs thereof; and
 - (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.
- (b) Upon receipt of such notice, any owner may convene a special general meeting to discuss and deliberate upon the proposals contained in such notice and at which the owners may veto, amend to approve such proposal by way of special resolution.
- (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 ensuing 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 transactions 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.

Annual financial estimate, financial statement and report

- 36. (1) Before every annual general meeting, the trustees shall cause to be prepared an itemised estimate of the anticipated income and expenses of the body corporate during the ensuing financial year, which estimate shall be laid before the annual general meeting for consideration in terms of rule 56 hereof.
- (2) The estimate of expenses referred to in sub-rule (1) shall include a reasonable provision for contingencies.
- 37. The trustees shall cause to be prepared, and shall lay before every annual general meeting, for consideration in terms of rule 56 (b), an audited 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.

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(b).
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 under the last preceding sub-rule shall be deemed to have been effected if the documents referred to are sent by prepaid post addressed to the owner at his *domicilium* 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.
40. **Audit**

At the first general meeting and at every 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 ten units, an accounting officer may be appointed to perform the duties of an auditor.

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 building society or any other registered deposit receiving institution approved by the trustees from time to time.
44. Interest on moneys invested shall be used by the body corporate for any lawful purpose.
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 of a capital nature.

The appointment, powers and duties of a managing agent

46. (1) 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 50% of the units or by the members of the body corporate in general meeting, appoint in terms of a written contract a managing agent to control, manage and administer the common

property and to exercise such powers and duties as may be entrusted to the managing agent, including the power to collect levies and the power to appoint a supervisor or caretaker: Provided that a managing agent shall be appointed for a year at a time and unless the body corporate notifies the managing agent to the contrary such appointment will be automatically renewed from year to year.

- (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, any of its directors is convicted of an offence involving an element of fraud or an element of dishonesty or, where the managing agent is a close corporation, any of its members is convicted of any offence; or
 - (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 administration and shall notify the body corporate and all holders of registered sectional mortgage bonds of all matters which in his opinion detrimentally affect the value or amenity of the common property and any of the sections.
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 sub-rule (1), shall comprise at least the following:
- (i) The election of the trustees;
 - (ii) the consideration, confirmation or variation of the insurances effected by the developer or the body corporate;
 - (iii) the consideration, confirmation or variation of an itemised estimate of the anticipated income and expenses of the body corporate for the ensuing financial year;
 - (iv) 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 the date of notice of the meeting referred to in subrule (1);
 - (v) the taking, subject to section 47(2) of the Act, 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;
 - (vi) the appointment of an auditor or, where applicable, an accounting officer;
 - (vii) any restrictions or directions to be given in terms of section 39(1) of the Act; and
 - (viii) determination of the *domicilium citandi et executandi* of the body corporate.
51. (1) Annual general meetings shall be held once in every year: Provided that not more than fifteen months shall elapse between the date of one annual general meeting and that of the next.
- (2) Unless otherwise decided by the trustees, the financial year of the body corporate shall run from the 1st day of March in each year to the last day of February in the following year.
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 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 sub-rule (1) to any person entitled to such notice or the non-receipt of such notice by such person shall, save in the case of the persons contemplated in sub-rule (1)(b) not invalidate any proceedings at any such meeting.
- (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 election of trustees;
- (e) any special business of which due notice has been given in terms of rule 54; and
- (f) any directions or restrictions in terms of section 39(1) of the Act; and
- (g) determination of the *domicilium citandi et executandi* of the body corporate.

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 one of their number to be chairman.

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: 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.

63. For the purpose of a 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.

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 an exclusive use area is intended to be used, is shown expressly or by implication on or by a registered sectional plan, not use, nor permit such exclusive use area to be used, for any other purpose: Provided that with the written consent of all owners such exclusive use area may be used for another purpose;
 - (vi) shall not construct or place any structure or building improvement on his exclusive use area, without the prior written consent of the trustees, which shall not be unreasonably withheld;
 - (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 section in a state of good repair as required by section [44\(1\)\(c\)](#) of the Act; or
- (b) fails to maintain adequately any area of the common property allocated for his exclusive use and enjoyment,

and any such failure persists for a period of thirty days after the giving of written notice to repair or maintain given by the trustees or the managing agent on their behalf, the body corporate shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner.

Annexure 9 (Section 35 (2)(b) of the Sectional Titles Act, 1986)

Conduct rules

[Schedule 9 amended by [Government Notice R991 of 1988](#)]

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.

[subparagraph (1) amended by [Government Notice R991 of 1988](#)]

- (2) When granting such approval, the trustees may prescribe 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 section 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), an 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.